

2013

City of Rockland Maine Ordinances

Rockland, Me.

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THE ROCKLAND CODE

**Containing the General Ordinances of the City, the Council-
Manager Charter of the City of Rockland, and Such Other Rules and
Regulations as Specified by the City Council**

PUBLISHED BY ORDER OF THE CITY COUNCIL

**Maine Municipal Association
Community Drive, Augusta, Maine 04330**

1983

Preface

This Code constitutes a revision and recodification of the ordinances of the City of Rockland, Maine. It contains all the City's ordinances of general applicability and permanent nature passed on or before the date of the Code's adoption. The Code should be viewed as superseding all ordinances not included in it and inconsistent with its terms. For reference purposes, the Charter of the City of Rockland has also been included.

For the sake of clarity and consistency, some changes have been made in wording and organization of the original ordinances. Although not intended to be exhaustive, State law references and cross references to ordinance and Charter provisions appear at the end of each chapter or article. A general penalty has been included which shall apply to all offenses unless another penalty specifically appears in the text. Chapter, article, and section headings have also been added and a uniform numbering system applied to make the Code easier to use. Care should be taken to maintain this system when amending the Code.

The ordinances were codified, revised, and edited by Rebecca Warren Seel, Esquire, who wishes to express her appreciation to the City of Rockland for their patience and able assistance throughout this project.

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CHAPTER 1

GENERAL PROVISIONS (Adopting Ordinance)

An Ordinance to Revise and Recodify the Ordinances of the City of Rockland.

It is hereby ordained by the City Council of the City of Rockland, Maine, that an Ordinance to revise and recodify the Ordinances of the City of Rockland be adopted as follows:

Sec. 1-101 Adoption of Code

The Rockland Code, as compiled and published by the Maine Municipal Association, March, 1983, is hereby adopted by the City Council of the City of Rockland, Maine. This adopting ordinance shall be integrated into said Code as Chapter 1, General Provisions and the entire Code shall be viewed as one ordinance known and cited as the Rockland Code. All references in these adopting provisions to "this Code" refer to the Rockland Code. Copies of the Rockland Code are on file in the office of the City Clerk for public inspection.

Sec. 1-102 Definitions and Rules of Construction

The following rules and definitions shall be observed in the construction of ordinances, unless such construction is inconsistent with the plain meaning of the ordinance.

1. Rules of Construction.

A. Meaning. Words and phrases shall be construed according to the common meaning of the language. Technical words and phrases and such as have a peculiar meaning convey such technical or peculiar meaning. The words "and" and "or" are convertible as the sense of an ordinance may require.

B. Number; Gender. Words of the singular number may include the plural; and the words of the plural number may include the singular. Words of the masculine gender may include the feminine.

C. Majority. Words giving authority to three or more persons authorize a majority to act, when the ordinance does not otherwise determine.

D. Applicability. Definitions given within a chapter or article apply only to words or phrases used in such chapter or article unless otherwise provided.

E. Tense. Words used in the past or present tense include the future, past and present where applicable unless the context clearly indicates otherwise.

2. Definitions

A. "City Charter" means Chapter 125 of the Private and Special Laws of Maine 1945 entitled "An Act to Grant a New Charter to the City of Rockland," and all additions thereto and amendments thereof.

B. "City" shall be construed as if the words "of Rockland" followed it.

C. "Code" or "this Code" means the Rockland Code.

D. "Council" means the Rockland City Council.

E. "County" means Knox County, Maine.

F. "Department" shall mean department, agency, or office of the City when used in any ordinance, unless the context plainly requires otherwise.

G. "Inhabitant" means a person having an established residence in the City.

H. "May; shall." The word "may" is permissive, and the word "shall" is mandatory.

I. "Month" means a calendar month.

J. "M.R.S.A." means Maine Revised Statutes Annotated.

K. "Municipal Officers" means the members of the City Council.

L. "Oath" includes an affirmation, when affirmation is allowed. Affirmation is allowed when a person required to be sworn is conscientiously scrupulous of taking an oath.

M. "Owner" applied to any property, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or a part of such property.

N. "Person" as used in any ordinance, and in any amendment thereof hereafter enacted, shall include: any individual, firm, co-partnership, corporation, company, association, club, joint adventure, estate, trust, or any group or combination acting as a unit and the individuals constituting such group or unit, unless the intention to give a more limited meaning is disclosed by the context.

O. "Preceding" or "following", used with reference to a section, is meant the section next preceding or following that in which

it is used, when not otherwise expressed.

P. "State" means the State of Maine.

Q. "Statutes" or "Revised Statutes" mean the latest published edition of the Statutes or Revised Statutes of Maine.

R. "Street" or "streets" shall be understood as including highways, ways, avenues, courts, lanes, alleys, parks, squares, places, sidewalks, crosswalks and bridges.

S. "Tenant" means any person occupying the premises, building or land of another in subordination to such other person's title and with his express or implied assent, whether he occupies the whole or a part of those premises, building or land, whether alone or with others.

T. "Time" means an hour of the day according to the official time of the City.

U. "Week" means seven (7) days.

V. "Writing" and "Written" mean any representation or words, letters or figures, whether by printing or otherwise, capable of comprehension by ordinary visual means.

W. "Year" means a calendar year.

Sec. 1-103 Official Copies Kept by City Clerk

The City Clerk shall keep in this office a copy of this Code in loose-leaf form. It shall be the express duty of the City Clerk or someone authorized by him to insert in their designated places all amendments or ordinances which indicate the intention of the City's legislative body to make the same a part of this Code when the same have been printed or reprinted in page form, and to extract from this Code all provisions which may from time to time be repealed by the City's legislative body.

Sec. 1-104 Additions or Amendments

Any additions or amendments to this Code, when passed in such form as to indicate the intention of the legislative body of the City of Rockland to make the same a part thereof, shall be deemed to be incorporated into this Code so that reference to the "Rockland Code" to make the same a part hereof, shall be understood as including them.

Sec. 1-105 Reference Include Amendments; Construction

Any reference in this Code to an ordinance or provision of this Code shall mean such ordinance or provision as may now exist or as hereafter amended.

Any references in this Code to chapters, articles, division or section shall be to the chapters, articles, divisions and sections of this Code unless otherwise specified.

Sec. 1-106 Headings

No provision of any ordinance shall be held invalid by reason of deficiency in any chapter, article or section heading, it being hereby expressly provided that such headings are not a part of any ordinance.

Sec. 1-107 Provisions Considered as Continuations of Existing Ordinances

The provisions appearing in this Code, so far as they are in substance the same as the provisions of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

Sec. 1-108 Conflicting Provisions

1. Within the Code. If the provisions of different chapters, articles, divisions or sections of this Code conflict with or contravene each other, the provisions of each chapter, article, division or section shall prevail as to all matters and questions growing out of the subject matter of that chapter, article, division or section.

2. Same Chapter. If clearly conflicting provisions are found in different sections of the same chapter, the provisions of the section last enacted shall prevail unless the construction is inconsistent with the meaning of that chapter.

3. With Charter or Statute. Where any conflict exists between a provision of this Code and any provision of the City Charter or Maine Revised Statutes, the latter shall prevail.

4. State Law Incorporated. The laws of the State of Maine which are not inconsistent with the City Charter are hereby incorporated by reference. No person shall violate any law of the State of Maine; and no enumeration of particular State laws in ordinances of the City shall be held to be exclusive.

Sec. 1-109 Repeal of Prior Inconsistent Ordinances

This code shall effect a repeal of all ordinances, orders and resolutions in effect prior to its adoption which are in conflict with

its provisions. By way of example and not limitation, the adoption of this Code shall not in anyway affect the enforceability of sections 203.1 through 203.7 of Chapter 28, "Zoning," of the existing Revised Charter and Ordinances of the City of Rockland, Maine." Those sections of Chapter 28 are omitted from this Code but are hereby preserved from repeal. The text of the Zone boundary descriptions contained in those sections is on file in the office of the City Clerk. The boundaries also are depicted on the official zoning map of the City of Rockland on file with the City Clerk.

Sec. 1-110 Effect on Repeal

The repeal of any prior ordinance of the City by any subsequent ordinance shall not operate to revive the provisions of any ordinance which may have been repealed by such prior ordinance, unless such revival shall be expressly provided for. Ordinances repealed remain in force for the trial and punishment of all past violations of them, and for the recovery of penalties and forfeitures already incurred, and for the preservation of all rights and remedies existing by them and so far as they apply, to any office, trust, proceeding, right, contract or event, already affected by them.

Sec. 1-111 Separability

If any portion of any ordinance shall be held to be invalid, the intent of the City Council is that such decision does not affect the validity of the remaining portions thereof.

Sec. 1-112 General Penalty

Every person who shall be guilty of a violation of any provision of any ordinance to which a particular penalty is not annexed, shall forfeit and pay a sum of not more than one hundred dollars (\$100) to be recovered to the use of the City on complaint or by other appropriate action before the Sixth District Court.

Sec. 1-113 Responsibility

The prohibition of any act by any ordinance of the City, or in any amendment thereof, shall include the causing, securing, aiding or abetting of another person to do the act.

Sec. 1-114 Same Offense Punishable by Different Section of the Code; City Attorney's Option

In all cases where the same offense is made punishable or is created by different sections of this Code, the City Attorney may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense.

Sec. 1-115 General Enforcement

The imposition of a penalty for violation of any ordinance shall not excuse the violation, or permit it to continue; such violation shall be remedied within a reasonable time, and each day that a violation is permitted to exist shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions. The imposition of penalties for violation of any ordinance shall not preclude the City Attorney from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, removal, maintenance or use, or to restrain, correct or abate a violation or to prevent the occupancy of a building, structure or premises, or to prevent an illegal act, conduct, business or use in or about any premises.

Historical Note: This ordinance was approved on November 7, 1983. (Eff: December 7, 1983)

Charter Reference: § 214(b)

State Law Reference: 30-A M.R.S. § 3004

CHAPTER 2 ADMINISTRATION

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[REPEALED 04/12/06]

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CHAPTER 2

ADMINISTRATION

ARTICLE I General

Sec. 2-101 City Seal

The design hereto annexed shall be the device of the City Seal, and the inscription shall be as follows, to wit:



"Rockland, Maine, incorporated a city A.D. 1854.
God gives reward to industry."

Sec. 2-102 City Automobiles

Every City owned automobile shall have painted thereon the words "City of Rockland, Maine," with the exception of police vehicles. No such automobile shall be used by any officer or employee to travel to and from work or for any private purpose, provided, however, that the City Manager shall be authorized to make exceptions, after notifying the City Council in writing, which may include but not be limited to:

1. Department heads and other employees who are expected to respond from their homes within the City limits to emergencies and/or critical situations affecting the health and safety of the City,
2. City employees who are not able to get to and from their city place-of-work during emergencies and/or critical situations, and are picked up or dropped off at their homes within the City limits by other City employees.

Sec. 2-103 Bonds

Every City officer and employee who collects, has custody of or disburses any public moneys, must prior thereto, at the expense of the City, furnish to the City and maintain in full force and effect a corporate surety bond in such amount as the City Council may determine. Such bond must be approved by the City Attorney as to form and legal and financial sufficiency and thereafter delivered to the City Clerk for acceptance, filing and safekeeping. Until and unless bonded as required herein, no officer or employee of the City shall handle any public moneys at any time, except employees of bonded officers doing so under their specific direction and responsibility.

Charter Reference: Article VII, § 702.

State Law Reference: 30-A M.R.S. §§ 2651, 5601; 36 M.R.S. § 755.

Sec. 2-104 Boundaries

The boundaries of the City of Rockland are defined in Chapter 131 of Private and Special Laws of Maine 1849, as further amended by Chapter 2, Sec. 2-101 of Special Laws of Maine 1852, and as may be further amended according to law.

State Law Reference: 30-A M.R.S. §§ 2851-2852.

Sec. 2-105 Contracts

No contract involving the payment of money out of the appropriations of more than one (1) year (other than contracts in which rates are subject to approval of the Public Utilities Commission) shall be made for a period of more than five (5) years; nor shall any such contract be valid unless made or approved by ordinance.

Charter Reference: Article II, § 211; Article V, § 511(b); Article VII, § 702.

Sec. 2-106 Notice

Except as otherwise provided by statute, notice regarding dangerous structures, abating nuisances, removing signs or signposts, making sewer connections, or any other act, the expense of which, if performed by the City, may be collected from the property owner in an action at law, shall be served:

1. Personal Delivery. By delivering the notice to the owner personally or by leaving the same at his residence, office, or place of business with some person of suitable age and discretion, or

2. Mail. By mailing the notice by registered mail to such owner at his last known address, or

3. Public Notice. If the owner is unknown, by posting the notice in some conspicuous place on the premises five (5) days prior to the date set therein for compliance.

No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any City officer unless permission is given to remove the notice.

State Law Reference: 17 M.R.S. §§ 2851-2859; 30-A M.R.S. § 3428; 17-A M.R.S. § 751.

Sec. 2-107 Practices

All department heads shall keep informed as to the latest practices in their particular field and shall inaugurate, with the approval of the Manager, such new practices as appear to be of benefit to the service and to the public.

Cross Reference: Chapter 2, Article XII.

Sec. 2-108 Property

Each official who has public property responsibility shall forthwith make up a list of all such property and deposit the list over his signature with the City Clerk. Each such official shall, at the time of making his annual report, include therein a complete list of property for which he is responsible. When any official terminates his duties, he shall check his property list with his successor in office, or with the City Manager if the latter so elects, and obtain a release from property liability prior to receiving his final salary payment due. Each official shall promptly reimburse the City for the fair and reasonable value of any property for which he is responsible and for which he is unable to account, if such loss is due to his carelessness or negligence.

The City Council hereby establishes the general policy that no City property, supplies, or equipment of any kind, shall be loaned or rented to any person; the City Manager is authorized to make exception hereto when in his opinion the circumstances especially so warrant, in which cases he shall specify the terms thereof and report every such case to the City Council in his report for the month in which such loan is made.

Charter Reference: Article II, § 204(b); Article III, § 304.

Sec. 2-109 Publicity of Records

The public shall have the right to inspect and copy any record which is made public by Title 1, Section 402 of the Maine Revised Statutes Annotated (the "Right to Know Law"). The City Clerk shall make available copies of any City ordinance to the public upon request, may charge a reasonable fee for the cost of copying, and shall give notice of the availability of ordinances pursuant to Title 30, Section 2153 of the statutes.

Charter Reference: Article VII, § 704.

Sec. 2-110 Record Preservation

Each department head shall be held responsible for the preservation of all public records under his jurisdiction and shall provide a system of filing and indexing the same. No public records, reports, correspondence, or other data relative to the business of any department, shall be destroyed or removed permanently from the files without the knowledge and approval of the Manager.

Ch. 2, Sec. 2-104

State Law Reference: 5 M.R.S. §95-B.

Sec. 2-111 Reports

All department, agency and office heads shall make an annual report, and such other reports, as may be required by the City Council or the City Manager.

State Law Reference: 30-A M.R.S. § 2801.

Sec. 2-112 Suits

Every City officer having knowledge of any fact concerning any claim or suit for or against the City shall report such fact forthwith to the City Attorney. It shall be the duty of every employee of the City to report at once to the Police Chief facts which may come to his notice concerning any accident for which the City may be liable; and the heads of the several departments, agencies and offices of the City shall instruct all their employees to report such facts and information as aforesaid. No member of the City Council shall act as attorney, agent or representative of any person or corporation in making, prosecuting or presenting before the City Council or any city department, office or agency, any claim or demand against the City.

State Law Reference: 14 M.R.S. §§ 8101-8118.

Sec. 2-113 Fiscal Year

1. Establishment. Subsequent to the adoption of this Section, the Municipal Fiscal Year shall consist of a twelve (12) month period beginning each consecutive year on July 1st and ending on the following June 30th. The aforementioned Municipal Fiscal Year shall supersede the calendar year based budget (January 1st through December 31st) in effect at the time of the adoption of this Section.

2. Date to Take Effect. The July 1st to June 30th Municipal Fiscal Year shall begin on July 1, 1993.

3. Transitional Budget Provision. For the purposes of transition from the city's calendar year based budget period existing at the time of the adoption of this Section to the new July 1st to June 30th Municipal Fiscal Year, a six (6) month transitional budget appropriation shall be made by the City Council for Fiscal Year (FY) 1993. The following Municipal Fiscal Year, FY 1994, and each consecutive Municipal Fiscal Year to follow shall consist of a 12 month period beginning on July 1st and ending on the following June 30th. Eff: 5/13/92

Sec. 2-114 Biannual Tax Collection

Beginning with the FY 1994 Budget Appropriation, and for each and every annual Total Budget Appropriation thereafter, the collection of Municipal property-taxes shall be carried out on a biannual basis. Eff: 6/9/93

Sec. 2-115 City Hall Hours

The office hours at Rockland City Hall shall be from 8:00 a.m. to 4:30 p.m. Monday through Friday, with the exception of those dates listed in Sec. 2-1211 Holidays, and any other day deemed necessary for safety reasons by the City Manager, after consultation with the Mayor. Eff: 11/15/96

ARTICLE II City Council

Sec. 2-201 Administration; No Council Interference

Except for the purposes of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

Charter Reference: Article III.

State Law Reference: 30-A M.R.S. § 2635.

Cross Reference: Chapter 2, Article III.

Sec. 2-202 Administrative Appointments; No Interference

Neither the City Council nor any of its committees or members shall dictate the appointment of any person to office or employment by the City Manager, or in any manner interfere with the City Manager or prevent him from exercising his own judgment in the appointment of officers and employees in the administrative service.

Sec. 2-203 Compensation

The City Council by order shall fix the salaries of officials elected or appointed by the City Council Ch. 2, Sec. 2-111 by the City Manager for his services as such and for all other services rendered by him. Salaries of the appointees of the City Manager shall be fixed by the City Manager. Unless otherwise provided, all members of boards and commissions shall serve as members thereof without compensation.

Charter Reference: Article III, § 301; Article IV, § 403.

Sec. 2-204 Execution of Legal Documents

All legal documents requiring the assent of the city shall be (1) approved by the City Council, (2) signed by the Mayor on behalf of the Council, (3) attested to thereon by the City Clerk, (4) approved thereon as to substance by the City Manager, and (5) approved thereon as to form by the City Attorney, unless otherwise provided by State law, the City Charter or a City ordinance.

Sec. 2-205 Fire Investigations

The City Council hereby assumes the power conferred and the responsibility for performance of duties prescribed by the Revised Statutes of Maine and hereby delegates the exercise of such powers and the responsibility for performance of such duties to the Fire Chief as authorized by the Revised Statutes of Maine, except in such specific cases as the City Council may seasonably notify the Fire Chief of its intention to take jurisdiction.

State Law Reference: 12 M.R.S. § 8901 et seq; 25 M.R.S. § 2351 et seq.

Sec. 2-206 Investigations

The Council, the City Manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any office, department, agency or officer of the City and to make investigations as to municipal affairs and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punished by a fine of not more than fifty dollars (\$50), or by imprisonment for not more than sixty (60) days or by both such fine and imprisonment.

Charter Reference: Article II, § 209.

Sec. 2-207 Conflict of Interest

The question of whether a City Council member has a conflict of interest in any question or contract on which the Council is voting shall be answered by referring to Title 30-A, section 2605 of the Maine Revised Statutes Annotated and the City's "Code of Ethics," Section 2-208.

Sec. 2-208 Code of Ethics

1. Declaration of Policy. The proper operation of democratic government requires that City Councilors be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the City's governmental structure; that public office not be used for personal gain; and that such Councilors maintain a standard of conduct that will inspire public confidence in the integrity of the City's government. In recognition of these goals, a Code of Ethics is hereby established for all City Councilors which is not intended to deny Council members their constitutional rights nor violate their civil rights.

2. Definitions.

A. Business. Any corporation, partnership, individual, sole proprietorship, joint venture, or any other legally recognized entity organized for the purposes of making a profit.

B. City Councilor. Member of the Rockland City Council.

C. City Employee. Any individual working for, on a permanent or temporary basis, and drawing a salary, wages or

stipend from the City of Rockland, except employees of the School Department. The term "City employee" shall not include consultants or special personnel providing services on a short term contractual basis.

D. Immediate Family. Spouse, and the following when living in the household of a Council member: children, parents, brothers, and sisters.

E. Financial Interest. A direct or indirect interest having monetary or pecuniary value including, but not limited to, the ownership of shares of stock.

F. Special Interest. A person or group having an interest in a particular part of the economy and receiving or seeking special advantages thereafter to the detriment of the general public.

3. Standards of Conduct. The purpose of this Code is to establish ethical standards of conduct for all City Councilors by Ch. 2, Sec. 2-203 setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of incompatibility, with the best interest of the City of Rockland.

4. Conflicts of Interest. No Councilor shall participate directly by means of deliberation, approval or disapproval, or recommendation, in the purchase of goods and services for the City, and the award of any contracts with the City, except that he may be allowed to submit bids for same in accordance with the City ordinances; and under the laws of the State of Maine, where to his knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award, held by:

A. himself or a member of his immediate family;

B. a business in which he or a member of his immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or

C. any other person or business with whom he or a member of his immediate family are in business, or are negotiating or have an arrangement concerning future employment.

No City Councilor shall participate by means of deliberation, approval or disapproval, or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for employment or employee, as the case may be, where the applicant or employee is:

A. a member of his immediate family; or

B. a person with whom either he or a member of his immediate family are in business.

5. Disclosure of Confidential Information. No City Councilor shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City, nor shall he use such information to advance the financial or private interest of himself or others. For purposes of this subsection, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such City Councilor only because of his or her position with the City, and is not a matter of public record. Information received and discussed during an executive session of the Rockland City Council or any City agency shall be considered within the constraints of this section, and shall not be disclosed to any third part unless permitted by affirmative vote of such body.

6. Gifts and Favors. No City Councilor shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person and/or business which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City; nor shall any City Councilor: (1) accept any gift, favor or thing of value that tends to influence him in the discharge of his or her official duties; or (2) grant in the discharge of his or her official duties any improper favor, service or thing of value.

7. Use of City Property. No City Councilor shall use, or permit the use of, any City-owned property including, but not limited to, motor vehicles, equipment and buildings, for any private purposes. Nothing herein shall prohibit the use of City buildings and equipment at rates and/or on terms as may be established.

8. Disclosure of Interest in Agenda Items. Any City Councilor who believes he or a member of his immediate family, has a financial or special interest, other than an interest held by the public generally in any proposed order, ordinance or resolve on the agenda of the Rockland City Council, shall disclose the nature and extent of such interest, and have it recorded by the Clerk on the City records of such item.

Once such disclosure has been made, such City Councilor shall refrain and shall be relieved, in the discretion of the other members of the Council, from voting or otherwise participating in the deliberations and decision making process on such item.

Nothing herein shall be construed to prohibit any City Councilor from representing his own personal interest in any such item.

9. Disclosure Statement by City Councilors. Every City Councilor shall file with the City Clerk within thirty (30) days after the effective date of this Section, and during the month of April during each calendar year thereafter, a written statement under oath containing the following information, to the best of his or her knowledge and belief:

The name of each person or business doing business with the City in an amount in excess of one thousand dollars (\$1,000.00) during the preceding calendar year from which such Councilor, or a member of his immediate family, has received money or other thing of value in an amount in excess of one thousand dollars (\$1,000.00) during the preceding calendar year, including campaign contributions.

For purposes of this Code, a list prepared by the Finance Officer of those persons or businesses doing business with the City in amount in excess of one thousand dollars (\$1,000.00) for the preceding calendar year shall be determinative for purposes of reporting under this section.

Income from, and financial investments in, policies of insurance, and deposits and accounts from commercial or savings banks, savings and loan associations, or credit unions shall not be considered to be a financial interest within the meaning of this section.

10. Political Activities. No City Councilor shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official functions and duties for the City. In conjunction therewith:

No City Councilor may use his official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall he solicit funds or contributions or accept or receive ~~funds or contributions~~ from City employees for political purposes. No City Councilor may distribute pamphlets or hand Ch. 2, Sec. 2-208 is performing their official functions and duties with the City. Nothing herein shall be construed ~~to prohibit any City Councilor from participating in the political process in their capacity as private citizens.~~

11. Board of Ethics. There is hereby created and established a Board of Ethics which coincides and consists of the members of the City Council.

A. Procedures and Records. The Board, upon its formation, shall establish such rules as may be necessary to govern its procedures. However, such rules shall not become effective until approved by majority vote of the City Council. In addition, the Board shall at all times maintain in the office of the City Clerk appropriate records of its opinions and proceedings.

B. Duties. The board shall render advisory opinions to the City Council when there is doubt as to the applicability of any provisions of this Code to any particular situation. In the performance of its duties, the Board shall limit its review only to those matters and facts previously referred to it by majority vote of the City Council; it being the intent of the Council that the Board not function in an investigatory manner.

C. Initiation of Procedure. Any City Councilor seeking advice as to whether a particular situation constitutes a violation of this Code shall first submit a written statement describing the nature of the matter to the City Council. If the Council, in its sole discretion, feels that an advisory opinion is necessary, it shall then refer the matter to the Board. If the Board finds any matter referred to it to have been based upon allegations it determines to have been frivolous, unfounded or with malice, it shall so advise the Council. It is the purpose and intent of this Code to provide a mechanism by which all such matters may be handled in an orderly and impartial fashion in such a manner as to protect the best interests of the citizens of the City of Rockland and the personal and private interests of its City Councilors. The Board shall also perform such other duties as may be prescribed from time to time by the City Council.

12. Penalties. In addition to any other penalties or remedies as may be provided by law, violation of this Code shall constitute cause for censure, after notice and hearing conducted by the City Council. A majority of the Rockland City Council shall conduct such proceedings.

13. Separability. If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Code.

State Law Reference: 30-A M.R.S. § 2605; 36 M.R.S. § 946.

Sec. 2-209 Street Names

The City Council alone shall have the power and authority to name all streets, public parks and squares. The several streets, public parks and squares of the City shall continue to be called and known by the names previously given to them by official action of the various municipal officers of the City, until the same shall be changed by the City Council by ordinance.

Eff: 6/13/85

Sec. 2-210 Removal From Office

The removal of appointed officials and employees shall be governed by the requirements and procedures set forth in sections 203(c), 302, 402(c)(5) and (10), and 407(b)(3) of the City Charter.

Sec. 2-211 Appointive Boards, Commission and Committees

The City Manager, or his designee, shall be responsible for the coordination of communications between the City Council, the various departments and the various city boards and commissions.

The City Manager or his designee, shall see that all communications, inquiries, applications and requests are forwarded to the appropriate boards, commissions or departments. And to further see that all communications, notices, statements of policy and decisions are maintained on file in the office of the City Clerk. Eff: 6/12/85

If any member of a board or commission, without good cause such as sickness or excuse absences, fails to attend any three consecutive meetings of the board or commission to which he or she has been appointed or fails to attend any six meetings of said board within a twelve month period, the mayor may declare said member's seat to be vacant and such vacant seat shall be filled according to the provisions of this section. Eff: 10/8/85; Amended 11/09/18

No member of the City Council may serve as an appointed, voting member or alternate member of any Board, Committee or Commission.

Subject to available funds and approval by the City Manager, any Board, Committee or Commission may hire a paid secretary, in addition to the Board Secretary to take detailed minutes of all or individual meetings. Eff: 11/09/18

Ch. 2, Sec. 2-209

Sec. 2-212 Rules of Procedure

The following are rules of procedure of the City Council, all previously adopted are hereby repealed.

1. Absence. No member shall absent himself from any meeting of the Council except for good and sufficient reason.
2. Actions. The Council shall act only by ordinance, order or resolution. All ordinances, orders and resolutions, except those pertaining to appropriations, shall be confined to one subject which is clearly stated in the title. The appropriation ordinance shall be confined to the subject of appropriations. When the City Council expresses anything by way of command, the form shall be "Ordered"; when it expresses opinions, principles, facts or propositions, the form shall be "Resolved".
3. Ballots. Written ballots shall be used only for the election of individuals to office. No nominations for such offices need be made; all individuals who receive at least one (1) vote on the first ballot shall be considered nominated, and be the only eligible nominees for whom a vote may be cast in any subsequent ballot. Ballots shall be distributed, collected, sorted and counted by the City Clerk who shall hand a written statement, showing names of individuals who received a vote or votes and the number of votes received by each, to the presiding officer who shall declare the result of each balloting. Three (3) votes are necessary for a choice, if not obtained on the first ballot, a second ballot shall be taken immediately. If the second ballot is likewise inconclusive, a third ballot shall be taken immediately, in which any candidate receiving only one (1) vote in the second ballot shall be ineligible. Blank votes, or votes cast for candidates declared ineligible hereunder, shall not be counted. Written ballots shall be signed by the person casting the vote.
4. Mayor; Powers and Duties. The Mayor shall preside at all meetings of the Council. He shall preserve order and decorum among the Council members, and is responsible for conduct of all meetings in compliance with these rules. He may at any time make such rules as he deems proper to preserve order among the spectators in the City Council Chamber during sessions of the Council. He shall be entitled to vote, and his vote shall be counted upon all matters and things as a vote of other members of the Council. He may speak to points of order in preference to other members, and shall decide all points of order, subject to appeal to the Council by motion duly seconded as herein provided. He may participate in the debate on any matter, but in such event he shall call another member to the chair and not resume the chair while the same question is pending, provided he shall take the chair before adjournment. He may at any time call any member to the chair during any meeting, such substitution to discontinue when the Mayor elects to resume the chair, and in no event beyond adjournment of the meeting at which such substitution is made.
5. Chairman Pro Tempore. In the temporary absence or disability of the Mayor, any member of the City Council may call the Council to order at any duly called meeting to elect a chairman pro tempore from among its number and he shall exercise all the powers of Mayor during such temporary absence or disability of the Mayor.
6. City Clerk. The City Clerk shall give notice of City Council meetings, shall attend all meetings of the Council and keep a journal of its proceedings, shall authenticate by his signature and record in full in a book kept for the purpose all ordinances and resolutions duly indexed and open to public inspection and shall perform such other duties as shall be required by the City Charter or by ordinance or as otherwise ordered by the Council. In case of the temporary absence of the City Clerk, the City Council may appoint a clerk pro tempore, with all the powers, duties and obligations of the City Clerk, who shall be duly qualified.
7. Meetings: Agenda. The Agenda for each meeting of the City Council shall be prepared by the City Clerk after

consultation with the Mayor and the City Manager. Agendas for regular meetings shall consist of those items for Council action that are submitted by the City Manager, City Attorney, City Clerk, or by a member of the public and that are accepted onto the agenda by the Mayor, and items submitted by any member of the City Council at or before noon on the Wednesday prior to the regular meeting. Agendas for regular meetings shall be filed in the City Clerk's office and made available to the public by noon on the Wednesday prior to the regular meeting and shall be distributed to the Council on the Friday prior to the regular meeting. No further items shall be added to the agenda of any meeting except by the unanimous consent of those members present at that meeting. Each Ordinance, Order, Resolve or communication on the agenda shall be in written form and shall contain the name of the sponsor and originator of the Ordinance, Order, Resolution or communication.

a. Consent Agenda. Any items proposed for inclusion on the regular meeting agenda, other than those requiring a public hearing, may be placed on a consent agenda and may be collectively passed by one motion without discussion or amendments. At its monthly agenda-setting meeting, the Council shall determine if any items proposed for the regular meeting agenda do not seem likely to encounter any opposition, and may include such items on the consent agenda. No item so placed may remain on the consent agenda if any member of Council asks that such item be removed from the consent agenda at any time during the regular meeting prior to the motion to pass the consent agenda. Any such item or items removed from the consent agenda shall be considered separately under the appropriate section of the agenda.

b. Public Forum/Public Hearing. A public forum of not longer than thirty (30) minutes shall be part of each regular meeting of the Council, and not longer than fifteen (15) minutes at Special Meetings, at which time at first Rockland citizens and then other members of the public shall be given an opportunity to be heard on matters concerning City business. Immediately following such public forums, the City Council and City Manager shall have Ch. 2, Sec. 2-212 respond to questions and/or comments from the public made during the public forums. City Council shall not have public hearings on Licenses and Permits as required under the provisions in Chapter 11, as well as on ordinance amendments in second reading as specified in paragraph 2-212(29) during regular monthly meetings, or special meetings as needed. Public forums and/or public comment periods may be waived if no member of the public wishes to speak. All public forums, public comment periods and public hearings shall be conducted under the following guidelines:

i. Anyone wishing to address the Council shall so indicate by raising their hand and shall not speak unless and until recognized by the Mayor. After being recognized to speak by the Mayor, such person shall preface their comments by stating their name and street address.

ii. Persons addressing the Council shall be permitted to speak once and for no more than five (5) minutes. Persons speaking at a public hearing being held on a particular agenda items shall limit their comments to that item and shall speak for no more than five (5) minutes. Such persons may be permitted to speak more than once at the discretion of the Council.

iii. Persons present at City Council meetings are cautioned to refrain from applause or other expressions of approval or disapproval of any statements made or actions taken at such meetings. Placards and signs shall not be permitted.

iv. Persons speaking during such public forums, public comment periods or public hearings shall strive to be accurate in their statements, avoid personal attacks and innuendoes, and conduct themselves in a respectful manner expected of all meeting participants under this section. Eff: 11/14/08, Amended 10/14/09; 02/09/11; 10/12/16; 12/13/17

8. Meetings: Annual Organizational. The City Council shall meet at the usual place for holding meetings at 7:30 o'clock P.M. on the second (2nd) Monday following the regular City election, as required by Article II, Section 201(d) of the Rockland City Charter, and at the meeting the Councilors-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the City Clerk. At such meeting, or as soon thereafter as practicable, the Council shall elect, by a majority vote of the entire Council, one of its members for the ensuing year as Mayor. Eff: 9/8/93

9. Meetings: Regular. The date and time of the regular monthly meeting of the City Council shall be the second Monday of each month at 6:00 P.M. If the second Monday is a legal holiday as defined in Chapter 2, Section 2-1211 of the Rockland Code, then the stated meeting shall be held on the following Wednesday at the same time. The place of such meetings shall be the City Council Chamber in the City Hall in Rockland, hereby designated to be the regular meeting place. All meeting of the City Council shall be open to the public, and may be continued to another location. Eff: 9/8/93, Amended 11/13/15

10. Meetings; Special. Special meetings of the City Council may be called by the Mayor and in case of his or her absence, disability or refusal may be called by a majority of the City Council. A special meeting shall be held during the week preceding the regular meeting, at a date and time to be determined by the Mayor, for the purposes of (A) revising and completing the preliminary agenda prepared by the Clerk for the regular meeting, and (B) receiving information from such City staff and members of the public as may be requested by the Council to appear in preparation for the regular meeting,

and (C) receiving, reading, and/or discussing correspondences addressed to the City Council, or any member of the city Council, and received during the previous thirty (30) days. Notice of each special meeting shall be served in person, or left at the residence of, each member of the City Council, and provided to media representatives, and the City Manager, at least twelve (12) hours before the time of holding such special meeting. The place of all special meetings shall be at the regular meeting place unless otherwise designated in the notice, if another place is designated, such place shall be a public building, open to the public at time of meeting. Eff: 10/14/09

11. Meetings: Special Emergency. The City Council may meet upon shorter notice than twelve (12) hours at any place, by unanimous consent of all of its members, recorded in the record of such meeting, provided the Council unanimously finds and so votes at such meeting that there is an emergency justifying such meeting and the public interest so requires. Notice of the meeting shall be given to representatives of the media by the same method used to notify the members of the Council.

12. Meetings: Quorum. Three (3) members of the City Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or may compel attendance of absent members. 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.

13. Motions: Amend. A motion to amend an amendment shall be in order, but a motion to amend an amendment to an amendment shall not be considered.

14. Motions: Appeals. No appeal from any decision of the presiding officer shall be entertained unless it is seconded, and no other business shall be in order until the question on appeal has been decided. The question on the appeal is not debatable and shall be put as follows: "Shall the decision of the chair stand as judgement of the Council?", and shall be deemed to be decided in the affirmative unless a majority of the votes given are contrary.

15. Motions: Division of Question. Any member may require the division of a question, when the sense of it will admit.

16. Motions: Order Of. When a question is under debate, the presiding officer shall receive any of the following motions but not others:

Ch. 2, Sec. 2-212

- A. To adjourn.
- B. To recess.
- C. To raise a question of privilege.
- D. To call for the orders of the day, or the regular order.
- E. To lay on the table.
- F. For the previous question.
- G. To limit or extend limits of debate.
- H. To postpone to a certain time.
- I. To refer.
- J. To amend.
- K. To postpone indefinitely.

When one of the above motions has been made, none of the others inferior to it in the order in which they stand above shall be made, and in proceeding to vote, motions pending shall be put in the order of their rank as above arranged. The first seven (7) are not subject to debate. A motion to postpone to a certain time, refer, amend, or to postpone indefinitely may be amended; the previous question may be demanded before an amendment, which motion shall be decided without debate. A motion to adjourn shall always be in order provided that business of a nature to be recorded in the journal has been transacted since any previous motion to adjourn has been defeated. No motion or proposition of a subject different to that under consideration shall be admitted under color of an amendment. When a matter has been especially assigned to be taken up at a fixed time, or at a certain stage of the proceedings, such matter shall, at the appointed time or at any time subsequent thereto, be in order upon the call of any member, and take precedence over all other business.

17. Motions: Parliamentary Inquiry. Any member may make a parliamentary inquiry of the Mayor at any time during the meeting.

18. Motions: Point of Order. Any member may make a point of order without a second at any time. The presiding officer may speak to points of order in preference to other members, and shall decide all such questions, subject to appeal to the Council by motion duly seconded; and no other business shall be in order until the question on the appeal has been decided.

19. Motions: Previous Question. When the previous question is moved by any member, all debate on the main question shall be suspended immediately and the presiding officer shall put the question in the following form: "The previous question is moved on (specifying the motion on which the previous question is demanded); as many as are in favor of ordering the previous question will so signify." If four (4) members so signify, the affirmative has it, the previous question

is ordered, and the Mayor will proceed immediately to put to a vote the question on which the previous question was ordered. If less than four (4) members so signify, the negative has it, the motion is lost, and the question reverts to the immediately pending question which is again open to debate and amendments as if the previous question had not been demanded.

20. Motions: Procedure. The presiding officer shall put all questions in the order in which they are moved, unless a subsequent motion shall be previous in its nature, except that in naming sums and fixing times, the largest sum and the longest time shall be put first.

21. Motions: Reconsideration. When a vote has been passed, any member who voted on the prevailing side may move a reconsideration thereof at the same meeting immediately after the announcement of such vote, or at the next succeeding meeting whenever motions are in order, provided that the subject matter has not passed out of the control of the Council. A motion to reconsider requires four (4) votes; if such motion thus prevails, the subject shall be open to debate and amendment in the same manner as the original question. Debate on motions to reconsider shall be limited to twenty-five (25) minutes, and no member shall speak for more than five (5) minutes. No motion shall be reconsidered more than once.

22. Motions: Reduced to Writing. Any motion must be reduced to writing if the presiding officer so requires or any member so demands, and no other motion shall be entertained until reasonable time (not over ten (10) minutes) is afforded for compliance with this rule.

23. Motions; Rescind. Any previous vote may be rescinded by vote of four (4) members of the Council at any time, provided the subject matter has not passed out of the control of the Council. Control of the Council shall be construed to mean three (3) months after final approval of the Council.

24. Motions: Second. No motion need be seconded except for those which under these rules are specifically required.

25. Motions: Withdrawal. After a motion is stated or read by the presiding officer, it shall be deemed to be in the possession of the Council and shall be disposed of by vote, but the mover may withdraw it at any time before decision or amendment, by unanimous consent.

26. Order of Business. At every regular meeting of the City Council, the order of business shall be as follows:

1. Roll Call by the City Clerk.
2. Pledge of Allegiance to the Flag.
3. Public forum of not more than thirty (30) minutes for Rockland citizens to address the Ch. 2, Sec. 2-212 Charter Section 210(a)(1), followed by an additional public comment period to allow other members of the public to address the Council.
4. Council and Manager response to questions and issues raised during public forums
5. Meeting notice to determine that the meeting has been given proper notice.
6. Reading of the Record by the City Clerk, not previously read and approved, of all preceding meetings.
7. Reports:
 - a. City Manager's Report
 - b. City Attorney's Report
 - c. Other Official's Report
 - d. Mayor's Report
8. Consent Agenda
9. Licenses and Permits and Public Hearing
10. Resolves
11. Ordinances in Final Reading and Public Hearing
12. Ordinances in First Reading
13. Orders
14. Adjournment. Eff: 12/13/17

27. Ordinances; When Required: Enacting Clause. In addition to such acts of the City Council as are required by statute or by the City Charter to be by ordinance, every act of the Council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness, shall be by ordinance. The enacting clause of all ordinances shall be, "The Council of the City of Rockland hereby ordains..."

28. Ordinances: First Reading. Every ordinance shall be introduced in writing and after passage in first reading shall be published, or a summary of such ordinance, at least once together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage. The first such publication shall be at least one (1) week prior to the time advertised. Whenever the City Council does not set the date for hearing on any ordinance at the meeting when such ordinance is passed in first reading, the Mayor shall set such date, which date shall not be later than thirty-five (35) days following the meeting at which such ordinance was passed in first reading. Eff: 3/13/91

29. Ordinances: Public Hearing. At the time and place so advertised, or at any time and place to which such hearing shall from time to time be adjourned, all persons interested shall be given an opportunity to be heard in accordance with the guidelines set forth in paragraph 7 of this section. The City Clerk shall summarize oral and written public comment in the minutes, and retain copies of letters and other materials submitted to the City Council. Eff: 11/11/11

30. Ordinances: Final Passage. After such hearing the Council may finally pass such ordinance with or without amendment. The second passage of any ordinance shall be final and no further passage shall be required.

31. Ordinances: Publication After Passage. After final passage every ordinance, or a summary thereof, shall be published. Every ordinance, unless it shall specify a later date, shall become effective at the expiration of thirty (30) days after final passage, or if the ordinance be submitted at a referendum election, then upon a favorable vote of a majority of those voting thereon. When the ordinance, or summary thereof, is published the effective date shall be included in the passage. Eff: 3/13/91

32. Rules: Amendment Of. A proposed amendment to or repeal of any rule shall be submitted in writing, be laid on the table at the meeting to which it is submitted and shall become the first order item of unfinished business at the next regular meeting.

33. Rules: Others. In all matters of parliamentary procedure not covered in these rules, Robert's Rule of Order shall be applicable and govern.

34. Rules: Suspension Of. The City Council rules and order of business shall be observed in all cases, unless suspended temporarily for a special purpose by a vote of four (4) members present. Any member may move at any time for the suspension of any rule, and such motion must be seconded to entitle it to consideration.

35. Rules: Violation Of. If any member, in speaking or otherwise, transgresses the rules of the Council, the presiding officer shall, or any member can, call him to order; in which case the member so called to order shall immediately cease, unless permitted by the presiding officer to explain; and the Council if appealed to, shall decide the question without debate. If the decision be in favor of the member so called to order, he shall be at liberty to proceed; if otherwise, he shall not proceed without leave of the Council to proceed in order.

36. Speaking: Recognition. A member about to speak shall respectfully address the chair, and shall not commence speaking until recognized by the presiding officer. When two (2) or more members simultaneously seek recognition, the presiding officer shall determine which one is recognized. Eff: 2/13/02

37. Speaking: Germaneness. Every member while speaking shall confine himself to the subject Ch. 2, Sec. 2-212 refrain from personalities, and not refer to any other member of the Council except in a respectful manner.

38. Speaking: Interruption. Unless a member who has the floor yields for that purpose, no member shall interrupt another while speaking, except to propound a parliamentary inquiry or make a point of order.

39. Speaking; Limitation. No member shall speak more than twice or for more than ten (10) minutes continuously to any one question, except that one or more additional periods of ten (10) minutes may be granted by unanimous consent. The reading of papers desired by any member shall be read by himself or by the City Clerk within the member's time limitation unless permission for the Clerk to read such paper outside the time limitation is unanimously granted.

40. Vote; Declaration Of. The presiding officer shall declare all votes; but if any member doubts a vote, the presiding officer without further debate upon the question shall request the members voting in the affirmative and negative respectively to rise and stand until counted, and he shall declare the result.

41. Voting; Required. Every member who shall be present when a question is put, where he is not disqualified by personal interest, shall vote, unless the Council for special reason excuses him. Applications to be so excused must be made before the vote, and shall be decided without debate.

Charter Reference: Article II, § 208, § 210.

State Law Reference: 1 M.R.S. § 401-404.

ARTICLE III City Manager

Sec. 2-301 Establishment

There shall be an officer of the City who shall have the title of City Manager, appointed by the City Council to serve during the pleasure of the Council.

Charter Reference: Article III.

Sec. 2-302 Bond Requirement

The City Manager shall furnish to the City a corporate surety bond in the amount of \$5,000 for his duties as such, and such additional amount as is required for such other positions as he may hold.

Charter Reference: Article VII, § 702.

Cross Reference: § 2-103.

Sec. 2-303 Duties

He shall perform such duties as are specified in Article III of the City Charter, including complete executive direction of the administrative service of the City.

Sec. 2-304 Division of Administrative Service

The administrative service of the City shall be divided, under the City Manager, into the following thirteen (13) departments:

Department	Head	
Code Enforcement Office	Code Enforcement Officer	Eff: 11/28/85
Finance Department	Finance Director	
Economic & Community Development Dept.	Community Development Director	
Fire Department	Fire Chief	
Fish Pier Department	Fish Pier Director	
Harbor and Waterfront Department	Harbor Master	
Health Department	Health Officer	
Legal Department	City Attorney	
Library Department	Library Director	
Personnel Department	Personnel Director	
Police Department	Police Chief	
Public Services Department	Public Services Director	Eff: 4/8/15
Records Department	City Clerk	
Recreation Department	Recreation Director	
Water Pollution Control Department	Water Pollution Control Director	
Welfare Department	Director of Public Welfare	

Eff: 06/08/11

ARTICLE IV Economic & Community Development Department

Sec. 2-401 Establishment

There is hereby established an Economic & Community Development Department, for the purposes of (1) fostering economic development and (2) facilitating the construction or rehabilitation of public and private Ch. 2, Sec. 2-301 infrastructure in Rockland. The City Manager may appoint a Community Development Director, who shall serve as the head of the Economic & Community Development Department. The City Manager or his designee, shall serve as the Economic Development Director for the City of Rockland.

Sec. 2-402 Duties of the Economic Development Director and Community Development Director

1. Economic Development Director. The Economic Development Director shall have the responsibility for preserving and fostering the economic vitality of the City of Rockland, and seeking out and facilitating opportunities for economic development, for the purposes of providing area residents with gainful employment and growing the tax base that supports municipal services. The Director shall assist with the location of new, or expansions of existing, businesses engaged in, without limitation, manufacturing or processing operations, warehousing and distribution facilities, financial and professional services, technology and clean / renewable energy services or manufacturing, hospitality and tourism, fishing and marine trades, cultural and educational services, and independent or regional retail, entertainment, and recreational services. The Director shall disseminate information promoting Rockland and the Midcoast area as a vital and vibrant economic and cultural center, complemented by diverse, affordable, and quality housing options, area educational, recreational, and leisure time activities, and local and regional health care facilities, all juxtaposed against the unique and scenic coastal Maine environment.

2. Community Development Director. The Community Development Director shall have the responsibility for identifying, seeking funding for, and supervising the implementation of community development initiatives, including, without limitation, public and private infrastructure improvements designed to enhance the economic vitality of the City; the construction and rehabilitation of traditional, workforce, and affordable, but not subsidized, housing; the establishment and extension of utilities and energy sources; and the development and implementation of other programs and services that enhance Rockland's status as a desirable place to live, work, and play. The Community Development Director shall staff and support appropriate City and area boards and committees, and shall serve as the head of the Economic & Community Development Department.

Sec. 2-403 Economic Development Advisory Committee

1. Committee Established. There is hereby established an Economic Development Advisory Committee, comprised of seven (7) members appointed by the Mayor and confirmed by the City Council for three (3) year terms, except that of the seven (7) members first appointed, two (2) shall be appointed for a term of one (1) year, two (2) for two (2) years, and three (3) for three (3) years. Such terms shall expire December 31 of each year as designated. The Committee shall elect annually, in January of each year, a chair and a secretary from among its membership, and determine its own rules of procedure. Should the position of Chair become vacant during such year, the Committee shall elect another of its member to serve as chair for the remainder of that year. As of the effective date of this section, no member shall be elected as chair of the Committee more than six (6) consecutive times; and as of the effective date of this section, no member shall serve more than five (5) consecutive terms on the Committee. Service on the Committee prior to the effective date of this section shall not be included in such calculations. The secretary shall be responsible for taking minutes at each meeting of the Committee, and shall forward copies of the minutes to the City Manager for distribution once such minutes are accepted by the Committee. There shall also be two (2) alternate members of the Committee who shall serve a term of three (3) years. The alternate members shall attend all meetings of the Committee, may participate in any discussions or hearings, but shall only vote on Committee matters if a full quorum is not present at such meeting. When a vacancy occurs on the Committee, an alternate member may be appointed to fill such vacancy. In addition to the seven (7) members above, the Mayor (or designee), City Manager (or designee), Economic Development Director, the Community Development Director, and representatives from the Penobscot Bay Regional Chamber of Commerce and Rockland Main Street, Inc. shall serve as ex officio, non-voting members of the Committee.

2. Duties. The Economic Development Advisory Committee shall advise the Economic Development Director and the City Council on all matters pertaining to economic development in the City of Rockland. The Committee shall maintain close cooperation with the Planning Board, Comprehensive Planning Commission, the Chamber of Commerce, Rockland Main Street, Inc., and other organizations concerned with or affecting economic development in the area. The Committee shall perform such other functions as may be necessary or requested of it by the Economic Development Director or the City Council, for the purpose of facilitating the area's economic vitality and growth. The Committee shall also serve as the Advisory Committee for Community Development Block Grant (CDBG) initiatives and applications.
Eff: 11/09/18

ARTICLE V Department of Finance

Sec. 2-501 Establishment

Ch. 2, Sec. 2-402

There shall be a Department of Finance, the head of which shall be the Finance Director, who shall be, or be appointed by, the City Manager. There shall also be a single City Assessor, as provided by Chapter 229 of the Public Laws of 1963, a City Purchasing Agent, and a City Tax Collector and Treasurer, any or all of whom shall be, or be appointed by, the City Manager, with the exception of the City Assessor, who may not be the City Manager. There shall also be a Board of Assessment Review comprised of five (5) members who shall be appointed by the Mayor and confirmed by the City Council for a term of three (3) years, except for the five (5) members first appointed, two (2) shall serve for three (3) years, two (2) shall serve for two (2) years and one (1) shall serve for one (1) year. Such terms shall expire December 31 of each year as designated. The Board shall elect annually, in January of each year, a Chair and Secretary from its membership and shall adopt its own rules of procedure. Should the position of chair become vacant during such year, the Board shall elect another of its member to serve as chair for the remainder of that year. As of the effective date of this section, no member shall be elected as chair of the Board more than six (6) consecutive times; and as of the effective date of this section, no member shall serve more than five (5) consecutive terms on the Board. Service on the Board prior to the effective date of this section shall not be included in such calculations. The Secretary shall be responsible for taking minutes at each meeting of the Board, and shall forward copies of the minutes to the City Manager for distribution once such minutes are accepted by the Board. There shall also be an alternate member of the Board who shall serve a term of three (3) years. The alternate member shall attend all meetings of the Board, may participate in any discussions or hearings, but shall only vote on Board matters if a full quorum is not present at such meeting. When a vacancy occurs on the Board, the alternate member may be appointed to fill such vacancy.

Charter Reference: Article IV, § 403.

State Law Reference: 30-A M.R.S. § 2552; 36 M.R.S. § 843.

Eff:

11/09/18

Sec. 2-502 Bond Requirements

Corporate surety bonds in the following amounts shall be furnished to the City by the following officers:

1. Director of Finance: \$25,000
2. City Tax Collector and Treasurer: \$25,000
3. City Assessor: None. The City Assessor is hereby prohibited from handling any public funds.
4. City Purchasing Agent: None. The City Purchasing Agent is hereby prohibited from handling any public funds.

Charter Reference: Article VII, § 702.

Cross Reference: Chapter 2, § 2-103.

Sec. 2-503 Duties

The Director of Finance shall be responsible for financial planning, budgeting, reporting and control. He shall also, under the administrative direction of the City Manager, supervise the lease, rental or use and the maintenance of all City property not used by other departments of the City.

Cross Reference: Chapter 2, § 2-108.

Sec. 2-504 Departmental Division

This department shall be divided into the following divisions:

1. Accounting. Division of Accounting and Control, the head of which shall be the Finance Director, who shall be responsible for the proper preaudit and recording of all financial transactions.
2. Assessment. Division of Assessment, the head of which shall be the City Assessor, whose duty it shall be to perform all work in connection with the assessing of property and the preparation of all assessment and tax rolls and tax notices as required by State law.
3. Purchases Division of Purchases, the head of which shall be the City Purchasing Agent, who shall do all of the purchasing required by the various departments, offices and agencies of the City government, subject to the provisions of the City Charter and Section 2-509 of this Article. He shall have charge of the storage of supplies and materials purchased by the City and not delivered directly to the various departments, and shall keep proper inventory records thereof. He shall keep informed and maintain records as to the sources of supply for all classes of purchases, price trends, and other related matters.
4. Treasury Division, the head of which shall be the City Tax Collector and Treasurer, whose duty it shall be to collect all bills, either for taxes or for services rendered by the City, and in all respects comply with all applicable State laws and City ordinances. He shall also receive all other monies due or coming to the City. All monies received by the City Tax Collector and Treasurer shall be deposited from time to time as the Director of Finance may prescribe, in an official depository designated by the City Council to the credit of the City and shall be recorded and accounted for on the date received.

Ch. 2, Sec. 2-501

Sec. 2-505 Depositories

All lending institutions located in the State of Maine which are insured by Federal regulatory agencies may be used as official depositories for the public funds of the City.

State Law Reference: 30-A M.R.S. § 5706.

Sec. 2-506 Insurance

The Director of Finance shall audit and file in his office all policies of insurance placed on City property.

Sec. 2-507 Funds

Every City official shall keep an accurate account of all moneys which may by virtue of his office come into his hands from whatever source, stating from whom received, and on what account the same was paid; he shall pay such moneys to the Director of Finance at such periods as the Director of Finance may require.

Sec. 2-508 Securities Safekeeping

Securities owned by the City shall be kept in a deposit box in a designated depository, and admission to the box shall only be in the presence of at least two (2) individuals, who hold the positions of City Manager or Director of Finance or

Tax Collector and Treasurer, or in case two (2) of them are not available any department head, as may be determined in each case by the City Manager. The arrangement with the depository bank for lease of a safe deposit box or boxes shall provide for such admission restriction and be so arranged by the City Manager.

Sec. 2-508.1 Local Preference for City Purchases

It is the policy of the City of Rockland to give preference to local suppliers and service providers when making purchases for City use if the price difference between local and other suppliers is small, for the reason that such businesses and individuals pay taxes in the local communities, support local institutions, and often spend their incomes locally, which encourages a strong and diverse economy in the Mid-Coast area. This policy is generally applicable to all City purchases, and is formalized in the competitive bid process set forth in Section 509, below. Eff: 11/14/97

Sec. 2-509 Regulations Governing Purchase and Sale of Property

1. Categories of Purchases. Purchases of supplies, materials and equipment for the use of the City in the operation and maintenance of its several departments, and services contracted for by the City in furtherance of its operation shall be divided into the following categories:

a. Small Purchases. Small purchases shall include purchases of goods and services the cost of which does not exceed \$2,500.00. Eff: 10/14/98

b. Intermediate Purchases. Intermediate purchases shall include purchases of goods and services the cost of which is greater than \$2,500.00 but less than \$5,000.00. Eff: 10/14/98

c. Large Purchases. Large purchases shall include purchases of goods and services the cost of which is \$5,000.00 or greater. Eff: 10/14/98

2. Limitations on Purchases. No purchase of services, supplies, materials and equipment shall be made unless the funds therefor have been appropriated by the Council, except as otherwise provided in the City Charter. Eff: 12/10/97

3. Purchases; Written Purchase Orders Required. Purchases shall be made only on written purchase orders, in such form as the City Manager may require. All such purchase orders shall state the quantity, quality, description and other specifications of the item or items desired, and shall be signed by the head of the department, office or agency against whose appropriation is to be charged such expenditure. Purchase orders for services shall describe with particularity the qualifications required of the service provider. Specifications shall be in such form as to permit competitive bidding whenever required under the terms of this Section. Eff: 12/10/97

4. Small Purchases. Department Heads shall approve all small purchases for their own Departments, and shall be responsible, by the power delegated to them by the City Manager, to institute adequate procedures for the storage and distribution of supplies and the maintenance of inventories required for each Department. Department Heads shall periodically review the prices and sources of the small purchases made for their Departments, in order to see that the taxpayer of the City receives value for their tax dollars. Eff: 12/10/97

5. Intermediate Purchases. Except as otherwise provided in Article V, Section 502(d) of the Rockland Charter, Contracts for City Improvements, the City Manager shall approve all intermediate purchases for all City Departments, but no such approval for intermediate purchases shall be made unless at least three (3) price quotes have first been obtained.

6. Large Purchases. On all purchases involving an expenditure of five thousand dollars (\$5,000) Ch. 2, Sec. 2-505 bids shall be sought by publication of a notice of the bid, which shall describe the items or services to be purchased. The City, shall bear the date on which the notice was first to appear in the publication, shall state the place and time (at least five days after publication date) when and where the bids will be opened, and shall state the procedure for handling of bids as outlined below. Publication shall be in a newspaper having general circulation in the City of Rockland, and publication of notices will also be published in newspapers or other periodicals of statewide or national circulation when deemed appropriate by the City Manager. Eff: 10/14/98

7. Competitive Bid Procedure. All bids shall be in writing, sealed in an outside envelope or wrapper plainly marked "Bid for (name of purchase), not to be opened until" (with appropriate date inserted), and mailed to or filed in the office of the City Manager. No official or employee of the City shall open such bid until the appointed time. At the time and place stated in the public notice, all bids shall be opened publicly by the City Manager (or, in his absence or disability, by any City official designated for that purpose by the City Manager), and such bid openings shall be open to the public. If any citizens who are not City officials or employees, or if any representative of the press, are present, such bids shall at that time either be made available for examination by such citizens or press representatives, or shall be read aloud in a manner to be heard plainly by those in attendance.

8. Awarding of Bids. Awards following competitive bids shall be made by the City Manager to the lowest and best

bidder, considering price, quality and reliability of past or expected future service subject to the right to reject any and all bids. Subject to the above, the City Manager may give preference to local bidders if the difference between the two lowest responsible bids submitted by companies or individuals located in Knox County and those not located in Knox County is five percent (5%) or less. For the purposes of this section, "Located in Knox County" shall mean bidders whose company headquarters are in Knox County and/or who pay excise tax on their vehicles in a community located in Knox County. Individuals shall be classified as "located in Knox County" if they are residents of a community located in Knox County. Eff: 11/11/11

If the two lowest bids are within five percent (5%) of each other and have each been submitted by companies located in Knox County, then price, quality and reliability of past or expected service shall be the only consideration in awarding the bid, or in deciding to reject any and all bids. Eff: 11/11/11

9. Purchases; Record. The City Manager shall keep a record of all properly submitted bids and all purchases made under subsections 10 and 11 hereof without bids, and such records shall be open to proper inspection by any interested person on approval of the City Manager. Eff: 12/10/97

10. Purchases; Exceptions. The competitive bidding regulations provided in this Article shall not be applicable:

a. to any specific case determined by the City Manager to be an emergency; in such cases the City Manager may make such immediate purchases that he/she determines are in the best interest of the City, and are of good value for the City, considering the nature of the circumstances. Eff: 12/09/98

b. to purchases of specific parcels of real estate, when the Council determines that a particular property and no other meets the needs of the City. Eff: 12/10/97

c. if the item to be purchased is available from only a single source. Eff: 12/09/98

d. If the purchase is for professional services, and the City Manager is satisfied that the service is a good value for the City, considering quality, reliability of past or expected future service, and the professional's pre-existing knowledge and experience with regards to the service to be performed. Eff: 12/09/98

11. Purchases; Combined. The City Manager is hereby authorized to combine with other units of government or with the Maine Municipal Association for purchasing purposes, in which event such regulations as may be jointly agreed to shall be applicable, in lieu of the regulations herein. Eff: 12/10/97

12. Sales; Under \$5,000. The City Manager shall conduct the sales of any municipal supplies, materials and equipment no longer required by the City, of value less than five thousand dollars (\$5,000) on request of the proper department head. Eff: 10/14/98

13. Sales; \$5,000 or More. No municipal property, supplies, materials and equipment valued at five thousand dollars (\$5,000) or more, and no real estate regardless of its value, shall be offered for sale unless and until the City Council so orders. If such sale is authorized, it shall be conducted in the same manner, and subject to the same procedures, as hereinbefore required for purchases in amounts in excess of five thousand dollars (\$5,000), except that in the case of sales, awards shall be to the highest and best bidder, considering such factors, where appropriate, as the use to which the property will be put after the sale, and the positive effect upon the City of such use, if any. The Council shall have the right to reject any and all bids. There is no local preference for sales of municipal property. The procedure in this subsection shall not apply to reconveyance to the former owner of property taken on tax or sewer lien, to which the procedures in subsection 15 (below) shall instead apply. Eff: 10/14/98

14. Sale; Industrial Park. The City Manager is hereby authorized to negotiate for the sale of properties in the industrial park or parks. Negotiations must be approved by the City Council before final sales. Industrial properties sold by bid as stated in subsection 13 if sales are with Council approval as stated in this subsection. Ch. 2, Sec. 2-509

15. Disposition of Real Estate Acquired by Tax Lien or Sewer Lien Foreclosure. When real estate is acquired through the automatic, statutory foreclosure on municipal tax or sewer liens ("Lien-Acquired Property"), the following procedures shall apply:

A. The City Manager shall promptly inform the City's insurance carrier and secure property and liability insurance coverage for Lien-Acquired Property where appropriate;

B. The Rockland Code Enforcement Officer or his designee shall inspect Lien-Acquired Property as soon as possible after acquisition, and inform the City Council and City Manager of the physical condition of the property;

C. The City Manager shall notify the former owner or owners of Lien-Acquired Property who are eligible for reconveyance of the property pursuant to Subsection 2-509(15)(D)(3) and shall invite each such owner to make a written request that the City Council reconvey the acquired property to such former owner. Any such request for reconveyance must be served upon the City Manager within thirty (30) days of the City Manager's notice required by this paragraph;

D. The City Council may dispose of Lien-Acquired Property by one of the following methods:

(1) Sell the property after seeking competitive bids as set forth in this Chapter and taking into consideration one or

more of the factors set forth in subparagraph E; or

(2) Retain the property for later sale, City use, or other lawful disposition other than reconveyance to its former owner(s); or

(3) Reconvey the property to its former owner or owners, or to a court-appointed personal representative or executor of a deceased prior owner, only if such former owner(s) are eligible for reconveyance. A former owner is eligible for reconveyance if:

(a) The Lien-Acquired Property is, at least in part, residential (either single-family, multi-family, or mixed use);

(b) The former owner resided at the Lien-Acquired Property for at least one year prior to the statutory lien foreclosure or, where the former owner is deceased at the time of the foreclosure, at any time within the two years prior to the statutory lien foreclosure. Provided, however, that the City Council may waive this requirement where (i) the Lien-Acquired Property has been occupied by a spouse, domestic partner, or child of the former owner within the prescribed period and such occupant demonstrates a capacity to meet the requirements for reconveyance and to maintain the property following reconveyance, or (ii) the former owner has been absent from the property to obtain medical care, mental health care, rehabilitation, or similar care, and demonstrates both an intention to resume residency at the property and the capacity to meet the requirements for reconveyance and to maintain the property following reconveyance; and

Eff: 03/11/09

(c) The former owner has not previously received title to any property by means of reconveyance of Lien-Acquired Property from the City.

Prior to authorizing the sale of City property by any means, the city Council shall ascertain (1) whether the value of the property may be enhanced if dilapidated or unsafe structures(s) on the property are demolished, and (2) whether the City should retain any interest in the property, such as a sewer or storm water easement, right-of-way for a public trail or other public purpose, or other interest having a benefit for the community.

E. Factors to be considered in deciding what disposition to make of Lien-Acquired Property may include, but are not limited to, the value of the property to the citizens of Rockland if it is either sold or retained for City use, such as:

(1) The physical condition of the property;

(2) The public policy of seeking to maintain people in their homes when they have the capacity to meet their financial obligations for the property without public assistance and to maintain the property in conformance with the Property Maintenance, Life Safety, and other applicable Codes;

(3) If the property is to be reconveyed to its former owner, the feasibility of the former owner's plan and capacity, including financial capacity, for complying with the preconditions for reconveyance set forth below, without public assistance.

(4) The opportunity to reuse the property as a public park, playground, or forest, or for an environmentally-beneficial use

such as storm water retention;

(5) The opportunity to create affordable housing for low- or middle-income households;

(6) The opportunity to create workforce housing for persons employed in Rockland;

(7) The opportunity to partner with a local business or non-profit organization in the rehabilitation and reuse of the property;

(8) The opportunity to improve the energy-efficiency of buildings on the property;

(9) The opportunity to combine the lot with one or more other lots for reuse for a public purpose, low- or middle-income

housing, a community-based renewable energy project, or similar purpose having a community benefit; or

(10) Any other factor(s) that the Council determines shall best serve the public's interest; Eff: 10/12/16

F. If the City Council authorizes the City Manager to reconvey Lien-Acquired Property to an eligible former owner or his estate pursuant to Section 2-509(15)(D)(3), the City Manager shall reconvey the property if, within sixty (60) days of the effective date of an ordinance authorizing reconveyance, the former owner shall have:

(1) Paid all taxes, sewer charges, and lien and service costs owed to or incurred by the City, Ch. 2, Sec. 2-509 reconveyance by the City, including amounts that would have been due had the City not become the owner of the property;

(2) Where the property was held by the City on the first day of April preceding the reconveyance, paid an amount equivalent to the tax that would have been assessed on the property for the following fiscal year had the City not held title to the property on April 1;

(3) Reimbursed the City for its insurance and other costs and charges incurred by the City in maintaining the property during the period of the City's ownership;

(4) Made those repairs and improvements that, in the sole discretion of the Code Enforcement Officer, are required to

protect the health, safety, or welfare of any occupant of the property or any other persons, or to avoid risk of damage or loss to other property, including utilities, ways, and other public improvements;

(5) Paid interest on the tax, sewer charges, and other costs owed to or incurred by the City pursuant to the City's Cash Collection Policy;

(6) Paid the document preparation fee imposed by Subsection 2-509(17); and

(7) Paid all filing and other charges and fees imposed by the Knox County Registry of Deeds for filing the quitclaim deed and/or other documents required to effect the reconveyance.

G. If the City reconveys Lien-Acquired Property to its eligible, former owner, or his estate, the requirements of Subsection 2-509(13) relating to sale of municipal property are not applicable, except that such reconveyances must be made by ordinance;

H. In the event the eligible former owner or court-appointed personal representative of the estate of the eligible former owner fails to satisfy the preconditions set forth in Subsection 2-509(15)(F) within the deadline therefor:

(1) Such former owner and every other person residing at the property shall end their occupancy at the property, remove all personal property, and quit the premises within ninety (90) days of the effective date of the City Council's authorization of reconveyance, and

(2) The City manager shall, unless otherwise specified by the City Council in the ordinance amendment authorizing the reconveyance, shall inform the City Council, identify for the Council all known parties interested in obtaining or reusing the property. The City Council may order that the property be retained or offered for sale utilizing the competitive bid procedure required under paragraph 7 of this section, and considering one or more factors identified in subparagraph E. Eff: 10/12/16

I. The City Council may also dispose of commercial Lien-Acquired Property by reconveying the property to its former owner by authorizing a reconveyance agreement that includes appropriate terms and conditions, including as minimum requirements the conditions imposed on reconveyance of residential Lien-Acquired Property under Subsection 2-509(15)(F).

J. Neither the opportunity of an eligible, former owner to request a reconveyance of a property, nor any other provision in this section, shall imply or create an obligation of the City Council to reconvey any property to its former owner; nor shall the decision of the City Council to dispose of one or more Lien-Acquired Properties by reconveying the property to its former owner(s) be binding upon the City Council with respect to, or create any precedent for, the reconveyance of other Lien-Acquired Property. Eff: 09/10/08

16. Records of Real Estate Conveyances. All conveyances of City-owned real estate, regardless of value, must be by ordinance. After the effective date of the ordinance, the deed conveying the real property shall be executed as required by the Code, recorded in the Registry of Deeds and a copy of the executed deed shall be filed with the City Clerk, who shall cause it to be kept together with all other deeds and conveyances involving City property. The Clerk shall also provide copies of the executed deed to the offices of the Finance Director and of the City Assessor. Neither the text nor the deed shall be maintained as part of the Rockland Code under the procedures set forth in Chapter 1, Section 1-103. Eff: 10/12/16

Charter Reference: Section 211(6). Eff: 12/8/93.

17. Document Preparation Fee. A fee of up to \$150.00 shall be imposed for the City's preparation of documents relating to title to property. Eff: 3/16/00

Sec. 2-510 Regulations Governing Lease of City Real Property

All leases of Real Property belonging to the City of Rockland shall be approved by ordinance, which ordinance need not incorporate the text of the lease. On the effective date of the lease, a copy of the executed lease shall be filed by the City Clerk at City Hall, where it shall be kept together with all other current leases of real property belonging to the City. The text of the lease itself is not to be maintained as part of the Rockland Code under the procedure set forth in Chapter 1, Section 1-103.

Charter Reference: Section 211(6). Eff: 12/8/93

Sec. 2-511 Service Charge for Charitable Organizations Ordinance

Pursuant to Title 36 MRS, Section 508, the residential properties, other than student housing and provide rental income and owned by benevolent, religious, charitable, literary, scientific, educational, organizations usually deemed to be tax exempt shall be assessed service charges.

Ch. 2, Sec. 2-510

A. The right of tax exemption shall be governed by Title 36 MRSA.

B. Any contracts for service charges currently in existence shall be honored.

- C. The service charge is based upon the actual cost of providing all municipal services except education and welfare.
- D. Title 36 MRSA provisions govern this ordinance.
- E. The recipient of any service charge assessment may appeal such assessment if he feels aggrieved, provided:
 - 1. Written notice is received by the City Tax Assessor not later than thirty (30) days after the date of said bill for service charge.
 - 2. The appeal is dated.
 - 3. The appeal sets forth the grounds of the appeal.
 - 4. The appeal is signed by the recipient or a duly authorized representative.

Upon receipt of the appeal the Tax Assessor shall set a hearing between himself and the recipient within forty-five (45) days of the receipt of said appeal. The rules of procedure and standards of review following in tax assessment appeal cases shall be used. The Tax Assessor shall render a decision within twenty (20) days after the date of the hearing.

The recipient may appeal the decision of the Tax Assessor to the Board of Assessment Review by no later than thirty (30) days from the date of the Tax Assessor's decision. The rules of procedure and standards of review used by the Board of Assessment Review shall be followed.

The recipient may appeal the decision of the Board of Assessment Review to the Knox County Superior Court by no later than thirty (30) days from the date of said decision. Eff: 10/13/86

Sec. 2-512 Service Members’ Excise Tax Exemption

1. Definitions.

- A. “United States Armed Forces” includes the Army, Navy, Air Force, Coast Guard, National Guard, and the Reserves of the United States Armed Forces.
- B. “Deployed for military service” has the same meaning as in 26 M.R.S. § 814(1)(A).
- C. “Motor Vehicle” means any self-propelled vehicle not operated exclusively on tracks, including motorcycles, but not including aircraft, mobile homes, camper trailers, boats, all terrain vehicles, snowmobiles, or any vehicle prohibited by law from operating on the public highways.

2. Excise Tax Exemption.

Motor vehicles owned by a Rockland resident who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station, or base outside this State or deployed for military service for a period of more than 180 days and registered in this State are hereby exempted from the annual excise tax imposed pursuant to 36 M.R.S. § 1482, during the period of such active duty and until the registration of such vehicle while on active duty expires.

3. Qualifying Service Members.

To qualify for this exemption, such resident must present to the Tax Collector written certification from the commander of the resident’s post, station, or base, or from the commander’s designated agent, that the resident is permanently stationed at that post, station, or base or is deployed for military service for a period of more than 180 days.

State Law Ref.: 36 M.R.S. § 1483-A.

Eff: 05/09/12

ARTICLE VI FIRE & EMERGENCY MEDICAL SERVICES DEPARTMENT

Sec. 2-601 Department Established

There is hereby established the City of Rockland Fire & Emergency Medical Services (“EMS”) Department. The Fire & EMS Department shall be under the direction and supervision of a Fire Chief, who shall be appointed by the City Manager and confirmed by the City Council. The Fire Chief shall recommend and the City Manager shall appoint one or more deputy chief(s), assistant chief(s) officers, firefighters, and emergency medical services personnel as the needs of the Fire & EMS Department and available funding shall dictate.

State Law Reference: 30-A M.R.S. § 3152

Cross Reference: Ch. 2, Art. II, Sec. 2-205.

Ch. 2, Sec. 2-511

Sec. 2-602 Duties of the Fire Chief

The Fire Chief is charged with the prevention and extinguishment of fires, the protection of life and property against fire, the removal of fire hazards, and with the provision of emergency medical and transportation services. He shall supervise

the Fire & EMS Department, and be responsible for the care and maintenance of all property used by the Fire & EMS Department. The Fire Chief shall cause the prompt inspection of all premises for which a license or permit is sought from the City requiring certification by the Fire Chief, and promptly advise the City Clerk that the Fire Chief recommends the approval, approval with conditions, or rejection of the license or permit application.

State Law Reference: 30-A M.R.S. § 3153(2); 25 M.R.S. §§ 2351, *et seq.*

Eff: 01/13/10

Sec. 2-603 Department Division

This department shall be divided into the following divisions:

1. Extinguishment Division, the head of which shall be the Fire Chief who shall be responsible for the extinguishment of fires, the saving of lives and property from fire, and the performance of various miscellaneous public services of an emergency nature.

2. Fire Prevention Division, the head of which shall be the Building Inspector who shall be responsible, as provided by Chapters 4 and 7 of the General Code, for the inspection of potential fire hazards and for the conducting of an educational fire prevention program.

3. Electrical Division, the head of which shall be the City Electrician, who shall perform the duties required in Section 2-604 hereof, and who shall furnish to the City a corporate surety bond in the amount of five thousand dollars (\$5000) for the faithful discharge of his duties.

Sec. 2-604 Duties of City Electrician

The City Electrician shall:

1. Assistants. Exercise direction over a Deputy or Assistant City Electrician whenever the City Council may appropriate for, and the City Manager may fill by appointment, such hereby authorized position; said Deputy or Assistant City Electrician shall have and exercise the same power and authority as the City Electrician.

2. Location of Lines. Inform himself thoroughly in regard to the location of all telegraph, telephone or other electrical lines within the City, and so far as it may affect life or property, the situation and condition of all electrical appliances; make; or cause to be made, and file in the office of the City Clerk, a map showing the location of all wires over, in, or laid under the streets and other public places, and over buildings of the City, and a record of the names of the owner or owners of each and all those wires.

3. Inspections. Inspect wiring and issue Certificates of Inspection as provided by Article IV of Chapter 4 of the General Code; to that end he shall have access to all wires, appliances and apparatus in the interior of the buildings, both public and private, which are intended for carrying an electric light, power or other current, and have full power and authority to see that all contractors and other persons doing electrical work within the City shall conform with approved methods and practices for safety to life and property.

4. Application Review. Examine every application for the erection of any wire, or pole or post for the support thereof, in or over any street or public place, or for conduits under any street or public place for such wires; and report to the City Council through the City Manager any facts which in his opinion bear upon the question of granting or refusing to grant such application.

5. Enforcement. See that all statutes, ordinances and regulations relative to his duties and to the location, erection, maintenance, insulation and removal of wires or cables, over or under streets or buildings are strictly complied with and enforced. Eff: 11/28/85

State Law Reference: 30-A M.R.S. §§ 4152-4154; 32 M.R.S. § 1102-B.

Sec. 2-605 Outside Calls

The Fire Chief shall not permit the City fire apparatus or equipment to leave the City limits for fire extinguishment purposes unless at the time of any such call a written contract, approved as to substance by the City Manager and as to form by the City Attorney, exists between the City and any town desiring such service, which contract the Manager is hereby authorized to execute and which shall provide for such conditions and for such hourly, mileage and other charges as the City Manager may determine to be fair and reasonable to protect the interest of the City and to cover operating expense and depreciation of apparatus and equipment. Provided, however, that the Fire Chief, with the approval of the City Manager, may authorize the City fire apparatus or equipment to leave the City limits for fire extinguishment purposes (1) in the event of a conflagration, which for the purpose of this section is defined as a fire which already has spread beyond the premises on which it originated to other premises, or (2) in instances when such assistance is not contrary to the intent and purpose of this section, such as aid to a town which maintains an organized and equipped Fire dep

Ch. 2, Sec. 2-602

State Law Reference: 30-A M.R.S. § 3156.

Sec. 2-606 Emergency Ambulance Service

1. Service Area. The Fire Department will provide Emergency Ambulance Service within the City limits and will respond to all calls originating in Rockland which require transportation to the Penobscot Bay Medical Center in Rockport and Camden Community Hospital.

2. Fees. Fees for Emergency Ambulance Service shall be set by Order of the City Council. Eff: 04/07/04

3. Mutual Aid. The City Manager, upon the recommendation of the Fire Chief, shall be empowered to enter into a written Mutual Aid Agreement with neighboring communities which provides reciprocal emergency ambulance service. A copy of the Agreement shall be placed on file with the City Clerk.

State Law Reference: 32 M.R.S. §§ 81-90; 14 M.R.S. § 164; 14 M.R.S. §§ 8101-8118.

ARTICLE VII Harbor and Waterfront Department

Sec. 2-701 Establishment

There shall be a Harbor and Waterfront Department, the head of which shall be the Harbor Master who shall be appointed by the City Manager, who may also appoint a deputy to act during the absence or disability of the Harbor Master.

Sec. 2-702 Duties of Harbor Master

It shall be the duty of the Harbor Master to:

1. Care of Harbor and Vessels. Have the care and regulation of the harbor and port of Rockland, and of vessels and rafts therein;

2. Printed Rules. Provide himself with the printed rules and regulations of the port, for distribution;

3. Boarding Vessels. Board vessels or steamers as soon as practicable after their arrival in port, for the purpose of exhibiting the regulations of the port and directing such vessel where to lie, whenever he considers such action necessary;

4. Removal of Boats. Remove, or cause to be removed any vessel, boat or raft from any wharf in the port at the request of the owner of the wharf; and whenever he shall deem it necessary he shall remove or cause to be removed any vessel lying in tier;

5. Safety. Promote order in the harbor, and assure the safety and convenience of the users of the harbor and the general public;

6. Residential Craft. Prevent the mooring of any floating craft used primarily for residence purposes except with his permission and that of the riparian owner;

7. Dangerous Docks. Notify and warn the owner of any dock, pier, wharf or landing strip that has fallen into disrepair or remains in a dangerous condition, and cause the condition to be abated as a nuisance if not corrected within a reasonable period specified by the Harbor Master;

8. Enforcement. Enforce the provisions of any ordinance and any rules and regulations lawfully promulgated thereunder, applicable to the harbor, waterfront and watercraft;

9. Public Landing. Exercise the same powers and duties with respect to the Municipal Public Landing as are authorized in connection with his jurisdiction over Rockland harbor and waterfront and any watercraft;

10. Harbor and Channel Rules. Prepare rules and regulations for the keeping open of convenient channels for the passage of vessels in Rockland harbor, for the establishment of boundary lines of such channels, and for the assignment of suitable portions of the harbor for anchorage, which rules, after approval by the City Council, he shall enforce;

11. Other Rules. Prepare such other rules and regulations for the government of the harbor, waterfront and watercraft as he may deem necessary, which rules, after approval by the City Council, he shall enforce.

State Law Reference: 38 M.R.S. §§ 1-6, 2061-2066, 281-285; 23 M.R.S. § 2801.

Sec. 2-703 Harbor Management Commission

1. Purpose. The City of Rockland wishes to protect its marine-historic resources and sensitive natural resource areas found along its harbor and in nearshore coastal waters; to provide growth in public opportunities for water-based recreational activities; to maintain and enhance navigational facilities for the benefit of all harbor users; and to allocate land and water resources in an economically and environmentally sound manner. To this end, the City believes that the most equitable way of balancing competing uses in the harbor and adjacent coastal waters is to develop, adopt and

implement a harbor management plan. To properly manage such a plan, and to plan for the future of Rockland Harbor, the City of Rockland hereby creates a Harbor Management Commission, pursuant to Title 38 of the Maine Revised Statutes Annotated.

2. Commission Composition. There shall be a Harbor Management Commission consisting of seven (7) members, appointed by the Mayor and confirmed by the City Council, from a list of persons recommended, because of their interest in harbor activities, by existing local committees, city staff, or local residents. Said Commission is intended to be representative of, but not limited to members or representatives of the following groups: The Rockland Planning Board, marina operators, recreational boating community, commercial shipping industry, commercial fishing industry, the commercial lobster industry, the downtown/waterfront retail business community, and the Rockland-Thomaston Area Chamber of Commerce. In addition, there shall be two (2) alternate members appointed who shall serve in the absence of regular members and who may be appointed to fill any vacancies on the Commission. The Mayor (or designee), City Manager (or designee) and Harbor Master shall serve as ~~an~~ ex-officio non-voting members of the Commission.

The Commission shall maintain close cooperation with the Planning Board, Parks Commission, Recreation Advisory Committee, Economic Development Advisory Committee and other agencies in matters of policy and planning of harbor and waterfront activities and development.

No regular member of the Harbor Management Commission shall receive compensation for service.

3. Commission Member Terms. The term of all members shall run for three (3) years, except for the first seven (7) first appointed, of which two (2) members shall be appointed for one (1) year, two (2) for two (2) years, and three (3) for three (3) years. The alternate members shall be appointed for terms of two (2) years, except for the first two (2) first appointed, of which one (1) shall be appointed for one (1) year, and one (1) for two (2) years. Such terms shall expire December 31 of each year as designated. There shall also be two (2) alternate members of the Commission who shall serve a term of three (3) years. The alternate members shall attend all meetings of the Commission, may participate in any discussions or hearings, but shall only vote on Commission matters if a full quorum is not present at such meeting. When a vacancy occurs on the Commission, an alternate member may be appointed to fill such vacancy.

The Commission shall elect annually, in January of each year, a chair~~person~~ and secretary from its membership and shall adopt its own rules of procedure. Should the position of chair become vacant during such year, the Commission shall elect another of its member to serve as chair for the remainder of that year. As of the effective date of this section, no member shall be elected as chair of the Commission more than six (6) consecutive times; and as of the effective date of this section no member shall serve more than five (5) consecutive terms on the Commission. The secretary shall be responsible for taking minutes at each meeting of the Commission, and shall forward copies of the minutes to the City Manager for distribution once such minutes are accepted by the Commission. The Commission may also form subcommittees to address specific duties of the Commission. Eff: 11/09/18

4. Jurisdiction of the Harbor Management Commission. The Harbor Management Commission shall have jurisdiction within the area located in or contiguous to the waters of Rockland Harbor as defined by the shoreline between the boundaries of Rockland with Rockport to the north and Owl's Head to the south. The boundary lines are projections of the land boundaries into the Harbor. Specific municipal properties under this jurisdiction include Snow Marine Park, Sandy Beach, Harbor Park, the Public Landing, Fisherman's Pier, Buoy Park, the Rockland Municipal Fish Pier, Marie Reed Park, Mildred Merrill Park, and/or any municipally owned property abutting Rockland Harbor. Eff: 04/13/05

5. Power, Duties and Responsibilities. The purpose of the Harbor Management Commission shall be to prepare a harbor management plan in accordance with Title 38 of the Maine Revised Statutes Annotated. Upon adoption of the plan, the Commission shall provide for the annual review of the harbor management plan and shall submit recommendations to the City Council for additions and/or modifications to the plan that may be deemed appropriate, subject to the process set forth in the Maine Revised Statutes Title 38 or other subsequent harbor management legislation enacted by the State of Maine. In addition, the Commission may exercise any of the following powers, duties and responsibilities:

a. to recommend ordinances for adoption by the City Council which implement the Harbor Management Plan and which specify fees and fines for violation of those ordinances, in accordance with the Maine Revised Statutes Title 38;

b. to assist the Harbor Master in the assignment of moorings, the management of mooring and anchorage areas.

c. To review and submit to the City Manager a proposed operating budget for the Harbor and Waterfront Department using funds from sources which may include, but are not limited to, local appropriations, mooring fees, violation fines, boat excise tax revenue or a harbor management fund established by the City Council by ordinance.

d. To hear and to adjudicate administrative appeals of the grant or denial of a permit by the Harbor Master or Fish Pier Director;

e. To hear proposals and concerns of members of the following customer base:

- Commercial fishermen using the Municipal Fish Pier;

- Riparian land owners on Rockland Harbor regarding harbor use in the vicinity of their property; and
- Other marine related.

Eff: 04/07/10

f. To assist in the coordination of all public and private agencies, commissions and other organizations which have interest or jurisdiction within the harbor area.

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g. To approve use of municipal properties and award fee waivers as appropriate for the use of the property by such groups or individuals whose presence is appropriate based on specific purposes in line with the harbor area and whose presence is natural and historic to the harbor. The Commission shall recommend appropriate municipal locations to the City Council for events deemed inappropriate to the municipal areas under the Commission's jurisdiction.

h. To review and make recommendations on proposed land and water use activities contiguous to the waterfront and within the waters delineated in Section 4 of this Ordinance that are received for review by other municipal agencies in accordance with the procedure described in Section 6 of this Ordinance.

i. To review for consistency with the harbor management plan any public notice of an application for a local, state or federal permit for an activity taking place within the Commission's jurisdiction as described in Section 4 of this Ordinance, and to respond in a timely fashion with recommendations to the regulating agencies.

j. To conduct or cause to be conducted, studies of the conditions and operations in and adjacent to Rockland Harbor and to present to the City Council proposals for the harbor's efficient operations; and

k. To request, when appropriate, a general permit from the United State Army Corps of Engineers and/or delegation of state enforcement authority pursuant to the Maine Revised Statutes Title 38.

6. The Commission shall establish a Fish Pier Management Committee that shall review and advise the Commission as to matters within the Commission's jurisdiction that affect Fish Pier operations, other than administrative appeals. The Fish Pier Management Committee shall consist of two or more Commission members and, whenever possible, representatives of users of the Fish Pier. The Fish Pier Management Committee shall serve an exclusively advisory role to the Commission. Eff: 04/07/10

7. Referral of Proposal Submitted to Other Municipal Agencies. Pursuant to the Maine Revised Statutes Title 38, the Commission shall review and make recommendations, consistent with the adopted harbor management plan, on any proposal affecting the real property on, in, or contiguous to the harbor and submitted to the Planning Board, Zoning Board of Appeals, Code Enforcement Office, Parks and Recreation Department, and City Council. The Harbor Management Commission shall be notified in writing of any such proposal at least twenty (20) days prior to the commencement of the hearing thereon or where no hearing is held, at least twenty (20) days prior to the taking of any final action on the proposal. The respective municipal agency shall send a copy of the application/proposal to the Commission upon request.

The primary reviewing agency authorized to act on the proposal shall consider the recommendations of the Commission. Failure of the Commission to submit a recommendation on or before the date of the hearing or action on such proposal shall be deemed an approval.

8. Severability. If any provision of this Ordinance of the application thereof to any person or circumstance is held to be invalid for any reason, such invalidity shall not affect the other provisions or any other application of this Ordinance are hereby declared to be severable.

9. City Council Retention of Responsibilities, Duties, and Appellate Availability.

a. In creating the Harbor Management Commission, the City Council in no way abdicates those duties specific to the City Council as delineated in the City Charter and Code.

b. All actions taken by the Harbor Management Commission may be appealed to the City Council. Eff: 1/7/98

Sec. 2-704 Rockland Breakwater Lighthouse Advisory Committee

There shall be a Rockland Breakwater Lighthouse Advisory Committee comprised of five (5) members, including the Harbor Master (or designee), the Chair of the Harbor Management Commission (or designee), the President of the Rockland Port District Board of Trustees (or designee), and two Rockland residents appointed by the Mayor and confirmed by the City Council. The Mayor, or designee, shall serve as an ex officio non-voting member of the Committee. The Committee shall meet at least annually and elect a Chair and secretary from its membership. The duties of the Committee shall be to:

1. Adhere to Deed Restrictions. Ensure adherence to the terms and conditions of the deed for the lighthouse.
2. Policy and Regulations. Develop and propose policies and regulations, subject to the review and acceptance of the Harbor Management Commission and the City Council, for the historic restoration, preservation, maintenance, improvement, operation, and public access, use and enjoyment of the lighthouse.
3. Education. Create educational opportunities for the public which center around the use and enjoyment of the

lighthouse.

4. Citizen Participation. Co-operate with the Harbor Management Commission and the City Council in creating opportunities for Rockland residents to participate more fully in providing input concerning the historic restoration, preservation, maintenance improvement, operation, public access, use and enjoyment of the lighthouse.

5. Donations and Fundraising. Co-operate with public and private organizations, agencies, individuals, the Harbor Management Commission, the City Council, and any other interested persons or entities in order to obtain maximum possible public assistance for the purpose of restoring, preserving, maintaining, improving, and operating the lighthouse for the public's use and enjoyment.

6. Adherence to Lease. Ensure adherence to the terms and conditions of the lease between the City and Friends of Rockland Breakwater Lighthouse for the care and maintenance of the Lighthouse. Eff: 02/08/12

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Sec. 2-705 Coast Guard City Advisory Committee

There shall be a Coast Guard City Advisory Committee comprised of seven (7) members appointed by the Mayor and confirmed by the City Council for three (3) year terms, except that of the seven (7) members first appointed, three (3) members shall be appointed for three (3) year terms, two (2) member shall be appointed for two (2) year terms, and two (2) members shall be appointed for a one (1) year term; thereafter, all appointments shall be for a term of three (3) years which shall expire December 31 of each year as designated. There shall also be two (2) alternate members of the Committee who shall serve a term of three (3) years. The alternate members shall attend all meetings of the Committee, may participate in any discussions or hearings, but shall only vote on Committee matters if a full quorum is not present at such meeting. When a vacancy occurs on the Committee, an alternate member may be appointed to fill such vacancy. The Mayor, or designee, and City Manager, or designee, shall serve as ~~an~~ ex officio non-voting members of the Committee. The duties of the Committee shall be to act as a liaison between the City and the United States Coast Guard to advise the City Council on all matters pertaining to the continuing good relations between the City and the Coast Guard, to offer support to Coast Guard personnel and their families serving in the Rockland area, and to advise the City Council on any action necessary to maintain the City's designation as a Coast Guard City. The Committee shall elect annually, in January of each year, a chair~~person~~ and secretary from its membership and shall adopt its own rules of procedure. Should the position of Chair become vacant during such year, the Committee shall elect another of its member to serve as Chair for the remainder of that year. As of the effective date of this section, no member shall be elected as chair of the Committee more than six (6) consecutive times; and as of the date of this section no member shall serve more than five (5) consecutive terms on the Committee. Service on the Committee prior to the effective date of this section shall not be included in such calculations. The Secretary shall be responsible for taking minutes at each meeting of the Committee, and shall forward copies of the minutes to the City Manager for distribution once such minutes are accepted by the Committee. Eff: 11/14/08; Amended 10/14/09; Amended 11/09/18

Sec. 2-706 Donation and Fundraising Account

The Director of Finance shall receive all money donated to the City for the restoration, preservation, maintenance, improvement, operation, use and enjoyment of the Rockland Breakwater Lighthouse, and shall comply with the terms, if any, upon which such donations are accepted by the City Council. In case the City Council accepts a donation of money, the income of which is to be expended for the support of the Rockland Breakwater Lighthouse, the Director of Finance shall set up a separate fund account, invest the money, and place the income to the credit of the current appropriation for the Rockland Breakwater Lighthouse. Eff: 10/14/98

ARTICLE VIII Health Department

Sec. 2-801 Establishment

There shall be a Department of Public Health, the head of which shall be the Health Officer who shall be a physician appointed by the City Manager. There shall also be an officer of the City titled Inspector of Dairy Products, who shall be appointed by the City Manager; the Health Officer may be appointed as such officer, and if not, shall exercise direction over such Inspector. There shall also be one or more Plumbing Inspectors appointed by the City Manager, to be under the direction of the Health Officer.

State Law Reference: 22 M.R.S. § 451.

Sec. 2-802 Duties of Health Officer

The Health Officer shall have charge and control of all functions involved in protecting and preserving the public health; he shall have all power provided by State law or City ordinance relative thereto. Among other powers, he shall exercise the functions of:

1. Communicable Disease Control, which shall include the power of quarantine and detention, and the adoption of such other measures as will prevent the spreading, or aid in the prevention of communicable diseases;
2. Sanitation, which shall include inspection of the preparation manufacture, storage and sale of all articles and commodities intended for human consumption and the regulation of all matters pertaining to the sanitary condition affecting the public health;
3. Nursing, which shall consist of the inspection of the operation of all private or public infant, pre-school, and school hygiene programs, and their direct operation if and when so authorized by ordinance.
4. Vital Statistics, which shall consist of general direction of the City Clerk's methods of obtaining ~~and maintaining all~~ statistics relating to births, marriages and deaths as required by law.

Ch. 2, Sec. 2-705

State Law Reference: 22 M.R.S. § 801 et seq; 22 M.R.S. § 2491 et seq; 22 M.R.S. § 454-A; 22 M.R.S. § 2701 et seq.

Sec. 2-803 License Inspections

He shall inspect promptly all premises for which a license applied for requires certification by the Health Officer, and either deliver to the City Clerk promptly a certificate to the effect that health laws are complied with and the proper sanitary conditions exist, or promptly advise the City Clerk of his refusal to so certify.

Cross Reference: Chapter 11, § 11-1107.

Sec. 2-804 Complaints

The Health Officer shall receive and examine into all complaints made by any of the inhabitants of Rockland concerning nuisances dangerous to life and health within the limits of the City; enter upon or within any place or premises where nuisances or conditions dangerous to life or health are known or believed by him to exist, and personally, or by appointed agents, inspect and examine the same; and all owners and occupants shall permit such sanitary examinations. He shall have the power and it shall be his duty to order the suppression and removal of nuisances and conditions detrimental to life and health known by him to exist within the limits of the City.

State Law Reference: 22 M.R.S. §§ 454-A, 461, 1561.

Sec. 2-805 Penalty

Any person who shall refuse or neglect to comply with any of the lawful orders of the Health Officer shall be subject to a fine or penalty of not exceeding one hundred dollars (\$100) for each offense, unless otherwise provided; and wherever such order required that a certain act be done or performed within a specified time, then any person neglecting or refusing to do or perform such act within the required time shall be subject to fine or penalty of not exceeding one hundred dollars (\$100) for each twenty four (24) hours thereafter that he shall refuse or neglect to do or perform the same, unless otherwise provided.

ARTICLE IX Legal Department

Sec. 2-901 Establishment

There shall be a Legal Department, the head of which shall be the City Attorney, who shall have been admitted an attorney of the courts of Maine, and who shall be appointed by the City Council. The daily activities of the City Attorney shall be under the direction and supervision of the City Manager. The City Council shall retain the same supervisory role contained in the Charter and Ordinances. Eff: 10/9/96

Sec. 2-902 Duties

The City Attorney shall:

1. Legal Advice. Be charged with the performance of all legal services of the City, including those of legal advisor to the Council, the Manager, and to all departments and officers of the City.
2. Ordinance Enforcement. Upon the request of any department head, take the necessary steps to arrange for the prosecution of a violation of any ordinance, and in the furtherance thereof shall confer with and render to the County Attorney such assistance as he shall request;

3. Courtroom Representation. Represent the City in matters in which the City is interested coming before any court or tribunal;
 4. Ordinance Drafting. Draft any ordinance when required by the City Council or Manager;
 5. Other Duties. Perform such other duties as may be required by the City Council;
 6. Council Meetings. Attend all meetings of the City Council;
 7. Report Lawsuits. Report to the City Council promptly, all suits brought against the City;
 8. Annual Report. Make an annual report to the City Manager, which shall include a record of all claims outstanding at commencement of fiscal year, all new claims, all claims closed, and status of outstanding claims;
 9. Law Affecting City. Call to the attention of the City Council and the City Manager all matters of law affecting the City;
 10. Written Opinions. Render all opinions in writing, insofar as practicable;
 11. Record of Opinions. Maintain an indexed record of all of his opinions rendered and turn such record over to his successor in office;
 12. Maine Legislature. Appear before the Maine State Legislature or any Committee thereof, when required by the City Council or City Manager, and there in behalf of the City represent, answer for, defend and ~~advocate the interests and~~ welfare of the City, whenever the same may be directly or incidentally affected, whether to prosecute Ch. 2, Sec. 2-803
 13. Bonds. Whenever any City officer or other person is required by any law, ordinance or contract, or by order of the City Council, to give bond, and such bond is presented to the City Attorney by or on behalf of the person required to furnish the same, the City Attorney shall so certify thereon when the same meets with his approval as to form and is legally and financially sufficient.
- Charter Reference:** Article IV, § 406.

Sec. 2-903 Attorney's Fees And Costs

Whenever the Maine Revised Statutes, the City of Rockland Charter and/or Code, or other law or regulation shall authorize the City of Rockland to charge or recover all or some part of its attorney's fees and/or costs, such attorney's fees shall be charged to or recovered from the responsible party at the rate and in the amount charged to the City of Rockland where outside counsel has been retained for the matter, or at the rate set by Order of the Rockland City Council where the City Attorney has performed the legal work at issue, together with the actual costs incurred therein, including filing fees and charges for service of process, except as may otherwise be provided by statute or ordinance.

The City Manager is hereby authorized, upon consultation with the City Attorney, to reduce or otherwise compromise the amount of the City of Rockland's attorney's fees and costs to be charged to the responsible party, where appropriate, if the responsible party shall be determined to be unable to pay part or all of said fees and costs, or where the advancement of another City Council directive or policy is best served by such a waiver or offset. Eff: 12/14/07

ARTICLE X Library Department

Sec. 2-1001 Establishment

There shall be a Department of Public Library, the head of which shall be the Library Director who shall be appointed by the City Manager.

Sec. 2-1002 Duties of Library Director

The Library Director shall have the following duties:

1. Rules and Regulations. Establish and enforce such rules and regulations for the government of the library as are not inconsistent with State law or any City ordinance, which rules and regulations shall be subject to the approval of the City Council;
2. Library Services. Have charge of all functions pertaining to the service of the Rockland Public Library;
3. Staff Supervision. Exercise executive direction over such staff as may be appointed by the City Manager;
4. Requisitions. Prepare and present to the City Purchasing Agent requisitions for books, periodicals and supplies for the Library;
5. Bills. Present all bills monthly to the Finance Director for audit and payment;
6. Budget. Present annually to the City Manager at the time budget estimates are required, a program of Library building and land improvements, care and maintenance, to the end that such funds as the City Manager may see fit to allocate in the budget for this purpose may be included in the budget of the department responsible for such work.

Sec. 2-1003 Library Advisory Committee

There shall be a Rockland Public Library Advisory Committee appointed by the Mayor and confirmed by the City Council consisting of five (5) members. The term of office shall be three (3) years, except that at time of original appointment of the Committee, two (2) members shall be appointed for two (2) year term, two (2) members for one (1) year term and one (1) for one (1) year; thereafter, all appointments shall be for a term of three (3) years. Such terms shall expire December 31 of each year as designated. There shall also be one (1) alternate member of the Committee who shall serve a term of three (3) years. The alternate member shall attend all meetings of the Committee, may participate in any discussions or hearings, but shall only vote on Committee matters if a full quorum is not present at such meeting. When a vacancy occurs on the Committee, the alternate member may be appointed to fill such vacancy. The Committee shall elect annually, in January of each year, a chair and secretary from its membership and shall adopt its own rules of procedure. Should the position of chair become vacant during such year, the Committee shall elect another of its member to serve as chair for the remainder of that year. As of the effective date of this section, no member shall be elected as chair of the Committee more than six (6) consecutive times; and as of the effective date of this section, no member shall serve more than five (5) consecutive terms on the Committee. Service on the Committee prior to the effective date of this section shall not be included in such calculations. The Secretary shall be responsible for taking minutes at each meeting of the Committee, and shall forward copies of the minutes to the City Manager for distribution once such minutes are approved by the Committee. The Mayor (or designee), City Manager (or designee) and Library Director shall serve as non-voting members of the Committee. The duties of the Advisory Committee shall be to:

Ch. 2, Sec. 2-903

Eff: 11/09/18

- 1. Library Policy. Advise the City Council on all matters of library policy. Eff: 5/12/93
- 2. Citizen Participation. Co-operate with the Library Director in a program to the end that our citizens may participate more fully in the benefits offered by the Library;
- 3. Adult Education. Co-operate with the Library Director in a program of adult education centering around the Library;
- 4. Donations. Co-operate with the Library Director to obtain maximum possible public assistance to the end that money and books may be donated to the Library by citizens.

Sec. 2-1004 Perpetual Minimum Appropriation

In accordance with the vote of the inhabitants of Rockland on May 19, 1902, accepting the conditional gift of twenty thousand dollars (\$20,000) from Andrew Carnegie for the erection of a free public library, there shall be raised for the support of the Library not less than two thousand dollars (\$2,000) a year perpetually.

Sec. 2-1005 Donations

The Finance Director shall receive all money donated to the City for the maintenance and improvement of the Rockland Public Library, and shall comply with the terms, if any, upon which such donations are accepted by the City Council. In case the City Council accepts a donation of money, the income of which is to be expended for the support of the Rockland Public Library, the Finance Director shall set up a separate fund account, invest the money, and place the income to the credit of the current appropriation for the Rockland Public Library.

State Law Reference: 27 M.R.S. § 101-109; 30-A M.R.S. §§ 5653-5655.

ARTICLE XI Shore Village Museum [REPEALED 04/12/06]

ARTICLE XII Personnel

Sec. 2-1201 Establishment

There is hereby created a Department of Personnel, the head of which shall be the Personnel Director who shall be or be appointed by the City Manager, and a Personnel Board, which shall consist of five (5) members who shall be appointed by the Mayor and confirmed by the City Council. Members of the Board shall serve three (3) year terms, except for the five (5) members first appointed, two (2) shall serve for three (3) years, two (2) shall serve for two (2) years and one (1) shall serve for one (1) year. Such terms shall expire December 31 of each year as designated. There shall also be an alternate member of the Board who shall serve a term of three (3) years. The alternate member shall attend all meetings of the Board, may participate in any discussions, but shall only vote on Board matters if a full quorum is not present at such meeting. When a vacancy occurs on the Board, the alternate member may be appointed to fill such vacancy. The Board

shall elect one of its members in January of each year as its Chair and Secretary and determine its own rules of procedure. Should the position of Chair become vacant during such year, the Board shall elect another of its member to serve as Chair for the remainder of that year. As of the effective date of this section, no member shall be elected as chair of the Board more than six (6) consecutive times; and as of the effective date of this section no member shall serve more than five (5) consecutive terms on the Board. Service on the Board prior to the effective date of this section shall not be included in such calculations. The Secretary shall be responsible for taking minutes at each meeting of the Board, and shall forward copies of the minutes to the City Manager for distribution once such minutes are accepted by the Board.

Eff: 11/09/18

Sec. 2-1202 Purpose

The purpose of the Department of Personnel is to make job appointments for classified service with the City. Classified service positions shall be all those employee positions of the City currently existing or hereafter created by resolve of the City Council, except for the following which are to be considered unclassified positions:

Eff: 03/10/16

1. Members of the City Council
2. Members of any Board or Commission appointed by the City Council
3. The City Manager, City Attorney and City Clerk
4. Temporary and emergency employees, including employees hired under Manpower programs
5. Health Officer. Eff: 9/12/01

Sec. 2-1203 Duties of the Personnel Director or Designee

Ch. 2, Sec. 2-1004

The powers and duties of the Director of Personnel, or designee, are as follows:

1. Establish and administer comprehensive classification and compensation plans, enacted by ordinance by the City Council.
2. Create job descriptions with appropriate education, experience and/or other requirements.
3. Set standards for applicants for classified employment positions which may include, but not limited to, requirements for education, experience, oral and written exams, medical or physical tests or licenses.
4. Determine when a classified employee vacancy will be filled and arrange for appropriate advertising for the position. Appropriate advertising will include, but not be limited to, public notice in a newspaper circulated widely in Rockland, as well as posting such advertising on various appropriate electronic media, and will provide enough information for applicants to provide sufficient application establishing their qualifications for the position.
5. Review application for classified job openings and refer qualified job applicants to the PB for review and recommendation, however, a copy of all applications will be sent to the PB for their potential consideration. A qualified job applicant is one who has the basic skills required to perform the duties of the position advertised, which are set forth in the standards in (3) above. The Personnel Director, or designee, and department head, when appropriate, may assist participate with the PB by in evaluating applications for, and interview of such applicants.
6. Serve as the selecting official for all classified positions. This responsibility includes determining the candidate meets all requirements for the job, such as licenses, etc., and conducting background and reference checks as deemed appropriate. Any candidate certified to the Personnel Director, or designee, by the PB may be selected for the open position. If PB certified candidates are not deemed acceptable to the Personnel Director, or designee, the Personnel Director, or designee, may conduct additional interviews, consult with department heads, or take other actions appropriate to select a qualified applicant, which may include, but not be limited to, leaving the position unfilled or advertising the position again. Classified positions that serve as assistants or deputies to positions directly appointed or confirmed by the City Council shall also be confirmed by the City Council. Eff: 03/10/16
7. Investigate complaints and make appropriate recommendations concerning any actions related to the administration of personnel rules and procedures.
8. Maintain all employee records including, but not limited to, evaluations, overtime, sick and annual leave.
9. Develop an employee training program to be administered by department heads.
10. Develop and administer an employee Health and Safety program.
11. Take such action and perform such functions as may be required by order of the City Council to conduct and maintain an effective and efficient personnel system. Eff: 9/12/01; Amended 11/09/18

Sec. 2-1204 Duties of the Personnel Board (PB)

The primary duty of the PB is to evaluate applicants for positions of classified employment with the City and certify to the Personnel Director only those whom it deems acceptable candidates.

1. The PB will follow procedures it deems necessary to certify applicants. This may include, but not be limited to, review of applications, testing, interviews and consultation with department heads. A certified applicant is one who in addition to being qualified meets with PB approval after following its procedure. The PB will try to complete its work within 30 days of the closing period for the job solicitation.
2. Applicants may meet the basic qualifications for a job but not be certified for selection.
3. To the extent possible, certified candidates will be ranked in order of PB preference.
4. The PB will communicate with the Personnel Director to suggest effective recruiting and hiring practices. Eff: 9/12/01

Sec. 2-1205 Selection and Probationary Period

The Personnel Director will notify the PB of the name and effective date of all classified employee selections or whether no selection was made.

All appointments shall be made for a probationary period not to exceed twelve (12) months. At any time during the probationary period the appointee may be separated from service. At the conclusion of the probationary period, the employee will be confirmed in the position if affirmatively recommended in writing by the head of the department where assigned and such recommendation is approved by the City Manager; otherwise, the employee will be separated from the service.

Eff: 9/12/01

Charter Reference: Article IV, § 402

State Law Reference: 30-A M.R.S. § 2701.

Sec. 2-1206 Appointments - Temporary or Emergency

Ch. 2, Sec. 2-1203

If, in the opinion of the City Manager, the interest of the City so requires, he may at any time make a temporary or emergency appointment for a period not in excess of ninety (90) days, without complying with the procedure set forth in this Article, anything to the contrary notwithstanding.

Sec. 2-1207 Residency

A. As a Factor in Hiring. Rockland residents will receive preference by the Personnel Board when being considered for employment with the City, when ability and background are considered equivalent to a non-resident candidate for any given position.

B. Department Heads. It is the policy of the City to prefer that all Department Heads to reside within the City of Rockland. This policy is intended to underscore the commitment of those holding these high administrative positions to the future of the City, and to illustrate the willingness of these employees to live and pay taxes to the community for which they share a particular responsibility in their jobs. There shall be a residency radius required for the positions of Police Chief, Fire Chief and Public Works Director, which shall be the same as is required by the collective bargaining agreements for those departments.

C. Other Employees. If it is a legitimate job requirement for an employee to live within a certain response time or within a certain distance from the facility at which the employee works, the City Manager shall include this requirement in the job description of the position in question and shall require a successful job applicant to relocate to the area within such distance or response time within one year of the completion of their probationary period, beginning with all such employment vacancies posted after January 1, 1997. These distances and response times may also be addressed in collective bargaining agreements entered into by the City. Where time and distance requirements promulgated by the City Manager and those negotiated in a collective bargaining agreement conflict with respect to any individual employee, the applicable term in the collective bargaining agreement shall govern. Only the City Manager shall be empowered to grant a waiver of this requirement, or this time limit, or as agreed to in any collective bargaining agreement.

If it is not a legitimate job requirement for an employee to live within a certain radius or response time to his or her facility, such requirements shall not be made a condition of initial hiring or continued employment with the City of Rockland.

State Law Reference: 30-A M.R.S. § 2703. Eff: 03/10/04

Sec. 2-1208 Evaluations

Written evaluation of all employees shall be conducted at least on an annual basis. These evaluations will be discussed with employees prior to becoming entered in the employee's personnel file. Evaluations shall be conducted by department heads for their own departments. The Manager shall evaluate the department heads and his own staff.

Sec. 2-1209 Assignment

The City Manager shall assign all employees to positions and prescribe their duties; changes in assignments or duties may be made by the City Manager at any time.

Sec. 2-1210 Attendance

All officers and employees in the classified service shall serve the hours of work required for their respective departments, as may be set forth by administrative regulations issued by the City Manager. Any tardiness in excess of fifteen (15) minutes in any one day shall be charged to annual leave. Any absence shall be charged to annual leave or sick leave as the facts may warrant.

Sec. 2-1211 Holidays

Holidays for administrative personnel shall be: New Year's Day; Martin Luther King Day; Washington-Lincoln Day; Patriots' Day; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day; Christmas Day; and a day to be taken between Thanksgiving and December 31st; and other holidays which are recognized to be Bank holidays by the State of Maine. If a holiday falls on Saturday, the Friday before shall be deemed a holiday for the purpose of this Article, and if a holiday falls on a Sunday, the following Monday shall be deemed a holiday for the purpose of this Article. If a holiday occurs when an employee is on vacation, he shall receive an additional optional day off with pay. Eff: 3/15/95

Sec. 2-1212 Annual Leave

1. One to Five Years of Service. All permanent employees who have more than one (1) year of service, and less than five (5) years of service with the City of Rockland, shall be entitled to a vacation, with pay, of two (2) calendar year. Ch. 2, Sec. 2-1206

2. Five to Ten Years of Service. All permanent employees who have completed five (5) years and less than ten (10) years of service with the City of Rockland shall be entitled to a vacation, with pay, of three (3) weeks during each calendar year.

3. Ten to Twenty Years of Service. All permanent employees who have completed ten (10) years and less than twenty (20) years of service with the City of Rockland shall be entitled to a vacation, with pay, of four (4) weeks during each calendar year.

4. Twenty Years of Service. All permanent employees who have completed twenty (20) years of service with the City of Rockland shall be entitled to a vacation, with pay, of five (5) weeks during each calendar year.

5. Anniversary Date. Entitlement to vacation under this section shall be determined as of the employee's anniversary date in the year which the vacation is taken. Vacations shall be granted according to rank and then according to seniority in the Department. No employee may accumulate more than two (2) years earned vacation. Eff: 02/11/04

6. Accumulated Time.

A. Dismissal; Voluntary Resignation. In the event of the dismissal of an employee, for cause, or if an employee voluntarily leaves his employment, the employee shall be entitled to vacation pay prorated on credits earned in the calendar year in which the employee is dismissed, or voluntarily leaves. Eff: 4/14/88

B. Separation; Retirement. Employees who are separated in good standing, or retire from the Rockland departments and who have accrued vacation time to their credits at the time of such separation or retirement, shall be paid the wages equivalent to the accrued vacation, but in any case not to exceed eight (8) work weeks, provided the employee submits a written notice fourteen (14) days in advance of his last day of actual work.

C. Death. In the event that an employee covered hereby dies during the term of this Agreement, his accrued vacation credits, if any, shall be paid in the wage equivalent, as follows:

(1) If the employee dies testate, then to his estate.

(2) If the employee dies intestate, leaving a widow or widower, with whom the employee was living at his death, then to such widow or widower.

(3) If the employee leaves no such widow or widower, but is survived by children, including adopted children, then to

such children jointly; if any such children are then minors, then the guardian of such children must be joined in on such payment.

(4) If the employee has no such spouse or children surviving him, then to his parents or parent who survive him or to legal heirs.

7. Extended Leaves of Absence.

A. Leaves of absence may be granted by the City Manager for study, travel or illness subject to advance approval of the City Council.

B. Other justified leaves of absence without pay may be granted by the City Council. Eff: 5/11/88

Sec. 2-1213 Pension

The City agrees to participate in the Maine State Retirement System options presently in effect at the level of current pension payments; option which include retirement at age 60, at the employee's election, retirement allowance to a retired member - 1/50 of his average compensation multiplied by the number of membership years--1/70 of prior membership service, minimum, any member who has ten (10) years shall be entitled to compensation of one hundred dollars (\$100) a month. Cost of Living--the provision of Title 5, Section 1128 of M.R.S. relating to Cost of Living plan of retired persons shall be incorporated as part of the Retirement Plan of the City of Rockland.

Sec. 2-1214 Insurance

The City will provide health insurance to all qualified employees covered by this Article and for all their dependents and an employee's spouse or domestic partner. The cost for such coverage for the employees and their spouses, domestic partners, and dependents shall be divided between the employee and the City. Eff: 09/10/12

Sec. 2-1215 Sick Leave

Sick leave shall accrue at the rate of one (1) day for each full calendar month of service beginning with the first calendar month of employment. The Personnel Director shall establish maximum sick leave accumulations, either by administrative policy or in collective bargaining agreement(s), as may be applicable. Sick leave may be used in the following cases:

1. Personal Illness or Incapacity. Personal illness or physical incapacity of such degree or nature as to (1) render the employee unable to perform the duties of his position, unless the employee is found capable of other work in the Department by the City Manager and assigned such other work, or (2) expose other employees or the public to infection where the employee is required to work. If requested, the employee shall furnish a certificate from

Ch. 2, Sec. 2-1212

 for sick leave that exceeds three consecutive days.

2. Exchange. An employee who works six (6) consecutive months without sick leave may exchange one (1) accumulated sick day for one (1) personal day to be taken in the next twelve (12) months, regardless of such employee's level of accumulated sick leave No employee may exchange more than two (2) sick leave days for personal days in any one (1) calendar year.

3. Family Illness. An employee may utilize sick leave to attend upon a member of his family within the household of the employee when the family member is ill and requires care by such employee. An employee may use more than two (2) days of accumulated sick leave to attend upon a family member only if pre-approved by the City Manager.

4. Notice of Absence. Employees shall see that their department head is notified of the reason for their absence, not previously arranged for, within two (2) hours of the beginning of the unexpected absence.

The City Manager may establish a Sick Leave Donations Program, and establish a policy implementing such program.

Eff: 07/13/11

Sec. 2-1216 On The Job Injury

Employees who are covered by the provisions of this Article and who are injured on the job shall receive, in addition to compensation paid or payable under the Workers' Compensation Act, an amount sufficient to bring them up to full net wages while any incapacity exists and until they are either placed on disability retirement or return to active duty, up to a maximum of one (1) year.

Should the Worker's Compensation Commission reduce the amount payable under the Workers' Compensation Act, the City's contribution will not be increased accordingly. The difference between the Worker's Compensation weekly benefits and the employee's base wage will be deduced from the employee's accrued sick leave which exceed thirty (30) days. If the employee is still disabled after the deductions have caused his accrued sick leave to be reduced to thirty (30) days, or if

the employee involved has not accrued sick leave in excess of thirty (30) days, the employee will nevertheless continue to get his weekly base wage from the City.

State Law Reference: 39-A M.R.S. § 1 et seq.

Sec. 2-1217 Bereavement Leave

1. Immediate Family. In the event of the death of the employee's spouse, child, mother, father, brother, sister, mother-in-law, father-in-law, grandparents, spouse's grandparents, or grandchild, the employee shall be entitled to up to three (3) days' leave for the purpose of attendance at the funeral and assisting in the necessary family arrangements. Such days shall be with pay and without any deduction from sick leave if they are scheduled work days.

2. Other Relatives. An amount of time, determined by the City Manager but in no case to exceed one (1) day, will be allowed for attendance at funerals of the following relatives of the employee not provided under subsection 1: aunt, uncle, niece, nephew, stepmother, stepfather, brother-in-law, sister-in-law, or any other relative when such other relative is living in the same household as the employee. Time off shall be with pay and shall not be chargeable to sick leave.

Sec. 2-1218 Unused Sick Leave

1. Retirement. When an employee covered by this Agreement retires from active service with the City, if immediately eligible for retirement benefits under the Maine State Retirement System, he shall be entitled to receive an amount equal to his wages at the time of such retirement of one-half (1/2) the number of days of unused sick leave which he has accumulated.

2. Death. In the event an employee dies before retirement, leaving a spouse or minor child or children surviving, one-half (1/2) of his accrued sick leave, subject to the same maximum limitation as in the case of retiring employees, shall be paid to the spouse or to the surviving children.

3. Voluntary Separation. If an employee voluntarily leaves his employment, with a two-week written notice in advance of his last date worked, one-half (1/2) of his unused sick leave shall be paid to him upon termination.

Sec. 2-1219 Payment of Salary or Wage

Wages and salaries shall be paid weekly or monthly or at such other periods as the City Manager may direct.

State Law Reference: 26 M.R.S. § 625-B et seq.

Sec. 2-1220 Promotions

When vacancies occur in a classified position (see Sec. 2-1202), other than Department Head, which may provide City employees a promotion opportunity, the opening will be announced by the Personnel Director to Ch. 2, Sec. 2-1216 the announcement will cite the requirements for qualified candidates, which may include, but not be limited to, ~~requirements, tests,~~ education and department experience. Promotions will be open only to employees who have completed their entry-level probation period. The Personnel Director shall submit to a promotion board a list of City employees, along with their written applications, who meet the criteria. It shall be the decision of the promotion board as to whether to certify a candidate, or candidates, to the Personnel Director, or that the position will not be filled by promotion.

Department Head positions will be announced and competed for outside the promotion process.

The promotion board shall consist of the Chairperson of the Personnel Board, or designee, the Personnel Director, or designee, and the Department Head of the position to be filled. The promotion board will set its own procedures. The board, at its discretion, may conduct interviews, review applications, or utilize other methods to arrive at its decision.

Sec. 2-1221 Demotion or Separation

The City Manager may demote or separate from the service at any time any employee in the classified service for just cause, after notice and hearing.

Sec. 2-1222 Suspensions

1. Any officer or employee may be suspended with pay, after written notice, by a department head for a period not to exceed ten (10) working days, or by the City Manager for a period not to exceed six months.

2. Any officer or employee may be suspended without pay, for cause, after written notice and hearing, by a department head for a period not to exceed ten (10) working days, or by the City Manager for a period not to exceed 6 months.

3. Any officer or employee may be discharged for cause after written notice and hearing, by the City Manager. Eff: 1/11/83

4. Any officer or employee may within forty-eight (48) hours of receiving a written notice for a hearing, request that the City retain an attorney for the purpose of presiding at the hearing. Said attorney shall not be affiliated with the City Attorney or with the attorney representing the officer or employee if the officer or employee shall elect to be represented by an attorney. Eff: 6/13/85

Sec. 2-1223 Disciplinary Procedures

The City may adopt disciplinary rules and work rules which will be posted from time to time during the duration of this Agreement. All suspensions and discharges shall be for a just cause and written notice of the reasons for suspension and discharge shall be stated, and given to the employee affected within five (5) days after the effective date of this action.

Sec. 2-1224 Non-Discrimination

The City of Rockland is committed to providing equal employment opportunities for all persons making application to the City, and for equity of treatment, compensation, and advancement opportunities for its employees. The City therefore shall adhere to a policy of non-discrimination in hiring, employment, and personnel actions on the basis of any applicant or employee's religion, age, sex, sexual orientation, marital status, race, color, ancestry, national origin, or physical or mental disability except as a *bona fide* occupational qualification. Eff: 12/14/11

State Law Ref.: 5 M.R.S. §§ 4572, 4573.

Sec. 2-1225 Transfers

Transfers within the service may be made at any time at the discretion of the City Manager, but he shall report such actions promptly to the Board for its records.

Sec. 2-1226 Grievance Procedure

A grievance, for purposes of this Article, shall be defined as any controversy, complaint, misunderstanding or dispute arising between the parties as to the meaning or application of the specific parts of the Personnel Ordinance.

Every reasonable effort shall be made by the parties involved to arrive at a fair and equitable resolution of every grievance prior to resorting to the grievance procedure hereinafter set forth. If this is found to be impossible, the matter may be submitted to the grievance procedure in accordance with the following:

1. Department Head. Within twenty (20) working days after the occurrence of such a grievance, the aggrieved employee and/or his/her representative shall reduce the grievance to writing setting forth his/her contentions in full and shall sign the grievance and submit it to his/her department head. The department head shall submit a written answer to the grievance within seven (7) working days after receipt of the written grievance.

2. City Manager. If the answer of the department head does not satisfactorily resolve the grievance, Ch. 2, Sec. 2-1220, within five (5) working days from receipt of such answer submit the grievance to the City Manager. ~~The City Manager will~~ submit a written answer to the grievance within ten (10) working days from receipt of the written grievance. Eff: 9/12/01

3. Grievance Committee. If the answer of the City Manager does not satisfactorily resolve the grievance, the employee may, within five (5) working days from the receipt of such answer, submit the grievance to a Grievance Committee composed of:

- A. a City department head not party to the grievance:
- B. a City employee selected by the aggrieved: This cannot be the aggrieved employee. The selected employee must volunteer to participate. If the aggrieved employee is unable to successfully appoint a volunteer within 5 working days, the Chairperson of the Personnel Board will appoint a third person.
- C. Chairman of the Personnel Board or their designee.

The City Manager will accept the grievance on behalf of the committee, notify the appropriate parties, and facilitate setting a hearing. The committee will make a reasonable effort to review and decide the grievance within 15 days after hearing such grievance. By majority vote, decisions will be made on how to provide a full and complete hearing of the facts in contention.

The decision of the grievance committee will constitute a final adjudication of the grievance.

ARTICLE XIII Police Department

Sec. 2-1301 Establishment

There shall be a Police Department, the head of which shall be the Police Chief who shall be appointed by the City Manager and confirmed by the City Council. There shall also be such other staff as may be authorized by the City Council, all of whom shall be appointed by the City Manager. Eff: 01/10/01

Sec. 2-1302 Regular and Special Police

The number of regular and special policemen, including special fire policemen, shall be determined by, and each such policeman shall be appointed by, the City Manager, except as he may delegate the appointive power to the Police Chief. Special policemen shall have all the powers vested in the regular City policemen: said special policemen shall, however, serve only when and as specifically required by the Police Chief, and shall function only under the direction of the Police Chief: they shall assist the Police Chief whenever called upon and whenever so called shall be compensated for services rendered, as the City Manager may determine. No special policeman shall be on duty as a special policeman at any time or place without being ordered to do so by the Police Chief, and no special policeman shall be paid for police services directly by any person other than the appropriate City official.

State Law Reference: 30-A M.R.S. §§ 2671-2673

Sec. 2-1303 Duties of Police Chief

The Police Chief shall be the commanding officer of the police force. He shall:

1. Law Enforcement. Be responsible for the enforcement of law and order;
2. General Supervision. Direct the police work of the City;
3. Assign Officers. Arrange for the attendance of one or more Police Officers at every fire, to preserve order and to prevent theft and destruction of property;
4. Street Inspections. Cause the streets, wharves and lanes of the City to be inspected regularly, and cause to be removed all nuisances, obstructions or impediments therein, causing offenders to be prosecuted when necessary to abate such nuisances;
5. Report to Director of Public Works. Cause to be observed, and reported immediately to the Director of Public Works, all defects and want of repair in streets and sidewalks;
6. Delivery of Council Documents. Receive and deliver all notices and papers to members of the City Council and to the City Manager and officers appointed by either, when requested by the City Clerk, and make due return thereof;
7. Property/Maintenance. Be responsible for the maintenance and care of all property used by the Police Department, and the training of all personnel on new equipment as it is added;
8. Training. Be responsible for the in-service training of current law enforcement techniques as well as the law and legal procedures. Maintain programs of in-service training to provide minimum standards of firearm proficiency and physical fitness for police personnel and an annual evaluation of all members of the department;
9. Dispatchers. Be responsible for the in-house training of the dispatchers at the Public Safety Building;
10. Accidents. Investigate, or cause to be investigated, the cause and circumstances of any accident occurring for which the City may be liable, instruct all police officers to report to him such accidents; and notify the City Clerk of all such accidents. Whenever the attention of any police officer shall in any manner have been called to an accident for which the City may be liable, it shall be the duty of such police officer forthwith to communicate such facts and information as he may have to the Police Chief;
11. License Certification. Investigate promptly all applicants for any license or permit when such application requires certification by the Police Chief, and either deliver promptly to the City Clerk a certificate approving such license or permit or promptly advise the City Clerk of his refusal to so certify.

Cross Reference: Chapter 11, § 11-106; § 11-107.

Sec. 2-1304 Departmental Division

This department shall be divided into the following divisions:

1. Patrol Division, supervised by the Police Chief or his designee, who shall have charge of the motor and foot patrolmen, routine investigations not assigned to the Investigation Division and temporary assignments for special duty. Eff: 5/13/87
2. Dispatching and Records Division, supervised by the Deputy Police Chief, who shall have charge of the central complaint desk and of dispatching, police records, criminal and non-criminal identification, property identification,

Ch. 2, Sec. 2-1301

custody of property and operation of detention quarters. This Division shall co-operate with the Federal Bureau of Investigation by furnishing reports as and when requested. A full and complete record shall be kept, including the name in full of every person arrested, the offense for which arrested, the time of the arrest, the name of the officer making the arrest, and the final disposition of the case.

3. Investigation Division, supervised by a Detective who shall be appointed by the City Manager, who shall have charge of the investigation of crimes and the preparation of evidence for the prosecution of criminal cases.

Sec. 2-1305 Dog Officer

The City Manager shall designate a Dog Officer whose duty shall be to enforce State and local laws regarding dogs.

State Law Reference: 7 M.R.S. § 3947

Cross Reference: Chapter 3.

Sec. 2-1306 False Alarms

Purpose - Due to the increasing use of burglar alarm systems in Rockland homes and businesses, and to the increasing problem of false alarms which result in the wasteful expense of public safety manpower and funds, the City establishes an Ordinance to regulate use of such alarms.

I. Approval of System.

A. No person shall install a burglar alarm system in any business or residence in the City of Rockland without first applying to the Rockland Chief of Police for approval of such installation. Alarms existing at the effective date of this amendment must be made to conform to this ordinance and be inspected and approved by the City of Rockland.

B. The application for approval must contain the following information:

1. Owner's name, address and telephone number.
2. Type of alarm system.
3. Alarm servicing agent (if applicable).
4. The names and telephone numbers of at least two people capable of resetting the alarm system.
5. Signature of applicant, indicating that the applicant has read the False Alarm Ordinance.
6. The signature of the Chief of Police, approving the installation.

II. Restrictions on Burglar Alarm Systems.

A. "Automatic Dialing Systems" which directly dial the public safety telephone lines an unlimited number of times, thereby tying up emergency telephone lines until such alarms can be stopped and reset, are prohibited. Automatic dialing systems that shut off after only three rings to a non-emergency public safety line are allowed.

B. Audible alarms must have an automatic cut-off timer set for 15 minutes or less.

III. Liability for False Alarms.

A. Alarm owners will be liable to the City for each false alarm over five (5) per calendar year and will be charged at the rate of fifty dollars (\$50.00) for each such alarm, but the following shall not be deemed false alarms: Eff: 08/08/07

1. Those caused by line repairs or testing by utilities.
2. Those in which some sign of attempted entry at the premises is visible.
3. Alarms intentionally activated by owners or employees under the reasonable belief that an emergency exists.

B. The Rockland Police Department shall maintain records of false alarms, and shall bill system owners on a monthly basis, detailing charges.

C. Owners of alarm systems who have not complied with section one (1) of this Ordinance shall be liable to the City for each false alarm beginning with the first, in an amount of fifty dollars (\$50.00) for each such alarm. Eff: 08/08/07

D. If sixteen (16) or more false alarm calls are received by the Rockland Police Department from a single premises within a period of six (6) months, the City may, after notice delivered in hand to the owner or manager of such premises, disconnect the alarm connection between the premises involved and the Rockland Police Department. Eff: 07/12/88

Sec. 2-1307 Disabled Parking on Private Off-Street Areas

Pursuant to Maine Law, the owner of private off-street parking may enter into an agreement with the city, acting by and through its Police Department, for the policing of parking stalls and spaces dedicated for disabled persons' vehicles for violation of which the registered owner of such an illegally parked vehicle shall be fined two hundred (\$200) dollars, which penalty shall be paid to the city. There shall be adjacent to and visible from each such disabled parking space a

posted sign consisting of a profile view of a wheelchair with occupant in white with blue background and bearing the following: "Handicapped parking: special plates required. Unauthorized vehicles are subject to fine." Eff: 5/8/85 alc Rev. 4/11/90; 08/07/13.

State Law Reference: 30-A M.R.S. § 3009, 29-A M.R.S. § 521.9A.

ARTICLE XIV Department of Public Services

Sec. 2-1401 Establishment

There shall be a Department of Public Services, the head of which shall be the Director of Public Services who shall be, or be appointed by, the City Manager.

Sec. 2-1402 Duties

The Director of Public Services shall, subject to and in consultation with the City Manager, be responsible for:

1. **City Property.** The construction, maintenance, and operation of the City’s infrastructure, including streets, sidewalks, sanitary and storm sewers, parking areas, parks, and public landings, except as otherwise provided by the City charter, other ordinances, or instructions by the City Manager;
2. **Solid Waste.** Be responsible for and serve as Director of the Solid Waste Facility;
3. **Department Resources.** The direction and management of Department of Public Services and Solid Waste Facility employees, and the care and maintenance of all real and personal property occupied or used by the Department.
4. **Enforcement on City Property.** Seeing that no encroachments are made upon any street, public landing, place, square, land or ground of the City, by fences, buildings or otherwise, and whenever any encroachments shall hereafter be made upon the same, and the party making such encroachment shall neglect or refuse after notification to remove the same, to report the facts at once to the Police Chief and cooperate to the end that the person so offending shall be prosecuted and the nuisance abated.
5. **Contracts.** In consultation with the City Attorney, prepare or cause to be prepared all contracts and specifications that may be required for public services and solid waste management.
6. **Sewer Construction.** In consultation with the Water Pollution Control Director, perform or cause to be performed the construction, maintenance, repair, and replacement of the public sanitary, storm, and combined sewer systems, and all appurtenances thereto, including the enforcement of all ordinances, rules and regulations relative thereto, keeping an accurate record of the location and the expense of constructing and completing each public drain or common sewer hereafter built, and, after the same is completed, furnishing to the City Assessor a detailed statement of such expense and all necessary information to enable the City Assessor to make an assessment upon the lots or parcels of land benefited by such public drain or common sewer.
7. **Property Schedule.** Annually preparing and submitting a capital improvement program, surveying the condition, useful life, and repair or replacement of the equipment, machinery, tools and other City property in the Director’s charge.
8. **Maintenance.** The operation and maintenance of all streets, sidewalks, and other public lands, grounds and buildings; street cleaning; and snow removal, except as may otherwise directed by the City Manager.
9. **Technical Standards.** Preparing and keeping current a manual of standards and specifications governing the construction, reconstruction, repair, backfilling, compaction, paving, and repaving, as applicable, of City streets, sidewalks, culverts, sewers, and other infrastructure. Such Technical Standards Manual may also include sewer construction specifications provided or identified by the Water Pollution Control Director. The Director shall submit the Technical Standards Manual, and supplements and amendments thereof, to the City Manager for review and adoption as an Administrative Policy of the City. The Director shall cause copies of the adopted Technical Standards Manual to be made available to the public at the Department of Public Services, Water Pollution Control Facility, and Code Enforcement Office, and on the City’s website. The Director shall assure adherence with the Technical Standards Manual by the Department and by the public.
10. **Plans; Public Records.** Collect, maintain, and update all plans, estimates, profiles, records and surveys of street bounds, streets, sidewalks, sewers, and other public infrastructure. Eff: 4/8/15

ARTICLE XV Records Department

Sec. 2-1501 Establishment

There shall be a Department of Records, the head of which shall be the City Clerk who shall be elected by the City Council and serve at its pleasure. The City Clerk shall appoint a Deputy City Clerk to act as his agent.

Charter Reference: Article II.

Sec. 2-1502 Duties

The City Clerk shall:

1. Council Clerk. Serve as Clerk of the Council, and perform such other duties for the Council as it may require. He shall authenticate by his signature and be responsible for the filing, indexing and safekeeping of all proceedings of the Council, which shall be open to public inspection;
2. Elections. Make all the arrangements for elections. Keep and maintain all election records and have custody of all property used in connection with elections;
3. Appointments. Issue to every person appointed to any office by the City Council or by the City Manager, a certificate of such appointment;
4. Legal Notices. Publish all legal notices unless otherwise provided;
5. Record Preservation. File and preserve all contracts, surety bonds, oaths of office and other documents not required to be filed elsewhere;
6. Licenses. Issue all licenses and permits and collect the fees required therefor as provided by State law or City ordinance;
7. Bonds. Notify the City Manager and any official required to file a corporate surety bond as qualifying for office, when such bond or renewal thereof has not been filed promptly on time; require thereon signed certification as to form and legal and financial sufficiency by the City Attorney before acceptance of any such bond; accept, file and preserve all such bonds;
8. Notice to Police Chief of License Expirations. Notify the Chief of Police on or within one (1) week after the expiration date of each license or permit, when a new license or permit to take effect on such expiration date has not been applied for, except when the City Clerk knows that no new license or permit is required;
9. Vital Statistics. Obtain and maintain all statistics relating to births, marriages and deaths as required by law;
10. City Seal. Be the custodian of the official City Seal;
11. Notice of Expiration of Terms. Notify the appointing authority of any commission, board or agency thirty (30) days prior to the expiration of the term of office of any member thereof;
12. General Duties. Perform all duties and exercise all powers incumbent upon or vested in town and city clerks generally, which are not inconsistent with the City Charter;
13. Public Information. Maintain in his office a public information service, to furnish information concerning the City government relative to the public service. All requests for information shall be complied with promptly and courteously, provided the required information is available in the office of the City Clerk; otherwise the City Clerk shall either, as the applicant for information may prefer, refer the individual applicant to the proper department or request the proper agency of the City for such information as is required, and such agency shall supply the same as quickly as reasonably possible consistent with the extent or type of the information requested. Nothing herein shall be construed to require the City Clerk to supply, or to request any other department to supply, information which is confidential under Title 1, Section 402 of the Maine Revised Statutes Annotated and Section 704 of the Rockland Charter. Nor shall any information be prepared or supplied when the cost of so doing would result in increased expense to the City; such information however shall be supplied at the expense of the applicant, provided that the estimated cost is paid for in advance by the applicant subject to final adjustment on basis of actual cost, or at an agreed upon charge paid by the applicant in advance to the City Clerk or to the department undertaking such extra expense;
14. Public Complaints. Maintain in his office a public complaint service, to receive complaints Ch. 2, Sec. 2-1501 public service. All such complaints shall be taken in writing, signed by complainant, and transn City Clerk to the proper department for handling. The City Clerk shall follow up all complaints which are not reported on by the department to which referred as promptly as reasonably possible and necessary to insure adequate service to the public. A complete report on all complaints shall be made by departments and one copy returned to the City Clerk for filing. All complaints which, in the opinion of the City Clerk, are not properly handled shall be reported to the City Manager who shall issue such additional orders or instructions or take such action as he deems advisable. A reply, oral or written, shall be made to every complainant as promptly as reasonably possible. The spirit of this service shall be that all

complaints, whether any City official may consider them reasonable or unreasonable, and regardless of whether they are courteously or otherwise presented by any citizen of Rockland, shall be courteously and promptly investigated and replied to, with the purpose of correcting where necessary and improving whenever possible the service rendered to Rockland citizens by their public servants. Consistent with this spirit on formal complaints, City officials shall make plain by their demeanor that they welcome at all times, informal suggestions for the improvement of the service;

15. Money Received. Account for all public moneys received by him, in such manner as the Director of Finance may prescribe;

16. Notice of Council Action to Departments. Notify promptly all department heads of Council actions of concern to them.

State Law Reference: 21-A M.R.S. § 1 et seq; 30-A M.R.S. §§ 2552-2555, 2004; 1 M.R.S. §§ 401-412; 5 M.R.S. § 95-B; 22 M.R.S. § 2701 et seq.

ARTICLE XVI Parks and Recreation Department

Sec. 2-1601 Establishment and Purpose

There is hereby established a Parks and Recreation Department, the head of which shall be the City Manager. The purpose of this Department is to seek to enhance the health, welfare, and quality of life for its residents and visitors by providing public parks and recreational facilities throughout the City. Such public parks and recreational facilities provide a natural, beautiful setting for leisure, recreation, and special events, and help to conserve the scenery and natural and historic objects for the enjoyment of the current and future generations. The City's stewardship of its considerable public parks and recreational assets is made possible with the help and guidance of dedicated staff and volunteers, public and private partnerships and funding, and wise investments of limited resources with an eye toward preservation and future needs. Eff: 11/09/18

Sec. 2-1602 Parks and Recreation Advisory Committee

There is hereby established a Parks and Recreation Advisory Committee, consisting of seven (7) members, to be appointed by the Mayor and confirmed by the City Council, for three (3) year terms, except that of the seven (7) members first appointed, three (3) shall be appointed for a term of three (3) years, two (2) appointed for a term of two (2) years and two (2) for one (1) year. Such terms shall expire December 31 of each year as designated. There shall also be two (2) alternate members of the Committee who shall serve a term of three (3) years. The alternate members shall attend all meetings of the Committee, may participate in any discussions or hearings, but shall only vote on Committee matters if a full quorum is not present at such meeting. When a vacancy occurs on the Committee, an alternate member may be appointed to fill such vacancy. The Committee shall elect a Chair, a Secretary, and a Tree Warden from its membership in January of each year, and adopt its own rules of procedure. As of the effective date of this section, no member shall be elected as chair of the Committee more than six (6) consecutive times; and as of the effective date of this section no member shall serve more than five (5) consecutive terms on the Committee. Service on the Committee prior to the effective date of this section shall not be included in such calculations. The Secretary shall be responsible for taking minutes at each meeting of the Committee, and shall forward copies of the minutes to the City Manager for distribution once such minutes are accepted by the Committee. The Mayor (or designee) and City Manager (or designee) shall serve as ex-officio, non-voting members of the Committee. Eff: 11/09/18

Sec. 2-1603 Duties of Parks and Recreation Advisory Committee

The Parks and Recreation Advisory Committee shall advise the City Council and the City Manager in matters of policy and planning for parks, gardens, forests, public shade trees and recreational facilities; advise the City Manager regarding the care, maintenance, and improvements of parks, gardens, forests, public shade trees, and recreational facilities; and maintain close cooperation with the Planning Board, Comprehensive Planning Commission, the Harbor Management Commission, the Oyster River Bog Association, the Public Services Department, and Harbor & Waterfront Department on issue relative to the care, maintenance, and improvements of parks, gardens, forests, public shade trees, and recreational facilities. Eff: 11/09/18

Ch. 2, Sec. 2-1601

Sec. 2-1604 Adoption of State Law Provisions

The City Council of the City of Rockland hereby adopts the provisions of Public Laws of Maine 1945, "An Act Authorizing Municipalities to Establish, Maintain, Conduct and Finance Recreational Facilities."

State Law Reference: 30-A M.R.S. § 5726; 10 M.R.S. § 1061-1072.

ARTICLE XVII Handicapped Accessibility

Sec. 2-1701 Policy

This ordinance is intended to establish the policy of the City of Rockland regarding handicapped accessibility to any City function or program available to the general public. The City adopts the requirements of Section 504 of the Rehabilitation Act of 1973 relating to the recipients of revenue sharing funds. Said regulations requiring that no qualified handicapped person shall on the basis of handicap, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity funded with revenue sharing funds.

Sec. 2-1702 Program Coordinator

The City Manager shall be, or designate a person of the local government to be responsible for coordinating the efforts to comply with the handicapped discrimination requirements.

Sec. 2-1703 Handicapped Accessibility Grievance Procedure: Non-Work Related

A grievance, for the purpose of this Article, shall be defined as any controversy, complaint, misunderstanding or dispute arising from the perceived inability to access any City function or program available to the general public.

Every reasonable effort shall be made by the parties involved to arrive at a fair and equitable resolution of every grievance prior to resorting to the grievance procedure hereinafter set forth. If this is found to be impossible, the matter may be submitted to the grievance procedure in accordance with the following:

1. Program Coordinator. Within five (5) working days after the occurrence of such a grievance, the aggrieved citizen and/or his/her representative shall reduce the grievance to writing or recording (tape recorder being available at City Hall) setting forth his/her contentions in full and shall sign, if in writing, the grievance and submit it to the Program Coordinator.

The Program Coordinator shall submit a written answer to the grievance within seven (7) working days after the receipt of the written/recorded grievance.

2. City Manager. If the City Manager is not the Program Coordinator, or if the answer of the Program Coordinator does not satisfactorily resolve the grievance, the citizen may, within five (5) working days from receipt of such answer, submit the grievance to the City Manager. The City Manager will submit a written answer to the grievance within ten (10) working days from receipt of the written grievance.

3. Grievance Committee. If the answer of the City Manager does not satisfactorily resolve the grievance, the citizen may, within five (5) working days from the receipt of such answer, submit the grievance to the Grievance Committee composed of the City Council.

The decision of the grievance committee will constitute a final adjudication of the grievance after a full and complete hearing of the facts in contention. Eff: 04/12/06.

ARTICLE XVIII Code Enforcement Department

Sec. 2-1801 Establishment

There shall be a Code Enforcement Department, the head of which shall be the Code Enforcement Officer. There shall be an assistant Code Enforcement Officer and a secretary, all of whom shall be appointed by the City Manager.

Sec. 2-1802 Assignments

The Code Enforcement Officer is hereby assigned the duties of the Health Officer, the Plumbing Inspector, the Electrical Inspector, and the Building Inspector, and shall work in close cooperation with the Fire Department, the Planning Board, the Zoning Board of Appeals, and the City Attorney.

Sec. 2-1803 Duties

The Code Enforcement Officer shall:

1. Exercise direction over the Assistant Code Enforcement Officer who shall be Ch. 2, Sec. 2-1604 Manager.
2. Perform the duties of the Health Officer as required by the City Code and/or the laws of the State of Maine.

3. Perform the duties of the Plumbing Inspector as required by the City Code and/or the laws of the State of Maine.
4. Perform the duties of the City Electrician as required by the City Code and/or the laws of the State of Maine.
5. Perform the duties of the Building Inspector as required by the City Code and the laws of the State of Maine.
6. Attend, when necessary, meetings of the Planning Board and the Zoning Board of Appeals.
7. Be responsible for enforcement of all building and zoning regulations, and refer, after a reasonable length of time, all uncorrected violations to the City Attorney for necessary legal action to enforce compliance with the law.
8. Inspect property as promptly as possible when application is made for a license or permit for any activity thereon which requires certification or other approval by the Code Enforcement Officer, and to maintain a file on all such applications and licenses.
9. Perform all such duties as required by Maine State Law, the City Charter, and the City Code.

Eff: 01/13/10

ARTICLE XIX Water Pollution Control Facility

Sec. 2-1901 Establishment

There is hereby established a Water Pollution Control Department, which shall be under the direction of the Water Pollution Control Director. The Water Pollution Control Department shall treat and discharge waste water in such manner as to protect the public's health, safety, and welfare, and the land, water, and air located in and around the City of Rockland. The Water Pollution Control Department shall be funded by user fees, grants, and other available funding sources, and its revenues and expenses shall, whenever possible, constitute a distinct enterprise fund under applicable general accounting principles and regulations.

Sec. 2-1902 Duties of the Water Pollution Control Director

The Water Pollution Control Director shall be responsible for the operation and maintenance of water pollution control facilities, including pump stations, force mains, and the various tanks, equipment, processes, and grounds of the Water Pollution Control Facility at 40 Tillson Avenue. The Water Pollution Control Director shall, among other duties, supervise the operations of the Department and its staff in such manner as to comply with all applicable environmental protection regulations and requirements; monitor, test, and regulate industrial, commercial, and residential effluent flowed to the facility for treatment and discharge; establish, bill, and collect classes of user fees that fairly and equitably reflect and pay for the treatment and discharge of industrial, commercial, and residential waste waters; and establish and implement a capital improvement program that maintains, upgrades, and improves the Water Pollution Control Facility, pump stations, force mains, and processes therein so that may operate in an environmentally-sustainable and energy-efficient manner.
Eff: 06/08/11

ARTICLE XX Municipal Fish Pier Department

Sec. 2-2001 Establishment

There shall be a Municipal Fish Pier Department, the head of which shall be the Fish Pier Director who shall be appointed by the City Manager.

Sec. 2-2002 Duties of the Fish Pier Director

The Fish Pier Director shall have the following duties and responsibilities:

1. Rules and Regulations. Establish and enforce such rules and regulations for the operation of the Fish Pier that are not inconsistent with State law or any City ordinance, which rules and regulations shall be subject to the approval of the City Manager. All fees, charges, and penalties to be collected or imposed in the operation of the Fish Pier shall be established by Order of the City Council;
2. Maintenance. Cause the Fish Pier and utilities and equipment serving the Pier and its users to be maintained in a clean and orderly condition and in good working order;

3. Staff Supervision. Supervise such staff as may be authorized by the City Council, and appointed by the City Manager in consultation with the Fish Pier Director;

4. Financial Management. Collect fees for short-term berthing, off-loading, and other temporary uses of the Fish Pier and deposit the same with the Finance Department. Coordinate all other revenue billing and collection, and payment of all expenditures, with the Finance Department, all in accordance with the City's Cash Collection and procurement regulations and policies;

5. Budget. Present annually to the City Manager a budget for the operation and maintenance of the Fish Pier. Prepare and update, in consultation with the City Manager, a five-year Fish Pier maintenance and capital improvement program, and update the same on an annual basis;

6. Harbor Management Commission Fish Pier Committee. Staff and support the Harbor Management Commission's Fish Pier Committee. Eff: 04/07/10

ARTICLE XXI. Emergency Management

Sec. 2-2101 Purpose

This, the City of Rockland Emergency Management Ordinance, is purposed to fulfill Rockland's statutory obligation to plan for the protection of the health, safety, and welfare of the residents of Rockland in the event of an emergency. To that end, Rockland herein undertakes, to the fullest extent permitted by applicable law, to utilize public facilities and resources, and to collaborate with partners in both the public and private sectors, to prevent, prepare for, respond to, mitigate, and recover from emergencies, whether naturally-occurring or man-made, that may occur in or otherwise affect the City of Rockland.

State Law Reference: 37-B M.R.S. §§ 781, *et seq.*, as amended.

Sec. 2-2102 Definitions

The following definitions shall apply in the interpretation of this Article. Each term defined in this Section or otherwise used in this Article shall be construed so as to most broadly effectuate the purpose of this Article and/or authorizing state legislation. Terms not defined here shall have the meaning assigned to them in applicable federal or state law so long as the same shall not defeat or lessen the purpose of this Article.

1. Disaster. "Disaster" means the occurrence or imminent threat of widespread or severe damage or injury or loss of life or property resulting or to result from any naturally-occurring or man-made event, including, without limitation, enemy or terrorist attack, sabotage, epidemic, infestation, riot, industrial accident, fire, flood, earthquake, wind, storm, wave action, critical material shortage, explosion, oil spill, or discharge of hazardous wastes, requiring emergency action to avert or ameliorate the danger or damage the occurrence poses.

2. Emergency. "Emergency" means a set of unforeseen circumstances resulting from a disaster and requiring an urgent response to protect life and property.

3. Emergency Management. "Emergency management" means the preparation for and the carrying out of all emergency functions – other than functions for which the Nation's military forces, Coast Guard and/or National Guard are primarily responsible – to minimize and repair injury and damage resulting or to result from disasters, including, without limitation, firefighting, police, medical, rescue, emergency welfare, communications, engineering, evacuation of persons from stricken areas, allocation of critical materials in short supply, emergency transportation, and other activities intended to protect the civilian population.

Sec. 2-2103 Adoption of Emergency Management Plan

The City of Rockland Director of Emergency Management, who shall be appointed by the City Manager, in consultation with the City Manager, Fire Chief, Police Chief, and other department heads, as may be appropriate, is hereby authorized to prepare, adopt, submit for approval by the State of Maine Emergency Management Agency, and from time to time amend an Emergency Management Plan for the City of Rockland. The Rockland Emergency Plan adopted pursuant to this Section shall comply with applicable federal and/or state law and regulations, and shall set forth the City of Rockland's plan for preventing, preparing for, responding to, mitigating, and recovering from any disaster in or affecting Rockland.

Sec. 2-2104 Emergency Management Coordinator

1. Emergency Management Coordinator. The City Manager shall serve as the City of Rockland Emergency

Management Coordinator. In the event the City Manager shall be absent or incapacitated, the following personnel shall, in succession and in the event of his or her predecessor's absence or incapacity, serve as Emergency Management Coordinator until such time as the City Manager or other previously-listed person shall become available to serve as Emergency Management Coordinator:

- Director of Emergency Management
- Fire Chief
- Police Chief
- Director of Public Works
- Director of Finance.

2. Powers and Duties. The Emergency Management Coordinator shall:

A. In consultation with the Mayor, unless the Mayor shall be absent or shall have become incapacitated, determine and declare when a state of emergency exists within the City of Rockland. The City Council shall be notified of such declaration of emergency as soon as possible;

B. So long as the state of emergency shall continue, and only as may be reasonably necessary to protect life and property or preserve critical resources:

1. Direct the emergency management and recovery activities of City personnel, other responders, and volunteers within the City of Rockland;

2. Purchase, lease, or, if necessary, temporarily requisition goods and services that are reasonably necessary to implement the Emergency Management Plan and to protect life or property;

3. Temporarily lease real property reasonably necessary to accommodate City government or emergency management activities, including shelter. The City may temporarily requisition non-residential, commercial property if absolutely necessary to accommodate City government or emergency management activities;

4. Enter into contracts or other agreements for the emergency construction or repair of public infrastructure or improvements; for the demolition of dangerous or condemned structures; or for the provision of emergency management services;

5. Promulgate and enforce temporary rules and orders, including without limitation a curfew, as may be reasonably necessary to respond to or recover from the emergency; provided, however, that such rules and orders shall terminate upon the declaration that the emergency has ceased;

6. Close streets, order evacuations, declare and terminate quarantines, and suspend collective bargaining agreements;

7. Obtain vital supplies, equipment, and other items that are lacking but needed for the protection of public health, safety, or welfare;

8. Request and accept aid or assistance from the United States and/or the State of Maine or any department, agency, or political subdivision thereof; and

9. Respond to a request by the United States and/or the State of Maine or any department, agency, or political subdivision thereof for emergency management goods or services, or render such assistance outside the City of Rockland, when necessary;

C. Determine when an emergency within or affecting the City of Rockland no longer exists and thereupon immediately terminate the declared state of emergency; provided, however, that the City Council may by majority vote declare the state of emergency to have ceased; and further provided that no state of emergency may in any event continue longer than five (5) days unless renewed by the City Council;

D. Prepare and submit to the City Council, following the cessation of the emergency, a full report of all actions taken and all expenditures made in response to the emergency, and of the nature and extent of damage sustained by persons and property within the City of Rockland.

Sec. 2-2105 Emergency Procurements, Accounting, and Cost Recovery

The finance director shall, while a state of emergency exists, monitor and document to the extent reasonably feasible emergency procurements, expenses, and losses, and, following the cessation of the state of emergency, seek recovery therefor from federal, state, and/or private sources, where applicable.

Sec. 2-2106 Immunity From Liability

All emergency response personnel and volunteers, while engaged in emergency management activities intended to effect a provision of the Emergency Management Plan or a rule, order, or other command of the Emergency Management Coordinator, shall be immune from liability pursuant to 37-B M.R.S. § 823, as amended.

Sec. 2-2107 Violations

It shall be unlawful for any person to violate any provision of this Article, or any rule or order of the Emergency Management Coordinator, or any lawful command of the Emergency Management Director, the Fire Chief, or the Police Chief during a declared state of emergency, or to obstruct, hinder, or delay any person lawfully performing response or recovery activities either during or following the cessation of a declared state of emergency.

Ch. 2, Sec. 2- 2105

Sec. 2-2108 Penalty

Each violator shall pay a fine of \$500 per violation. Where applicable, each day that a violation continues shall be a separate violation. Each violator shall be subject to any other fine, penalty, or prosecution provided by federal, state, or local law, and the fine(s) imposed by this Chapter shall be in addition to such other fine, penalty, or prosecution. Eff: 2/13/08

CHAPTER 3 Animals and Fowl

ARTICLE I General Provisions

Sections

- 3-101 Swine
- 3-102 Noise; Sanitation
- 3-103 Sick, Injured or Dead Animals
- 3-104 Confinement of Farm Animals
- 3-105 Penalty

ARTICLE II Dogs

- 3-201 State Law
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ARTICLE III Keeping of Domesticated Chickens (Eff: 12/09/15)

- 3-301 Purpose; Administration
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CHAPTER 3
Animals and Fowl

ARTICLE I General Provisions

Sec. 3-101 Purpose

The purpose of this Chapter is to protect the health, safety, and welfare of the general public in Rockland by limiting the deleterious impacts that result from the improper treatment, keeping, feeding, or care of domesticated or wild animals. Keeping animals in unsafe or unsanitary conditions threatens the health and comfort of the animals, and poses a health risk to humans. The improper storage of feed, the accumulation of animal wastes, and the placement of uncontained food scraps on land or water for waterfowl and other birds and wild animals endangers public health with the spread of disease and the attraction of insects, rodents and other pests.

Sec. 3-102 Swine

No person shall harbor or keep any swine within the limits of the City, except as permitted by the Rockland Zoning Ordinance.

Sec. 3-103 Noise; Sanitation

No person shall harbor, keep, or feed any animal or bird, on private or public property, in a manner that creates an unclean, unsafe, or unsanitary condition either on such person's property or on the property of another or of the City, or that causes annoyance to others or otherwise deleteriously affects the quiet enjoyment by others of any private or public property, either by:

1. Barking, howling, or making other sounds common to its species; or
2. Failure of the owner, caretaker or custodian to maintain in a clean and sanitary condition, devoid of uncontained feed, filth, feces, rodents and vermin, and free from objectionable odor, all structures, pens, coops, or yards wherein any animal is harbored, kept, or fed; or
3. Dispensing, feeding, or otherwise making available to any species of wildlife, including birds, any type or amount of food that creates an unreasonable disturbance, or attracts other wildlife, vermin, or pests, or results in the accumulation of droppings, feces, feathers, or otherwise constitutes a private or public nuisance.

Sec. 3-104 Sick, Injured or Dead Animals

1. Disposal. No person shall deposit, place or throw any dead or fatally sick or injured animal, or part thereof, on any public or private place. When any animal dies on the premises of the owner or person in charge of such animal, he shall dispose of such animal immediately, or he may pay a fee of twenty-five (\$25.00) dollars in advance to the Police Department to dispose of such animal forthwith.

2. Conveyance. No person shall carry or convey any dead animal through or upon any street or public place unless the same is so covered that no part of it is exposed to view and no odors can emanate therefrom.

3. Report to Police. When any animal is found dead or dying on the private premises of any person not the owner or person in charge of such animal, or is so found in any public street or place, any person having knowledge of the matter shall report the facts immediately to the Police Department, and the Police Department shall take charge of the animal forthwith. If by license or otherwise, the owner of the animal is known to the Police Department, the Department shall notify at once such owner, who shall have the option of reclaiming the body and disposing of it himself immediately, or pay to the Police Department in advance a fee of twenty-five (\$25.00) dollars for such disposal. If the owner is unknown, the Police Department shall dispose of the animal forthwith.

Sec. 3-105 Confinement of Farm Animals

No person shall permit a farm animal to roam outside of the property boundaries of the owner or keeper of the farm animal, or outside of land leased by such owner or keeper for the confinement of the animal. Farm animals are defined for the purposes of this section to include goats, sheep, cattle, fowl, horses, donkeys, mules, swine, rabbits and llamas. The prohibition herein applies equally to intrusions by farm animals onto public and private rights-of-way and onto public and private property. This section does not apply to the driving, riding, or leading of such animals by the owner or keeper.

Sec. 3-106 Penalty

This Article shall be enforced on public property by the Police Department, and on private property by the Health Officer, Code Enforcement Officer, and/or other code enforcement official utilizing the applicable enforcement procedures established in Ch. 4, Buildings, Inspections & Enforcement, Art. V, Inspections and Enforcement. The penalty(ies) for violation of any provision of this Article shall be established pursuant to 22 M.R.S. § 1561, and/or by the District Court upon complaint by the City pursuant to 30-A M.R.S. § 4452. Each day such violation occurs or continues shall constitute a separate offense. Eff: 07/11/12

ARTICLE II Dogs

Sec. 3-201 State Law

The provisions of the State law relative to dogs are hereby incorporated.

State Law Reference: 7 M.R.S., §§ 3951-3964.

Sec. 3-202 Roaming-at-Large Prohibited

No dog shall run at large, except when used for hunting in areas where hunting is permitted.

State Law Reference: 7 M.R.S., § 3911. Eff: 7/12/89

Sec. 3-203 Dogs Shall Be Under Restraint While on Any Public Way or Place

1. General. Dogs while on any public way or place shall be under restraint, within the meaning of this Article if they are controlled by a leash, or at "heel", beside a competent person and obedient to that person's commands on or within a vehicle being driven or parked on the streets, or within the property limits of their owner or keeper. (Nothing in this Article shall be held to require the leashing of any dog while on the property of its owner or keeper.) A leash shall not be more than eight (8) feet long. Persons who own or control a dog on any sidewalk, street, or publicly owned property shall immediately remove and dispose of any feces left by the dog on such property. The regulation relating to clean-up of canine waste shall not apply to any handicapped person who, by reason of his or her handicap, is physically unable to comply with the requirements of the provision. Eff: 8/10/94

2. Business District. Within the Main Street Historic Business District, which for the purpose of this section shall be comprised of that part of Main Street, and its sidewalks, bounded by the intersection of North Main Street on the north, and Park Street on the south, owners or keepers of dogs shall control them by a leash, the leash not to exceed six (6) feet in length. No dog may be left unattended on its leash in this District. (The leash requirement shall not apply to dogs within vehicles being driven or parked on the street, or dogs within the property limits of their owner or keeper). The purpose of this subsection is to allow the presence of dogs with their owners in the Main Street Historic Business District, while providing that the animals be closely controlled for the safety and comfort of the public. Eff: 2/9/00

3. Prohibited in Certain City Parks. Dogs shall be prohibited from the following City parks from May 1 through October 1 of each year:

- a. Johnson Memorial Park, except for the area of the boat-launch ramp and dock
 - b. Sandy Beach
 - c. Merritt Park Playground
 - d. Ocean Street Playground
 - e. Warren Street Playground
- Eff: 10/10/07

Sec. 3-204 Impoundment

1. Impoundment - Animal Control Center. Unlicensed dogs, dogs running at large, and/or dogs or cats found stray, i.e. the owner or keeper of which is unknown, shall be impounded in the Animal Control Center and there confined in a humane manner for a period of not less than six (6) days for dogs and three (3) days for cats; and may after eight (8) days for dogs and three (3) days for cats be disposed of in a humane manner if not claimed by their owners or keepers.

The City, or its duly authorized agent, may transfer ownership of all animals held by it at the City Animal Control Center after the legal detention period has expired and the animal has not been claimed by its owner.

The owner shall be entitled to resume possession of any impounded dog upon compliance with the license provisions for dogs set forth in the Maine Revised Statutes Annotated and the payment of impoundment fees as set forth herein for both dogs and cats.

When dogs are found running at large, and their ownership or keeper is known, such dogs need not be impounded by the City, through its duly authorized agent. However, upon complaint made to the agent, the agent shall conduct an investigation and if the

allegations in the complaint shall be proved to be true, then the said agent shall cite the owner or keeper of such dogs to appear in court to answer charges of violation of this Article. Eff: 3/15/95

2. Impoundment Fees. Any animal impounded hereunder may be reclaimed as herein provided upon payment by the owner or keeper of the following fees:

Ten dollars (\$10) for each animal. Other costs, including daily board and inoculation fees, shall be charged in the same amount as expenses actually incurred by the City.

Sec. 3-205 Vicious Dogs

It shall be a violation of this Ordinance to own, keep, possess, or harbor a dangerous dog. Dangerous dog is defined as; 1. Any dog that assaults without provocation, an individual or domesticated animal; or 2. Any dog that, by attacking or threatening to attack an individual or an individual's domesticated animal, or by any behavior, causes a reasonably prudent person, acting in a reasonable and non-aggressive manner, to fear bodily harm.

The minimum financial penalty for a violation of this section is one hundred dollars (\$100.00) for the first offense, two hundred and fifty dollars (\$250.00) for the second offense, and five hundred dollars (\$500.00) for the third and subsequent offenses.

In addition to the financial penalty imposed, after hearing a court of competent jurisdiction shall order:

(1) That the dangerous dog be muzzled, restrained, confined to the premises of its owner in a secure enclosure or any other reasonable measure to be imposed to protect the safety, health and welfare of the City's inhabitants; or

(2) That the dog be euthanized if it has injured a person or domesticated animal or if it has a history of a prior assault. The cost of seizure and euthanasia of the dog shall be assessed to the owner of the dangerous dog.

(3) Owner to pay restitution. Where the victim of a dangerous dog has incurred medical expenses, veterinary expenses, or any other direct financial loss, the owner of said dangerous dog shall be ordered to pay restitution to the victim in accordance with the criteria set forth in 17-A M.R.S.A. §1325. Owner shall mean and include any person owning, keeping, possessing, or harboring a dog. Eff: 2/9/00

Sec. 3-206 Penalties

Any owner or keeper found violating Sections 3-202, 3-203, and 3-204 of this Article shall be punished by a fine of not less than Ten Dollars (\$10) nor more than Fifty Dollars (\$50) for each offense.

Any person found guilty of a violation of Section 3-203.2 shall be subject to a penalty of not less than Twenty Dollars (\$20) and not more than One Hundred Dollars (\$100) for each offense. The imposition of a penalty for violation shall not excuse the violation or permit it to continue, and each day such violation continues to exist shall constitute a separate offense. Eff: 7/12/89

ARTICLE III Keeping of Domesticated Chickens

Sec. 3-301 Purpose; Administration.

This ordinance establishes standards for (1) the keeping of domesticated chickens in residential areas in a manner that enables residents to keep chickens for non-commercial purposes without adversely affecting the surrounding neighborhood, and (2) the safe and inoffensive keeping of domesticated chickens where agriculture is permitted. Chickens kept in accordance with this Article shall not constitute a use that is annoying, detrimental, obnoxious, unsightly, injurious or dangerous to the health, comfort, or property of individuals, or of the public.

This Article shall be administered pursuant to Chapter 19, Art. III, Sec. 19-312, or by the Animal Control Officer.

Sec. 3-302. Definitions.

"Domesticated Chicken" means a bird that is a member of the genus *Gallus gallus domesticus*. Domesticated Chickens does not include guinea fowl.

Sec. 3-303. Permit required.

A. Except on parcels where agriculture as defined in Section 19-302 is permitted, and subject to applicable use prohibitions in the zoning regulations under Section 19-304, no person may keep chickens in the City of Rockland without first obtaining, from the Code Enforcement Office, a Domesticated Chickens Permit. Such permit, once granted, is personal to the permit holder and may not be assigned.

- B. The City Council may, by Order, establish an application and/or permit fee for Domesticated Chicken Permits.
- C. A permit to keep chickens may be revoked where there is a risk to public health or safety or for any violation of or failure to comply with any of the provisions of this Article, or other applicable ordinance or law.

Sec. 3-304. Regulations Applicable to Domesticated Chickens Permit Holders.

Each Domesticated Chickens Permit holder must comply with the standards set forth in this Section and in Section 3-305. This Section shall not apply on parcels where agriculture as defined in Section 19-302 is permitted or approved as a Conditional Use.

A. Non-Commercial Use Only. Chickens shall be kept for personal use only, and chicken breeding, fertilizer production for commercial purposes, and on-site slaughtering of chickens is prohibited.

B. Quantities Limited. No person may keep a rooster, nor maintain more than six hens on a single parcel. Those persons lawfully possessing more than six hens as of November 9, 2015, may retain those birds but not replace them.

C. Enclosures.

(1) Chickens must be kept in an enclosure or fenced area (chicken pen) at all times during daylight hours. Enclosures must be clean, dry, and reasonably odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact. The chicken pen must provide adequate sun and shade and must be inaccessible by rodents, wild birds, and predators, including dogs and cats. It shall be constructed with sturdy wire fencing buried at least 12” in the ground. The pen must be covered with wire, aviary netting, or solid roofing. The use of non-galvanized chicken wire is not permitted. Alternatively, chickens may be enclosed in portable, predator-proof coops or other suitable enclosure approved by the Code Enforcement Officer.

(2) Chickens shall be secured within a chicken coop or house during non-daylight hours.

(a) Each chicken coop or house shall be detached from residential structures. In the case of traditional New England barn structures attached to the main house by an ell, the chickens can be permitted in the barn, as long as they are enclosed in a separate coop area and not roaming throughout the barn. The chicken coop or house shall be enclosed on all sides, shall have a roof, and shall have doors capable of being closed and locked. Opening windows and vents must be covered with predator- and bird-proof wire of less than one-inch openings. Chicken coops and houses shall be cleaned regularly, and maintained so as to protect the health and comfort of the chickens housed therein.

(b) Chicken coops and chicken houses shall be located only in the yard to the rear of the principal dwelling , or in the case of a barn attached to the side of the house by an ell, the chicken coop may be located in said barn but the chicken yard shall be located to the rear of the barn. Chicken coops and houses shall be at least ten (10) feet from the property line(s) and at least fifteen (15) feet from residences on abutting lots. Chicken coops and houses may not be located in any front yard, nor in the interior of any home or other dwelling unit.

(c) Lights used to illuminate exterior areas around chicken coops or chicken houses must be turned off when no persons are present; motion-sensor lighting may be used for this purpose.

D. Waste Storage and Removal. All chicken manure shall either be promptly composted or tilled into cultivated earth in such manner as to prevent run-off and minimize odor, be properly stored, or be removed and properly disposed of. All stored manure shall be placed in a fully enclosed container. No more than one, thirty-gallon container of manure shall be stored on any one parcel where chickens are kept. In addition, the chicken coop or house, pen, and surrounding area must be kept free from trash and accumulated droppings.

E. Predators, rodents, insects, and parasites. Each Domesticated Chickens Permit holder shall take all reasonable precautions to reduce the attraction of predators and rodents and the potential infestation by insects and parasites. Where such conditions are found to exist by a code enforcement official or animal control officer, the City may order the removal of the chickens, enclosure(s), and coop(s) or house(s), or may arrange for such removal the cost of which shall be borne entirely by the permit holder or property owner.

Sec. 3-305. Regulations Applicable To All Persons Raising or Keeping Domesticated Chickens

Each person keeping domesticated chickens in Rockland must comply with the standards set forth in this Section.

A. Feed and Water. Chickens must be provided with access to feed and clean water at all times, arranged in such manner as to be inaccessible by rodents, wild birds, and predators. Uneaten feed shall be removed in a timely manner.

B. Odor. Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.

C. Predators, rodents, insects, and parasites. Each person keeping domesticated chickens shall take all reasonable precautions to reduce the attraction of predators and rodents and the potential infestation by insects and parasites.

D. Deceased Chickens. Deceased chickens shall be promptly removed and properly disposed of.
Cross Reference: Sec. 3-103, Sick, Injured, or Dead Animals.

Sec. 3-306. Violations; Penalties.

Any violation of any provision of this Article shall be a civil violation subject to a minimum fine of one-hundred dollars (\$100.00) per violation. Each day that a violation continues shall constitute a separate violation. In addition, and in the sole discretion of the City, any violation of this Article shall be subject to a civil action brought pursuant Title 30-A, Maine Revised Statutes, Section 4452, and subject to the penalties and remedies set forth therein.

Eff: 12/09/15

CHAPTER 4 Buildings, Inspections & Enforcement

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CHAPTER 4 Buildings, Inspections & Enforcement

ARTICLE I Property Maintenance

Sec. 4-101 Purpose

The purpose of this Article is to establish minimum standards governing the condition and maintenance of all structures and dwellings in the City of Rockland; establish minimum standards governing the condition of dwellings offered for rent; establish certain responsibilities and duties for owners and occupants of structures; authorize the condemnation of dwellings unfit for human habitation and the demolition of such dwellings and structures; and establish penalties for violations of said standards and responsibilities.

Sec. 4-102 Adoption of Property Maintenance Code; Amendments

1. Adoption. Pursuant to Title 30-A, Maine Revised Statutes, Section 3003, as amended, and subject to the limitations set forth in Section 4-202(B) below, the International Code Council National Property Maintenance Code, 2006 Edition, as published by the International Code Council is hereby referred to and adopted as the property maintenance code of the City of Rockland, Maine, for the control of buildings and structures as herein provided; and each and all of the regulations of the ICC National Property Maintenance Code, 2006 Edition, are hereby referred to, adopted, and made a part hereof, as if fully set out in this Article. One copy of the Property Maintenance Code shall be on file and available to the public for its use, inspection, and examination in the offices of the City Clerk and Code Enforcement Officer of the City of Rockland.

State Law Reference: 30-A M.R.S. § 3003.

2. Deletions, Additions, Insertions.

- A. Section 101.1. Insert City of Rockland
- B. Delete **Section 103.5 Fees.**
- C. Amend **Section 106.4 Violation Penalties** as follows: Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall upon conviction thereof, be subject to a fine of not less than \$100 nor more than \$2500, and other remedies and costs set forth in 30-A M.R.S. § 4452. Each day that such violation continues after due notice has been served shall be deemed a separate violation. Service is effective upon posting notice of such violation to the violator's last known address by registered mail, return receipt requested.
- D. Amend **Section 108.2** as follows: Closing of vacant structures: if the structure is vacant and unfit for human habitation or occupancy and is not in danger of structural collapse, the Code Enforcement Officer is authorized to post a placard of condemnation on the premises and to order the structure closed and secured, so as to prevent ready entry and ensuing personal injury or property damage. Upon failure of the owner thus to secure the premises within the time specified in the order, the code official shall request that the City Manager cause the premises to be secured, whether by the municipality or by contract or arrangement by private persons, and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate, and may be collected by any other legal recourse.
- E. Replace **Subsections 110.1 through 110.4** with the following: In the event that the Code Enforcement Officer or his designee finds that a structure is so old, dilapidated, unsound, and/or dangerous as to pose an imminent threat of damage or harm to person(s) or property, and the owner of such structure fails to commence demolition and removal of such structure within 24 hours of written or oral notice, the Code Enforcement Officer shall make a report of the same to the City Manager, who shall take immediate steps to secure an order from the City Council or Superior Court for the demolition and removal of the structure, at the owner's expense, pursuant to the Dangerous Buildings statute, 17 M.R.S. §§ 2851, *et seq.*
- F. Delete **Section 111.1** through **Section 111.8** (inclusive) and replace with the following:

111.1 Application for appeal. Any person affected by any notice which has been issued by the Code Enforcement Officer in connection with the enforcement of any provision of this code, or of any rule or regulation adopted pursuant thereto, shall have the right to request and shall be granted a hearing on the matter before the Zoning Board of Appeals (the “Board”); provided that such person files, in the office of the Board, a written appeal requesting such hearing and containing the grounds therefor within 30 days after the day the notice was served.

111.2 Appeals Board. In order to protect existing structures in the jurisdiction by vigorous enforcement of the provisions of this code, the Zoning Board of Appeals established in Rockland Code, Ch. 19, Art. II shall hear the appeals described in Section PM 111.1, above.

G. **Section 302.4.** Insert 10 inches.

H. Amend **Section 302.8 Motor vehicles**, as follows: Except as provided in other regulations, not more than one currently unregistered and/or uninspected motor vehicle shall be parked, kept or stored on any property, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided such work is performed inside a structure or similarly-enclosed area designed and approved for such purposes and further provided that unless in a zone that permits such use, the activity is not done as a business.

I. **Section 304.14.** Insert (first insert) May 1, (second insert) October 15.

J. **Section 602.3.** Insert (first insert) September 1, (second insert) June 15.

K. **Section 602.4.** Insert (first insert) September 1, (second insert) June 15.

ARTICLE II Fire Prevention & Life Safety

Sec. 4-201 Adoption of Fire Prevention Code; Amendments

1. **Adoption.** Pursuant to Title 30-A, Maine Revised Statutes, Section 3003, as amended, and subject to the limitations set forth in Section 4-302(B) below, the National Fire Protection Association (“NFPA”) 1, 2015 Edition, is hereby referred to and adopted as the Fire Prevention Code of the City of Rockland, Maine, establishing the minimum standards for the conditions and equipment in buildings that affect fire prevention and suppression measures; and each and all of the regulations of the NFPA 1 Fire Prevention Code, 2015 Edition, and other regulations NFPA 1 incorporates, are hereby referred to, adopted, and made a part hereof, as if fully set out in this Article. One copy of the Fire Prevention Code shall be on file and available to the public for its use, inspection, and examination in the offices of the Fire Chief and Code Enforcement Officer of the City of Rockland. Eff: 12/10/14

State Law References: 30-A M.R.S. § 3003; 25 M.R.S. §§ 2351, et seq.

2. **Amendments.** The Rockland Fire Prevention Code is amended as set forth in the regulations of the Department of Public Safety, Title 16, Code of Maine Regulations, Part 219 – Office of the State Fire Marshal, Chapter 3 – Fire Prevention Code.

Sec. 4-202 Adoption of Life Safety Code; Amendments

A. **Adoption.** Pursuant to Title 30-A, Maine Revised Statutes, Section 3003, as amended, and subject to the limitations set forth in Section 4-402(B) below, the National Fire Protection Association (“NFPA”) 101, 2015 Edition, is hereby referred to and adopted as the Life Safety Code of the City of Rockland, Maine, establishing the minimum standards for the conditions and equipment in buildings, except one- and two-family dwellings, that protect the safety of inhabitants and firefighters in the event of a fire; and each and all of the regulations of the NFPA 101 Life Safety Code, 2015 Edition, are hereby referred to, adopted, and made a part hereof, as if fully set out in this Article. One copy of the Life Safety Code shall be on file and available to the public for its use, inspection, and examination in the offices of the Fire Chief and Code Enforcement Officer of the City of Rockland. Eff: 12/10/14

State Law References: 30-A M.R.S. § 3003; 25 M.R.S. §§ 2351, *et seq.*

B. Amendments.

(1) Amendment by Reference. The Rockland Life Safety Code is amended as set forth in Ch. 4, Sec. 4-201, the Department of Public Safety, Title 16, Code of Maine Regulations, Part 219 – Office of the Fire Marshal, Chapter 20– Code For Safety To Life From Fire In Buildings And Structures.

(2) Exceptions. The exceptions to the Life Safety Code adopted by the State Fire Marshall in Title 16, Code of Maine Regulations, Part 219, Chapter 20, are hereby amended as follows:

(a) Extinguishment Requirements in One- And Two-Family Dwellings. Section 24.3.4.1 of the NFPA 101 Life Safety Code is incorporated by reference in the City of Rockland for new one- and two family dwellings, for existing one-family dwellings which are converted to two-family dwellings either within the existing structure or by an addition to the existing structure, as well as for changes of use in existing nonresidential buildings to one- and two-family dwellings; provided, however, that a sprinkler system otherwise required pursuant to Section 24.3.4.1 shall not be mandatory if all of the following conditions are met:

(i) The building shall not be utilized for any purpose other than a one-family or a two-family dwelling;

(ii) The dwelling either must be located within 1,000 feet of a public, pressurized fire hydrant or must not be larger than 1,500 square feet of living space with the 1,500 square feet total of living space including finished basements and lofts as well as all interior space such as closets and pantries used for storage but for the purposes of this provision the 1,500 square foot total does not include open or screened in porches, open patios or decks, garages, or unfinished basements containing just building structure and building systems such as but not limited to heating, plumbing and electrical; Eff: 02/08/17

(iii) The entire load bearing structure of the house including but not limited to floor joists, interior or exterior wall studs or posts, wall plates, rafters, trusses, and any load bearing beams are made of appropriately sized dimensional wood or protected steel and the load bearing structure of the house does not contain any low mass or laminated engineered wood products or unprotected steel;

(iv) Building plans shall be reviewed by the Fire Department and the benefits of residential sprinkler systems shall be concisely presented to the property owner, at which time the property owner shall explicitly opt out of the NFPA 101 Life Safety Code requirements for installation of a residential sprinkler system. The property owner’s choice to opt out shall be documented in a form signed by the property owner, the Fire Chief or the Chief’s designee as well as the Code Enforcement Officer or the CEO’s designee and kept on file at the City’s Code Office.

Eff: 12/14/16

(b) Building Rehabilitation. Chapter 43 of the NFPA 101 Life Safety Code is incorporated by reference in the City of Rockland.

Sec. 4-203 Fire Resistive Roofing

1. All buildings except fabric structures authorized pursuant to Section 4-604 shall have roof coverings of standard quality, such as:

- A. Brick or concrete surface
- B. Clay or Portland cement tile
- C. Tin, copper, or other metal
- D. Slate (however, the fire department shall be authorized to adjust fire suppression strategies in slate-roofed buildings, in recognition of the danger falling slate may pose to fire department personnel)
- E. Built-up coverings of not less than three layers of tar or asphalt-saturated rag. These coverings shall be surfaced with gravel, crushed stone, or slag.
- F. Asphalt or other architectural shingles, provided that there shall be no more than two layers of shingles)
- G. Other types of coverings having equivalent fire-resistive properties when approved and listed by Underwriters' Laboratories, Inc., as Classes A or B.

2. No new roofs shall be covered with wood shingles but existing wood shingle roofs may be repaired with wood shingles providing the area repaired during any period of 5 (five) years does not exceed twenty-five (25%) percent of the entire area of the roof. Otherwise the entire roof shall be replaced with material specified in paragraph I of this ordinance.

3. Dormer windows shall be covered with the same material(s) as the roof of the structure. Ch. 4, Sec. 4-203
material(s) having equivalent fire-resistive properties.

Sec. 4-204 Certification of Compliance

The Fire Chief or his designee may, at his sole discretion, require a developer of a new building or facility, at his own expense, to secure certification of compliance with NFPA 101 from the State Fire Marshall or from an authorized professional as substitute evidence of compliance.

ARTICLE III Electrical Installations

Sec. 4-301 Definitions

1. **Electrical Equipment.** "Electrical equipment" means all electrical conductors, fittings, devices and fixtures.

State Law Reference: 30-A M.R.S. § 4151.

2. **Electrical Installations.** "Electrical installations" means any installation, repair, alteration, or maintenance of electrical equipment; optical fiber cable; devices and fixtures for heating, lighting, and power; and heat-activated or electrically-supervised manual fire alarms and sprinkler systems. "Electrical installations" shall not include the installation or repair of portable electrical equipment the installation of which involves only the insertion of an attachment plug into a fixed receptacle outlet.

Sec. 4-302 Adoption of Electrical Code; Amendments

Pursuant to Title 30-A, Maine Revised Statutes, Section 3003, as amended, the National Fire Prevention Association ("NFPA") *National Electrical Code (NFPA 70)*, or other Standard(s) for electrical installation adopted by the Electricians' Examining Board pursuant to 32 M.R.S. §1153-A, is hereby referred to, adopted, and made a part hereof as if fully set forth in this Article, for the purpose of establishing minimum standards for electrical installations in Rockland, Maine. One copy of such standards shall be on file and available to the public for its use, inspection, and examination in the office of the Code Enforcement Officer of the City of Rockland.

State Law Reference: 30-A M.R.S. § 3003; 32 M.R.S. §§ 1153-A.

Eff: 03/14/12

Sec. 4-303 Permit Required; Exceptions.

No electrical installations shall be made within or on any building, structure or premises without first securing a permit therefor from the Code Enforcement Officer, except as follows:

- A. No permit shall be required for the replacement of lamps or the connection of portable devices to suitable receptacles which have been permanently installed. A "suitable receptacle" is hereby defined as one having the proper wiring and capacity to fulfill the electrical requirements of the portable device;
- B. No permit shall be required for the installation, alteration or repair of wiring, devices, appliances or equipment for the operation of signals or the transmission of intelligence through the facilities of any duly chartered telephone, telegraph, or radio company;
- C. No permit shall be required for the installation, alteration, or repair of wiring, devices, appliances or equipment installed by a public utility for the use of such public utility in the generation, transmission, distribution, or metering of electrical energy; nor for the work of such utilities in installing, maintaining, and repairing on the premises of customers, service connections, meters and other apparatus and appliances

remaining the property of such utilities after installation; nor for work by a public utility in connection with the lighting of public or private ways, alleys, parks, or squares; and

- D. No permit shall be required for the installation of telephone, telegraph, cable and closed-circuit television, data communication and sound equipment.
- E. No permit shall be required for electrical work involving installations of specialized industrial/manufacturing equipment and machinery other than building wiring such as outlets, emergency lights, etc.

Ch. 4, Sec. 4-204

Eff: 03/14/12

All applications for permits as specified above shall be filed with the Code Enforcement Officer, upon forms furnished by the latter, and shall contain a detail of the work contemplated, and the name, address, and license number of the electrician or other authorized person who will perform the work.

Sec. 4-304 Inspections.

The Code Enforcement Officer shall have access at all reasonable times to all wires, appliances, and apparatus in the interior of public or private buildings, which carry or are intended to carry an electric light or power current, and no person shall make any electrical installation for which a permit is required without first providing the Code Enforcement Officer with reasonable advance notice and an opportunity to inspect and approve such electrical installations.

Sec. 4-305 Penalty.

Any person, firm, corporation or other legal entity who shall commence any work for which a permit is required by this Ordinance without first having applied for a permit therefore shall pay double the permit fee fixed by this Ordinance for such work, provided, however, that this provision shall not apply to emergency work when it shall be proved to the satisfaction of the Code Enforcement Officer, or his or her designee, that such work was urgently necessary and that it was not practicable to apply for a permit therefor before the commencement of the work. A permit for emergency work shall be applied for within two (2) working days of the start of work. The Code Enforcement Officer may substitute a verbal or written warning for the doubling of the permit fee for first offenses. Nothing in this paragraph shall limit the authority of the City of Rockland to enforce the provisions of this Article, or the remedies available at law or in equity.

ARTICLE IV Plumbing Installations

Sec. 4-401 Definitions

1. **Plumbing.** "Plumbing means the installation, alteration, or replacement of pipes, fixtures and other apparatus for bringing in potable water, removing waste water, and the piping connections to heating systems using water. Except for the initial connection to a potable water supply and the final connection that discharges indirectly into a public sewer or waste water disposal system, the following are excluded from this definition:

- A. All piping, equipment, or material used exclusively for manufacturing or industrial processes;
- B. The installation or alteration of automatic sprinkler systems used for fire protection and standpipes connected to automatic sprinkler systems or overhead;
- C. Building drains outside the foundation wall or structure;
- D. The replacement of fixtures with similar fixtures at the same location without any alteration of pipes; or
- E. The sealing of leaks from an existing line.

2. **Seasonal Dwelling.** "Seasonal dwelling" means a dwelling which existed on December 31, 1981, and which was not used as a principal or year-round residence during the period from 1977 to 1981. Evidence of use as a principal or year-round residence includes, but is not limited to:

- A. The listing of that dwelling as an occupant's legal residence for the purpose of voting, filing a state tax

return, or automobile registration; or

B. The occupancy of that dwelling for a period exceeding 7 months in any calendar year.

3. Subsurface Waste Water Disposal System. “Subsurface waste water disposal system” means any system for the disposal of waste or waste water on or beneath the surface of the earth including, but not limited to, septic tanks, drainage fields, grandfathered cesspools, holdings tanks, or any other fixture, mechanism, or apparatus used for those purposes, but 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 waster water treatment system.

State Law Reference: 30-A M.R.S. § 4201.

Ch. 4, Sec. 4-304

Sec. 4-402 Applicable Plumbing Code

1. Adoption. Pursuant to 32 M.R.S. § 3403-B, the State of Maine has adopted a State of Maine Internal Plumbing Code, and, pursuant to 30-A M.R.S. § 4211, Subsurface Waste Water Disposal System regulations (Title 144, Code of Maine Regulations, Chapter 241). The City of Rockland Code Enforcement Officer is hereby charged with enforcing said plumbing code, subsurface waste water disposal system regulations, and any other applicable requirements adopted or imposed by the State of Maine for the regulation of plumbing installations.

State Law References: 32 M.R.S. §§ 3403-B; 30-A M.R.S. § 4211.

Cross References: 2 C.M.R. Ch. 395(4)(1); 144 C.M.R. Ch. 241.

ARTICLE V Inspections and Enforcement

Sec. 4-501 Conformity With Codes Required

In the City of Rockland, no building may be erected, moved, added to, or altered structurally, and no existing building or structure may be used, except in conformance with the provisions of this chapter and other applicable requirements of the Rockland Code of Ordinances.

Sec. 4-502 Buildings Not In Conformance A Nuisance

Any building or structure, or part thereof, that is constructed, altered, maintained, repaired, or used, and any equipment therein, thereon, or in connection therewith installed, altered, maintained, or repaired, or used contrary to any provision in Chapter 4, 7, 10, 11 or 20 of the Rockland Code of Ordinances is a nuisance, and a violation of this Code. Each day that such nonconformance continues is a separate violation. Both the owner of the property in question and, if different, the party responsible for the condition of the property, shall be subject to code enforcement proceedings brought by the City pursuant to Maine Rule of Civil Procedure 80K, and penalties and other remedies imposed by 30-A M.R.S. § 4452 or other provision of State law or of this Code.

State Law References: 25 M.R.S. § 2361; 30-A M.R.S. § 4102.

Sec. 4-503 Building and Occupancy Permits

1. Building Permit Required. Before the construction, structural alteration, or relocation of any building or structure, or any part thereof, shall be commenced, the owner or lessee or the architect contractor or builder employed by such owner or lessee in connection with such construction, alteration or relocation, shall obtain from the Code Enforcement Officer a permit covering such proposed construction, alteration or relocation. Application therefor shall be in writing to the Code Enforcement Officer on such form as he may prescribe. Such application shall include or be accompanied by a statement setting forth the exact location, shape, size, and dimensions of the lot to be built upon; details concerning the existing buildings on the lot; the lines within which the building or structure is proposed to be erected or altered; the existing and intended use of each building or part of a building; the number of families or housekeeping units the building is designed to accommodate; and such other information including plans drawn to scale or sketch as the Code Enforcement Officer may require to determine and provide for the enforcement of this Article.

The Code Enforcement Officer shall issue the building permit if he finds compliance with the applicable Building

Code and that the proposed construction, structural alteration, or moving of any building or part thereof, and the plans for intended use indicate that the building and use will conform in all respects to the provisions of this Article, but not otherwise.

2. Occupancy Permit Required. After such building has been completed, structurally altered, or relocated and before it may be occupied, the owner or lessee thereof shall obtain from the Code Enforcement Officer an occupancy permit, for which there shall be no charge. No Certificate of Occupancy shall be issued until all conditions of approval are completed as shown on the building permit, and/or as shown upon the approved site plan under Chapter 16, Art. II, Section 16-202.4. If, after inspection the Code Enforcement Officer finds that the building or structure and proposed use conform to the provisions of this Article in every respect, he shall issue the occupancy permit applied for as required by subsection 2, below, but not otherwise.

Ch. 4, Sec. 4-402

3. Change of Use. Pursuant to Chapter 19, Article III, Section 19-311, any person desiring to change the use classification but not the structure of any building or structure already erected, or the use of any land, to another allowed use, shall apply in writing on a prescribed application form to the Code Enforcement Officer for a permit. Upon receipt of an application for change of use, the Code Enforcement Officer shall notify property owners directly abutting the lot or lots described in the application. If the applicant demonstrates that the provisions of Chapter 19, Article III concerning parking, noise, lighting, odors, and minimum lot area per dwelling unit are met, and that the screening and buffering requirements in Section 19-316.H.(3) are met to the greatest extent practicable, and if the structure is in compliance with provisions of the Building and Life Safety Codes, the Code Enforcement Officer shall issue the permit.

4. Action and Notice. The Code Enforcement Officer shall act upon all such applications for permits required by this Article either by issuing such permits or refusing to do so within a reasonable time. Notice of refusal to issue any permit shall be given to the owner or his authorized representative in writing by the Code Enforcement Officer and shall state the reason or reasons therefor.

5. Permit Proviso. The Code Enforcement Officer's issuance of a building or occupancy permit shall not be construed as to allow any exceptions from the provisions of Chapter 19, Article III, unless exception has been authorized by the Zoning Board of Appeals.

6. Revocation of Permits. Whenever it shall be found that a permit has been issued in violation of this or any other ordinance of the City, or state law, or in consequence of a false statement of facts or misrepresentation of conditions by the applicant or his representative, the Code Enforcement Officer shall notify the person holding such permit to appear before him at a stated time and show cause why such a permit should not be revoked. If, after such hearing, or in the event the person notified does not appear, then after the time set forth for the hearing, it still appears that such a permit was improperly issued, the Code Enforcement Officer shall issue a written order revoking same and shall then proceed as if no permit had been issued.

Sec. 4-504 Administration

1. Responsible Officials. The City of Rockland Code Enforcement Officer and his assistants shall enforce the provisions of Articles I, III, IV, VI, and VII of this Chapter, with the assistance of the Fire Chief or his designee, as need shall require and resources permit. The City of Rockland Fire Chief or his designee shall enforce Article II of this Chapter, with the assistance of the Code Enforcement Officer or his designee as need shall require and resources permit. The City Manager may adjust code enforcement responsibilities between the departments, but may not suspend them. For the purposes of this Article, the officials responsible for any element of enforcing the provisions of this Chapter shall be referred to as "code enforcement officials."

State Law References: 25 M.R.S. §§ 2351, *et seq.*; 25 M.R.S. § 2391.

2. Inspections. To safeguard the safety, health, and welfare of the public, code enforcement officials may conduct inspections of any parcel of real estate, structure, or portion of a structure in the City of Rockland for the purpose of determining if there exist any violations of this Chapter. Code enforcement officials may conduct such inspections upon receipt of an oral or written complaint; following visual observation of potential issues affecting the safety, health, or welfare of occupants or the public; pursuant to an inspections program; or randomly. Reasonable prior notice of the

inspection to the owner or operator of the property shall be provided when feasible, but is not required. When inspections are performed upon an oral or written complaint, code enforcement officials shall, but only upon the request of the complainant, keep the complainant's identity confidential to the extent permitted by state law.

State Law References: 25 M.R.S. §§ 2351-2354; 25 M.R.S. § 2392.

3. Tenants; Occupants. Every occupant of a property or structure shall provide the owner or operator thereof access to any part of such property or structure for the purposes of permitting inspections by code enforcement officials, and maintenance, repairs, or alterations by the owner or operator as are necessary to comply with provisions of this Chapter.

4. Right of Entry; Interference. Code enforcement officials are authorized to enter any parcel of real estate and any structure within the City of Rockland at any reasonable time for the purpose of making inspections and performing their duties under the Rockland Code or state law. Any owner or occupant of a building who refuses to permit a code enforcement official to enter the building or willfully obstructs the official in the inspection of the building is in violation of this Chapter and subject to penalties set forth in 30-A M.R.S. § 4452. Ch. 4, Sec. 4-504

State Law References: 25 M.R.S. §§ 2352, 2360; 30-A M.R.S. § 4452.

5. Credentials. Code enforcement officials shall carry proper credentials of their respective offices when inspecting any property or structure in the performance of their duties under Chapters 4, 7, 10, or 11.

6. Violations; Notice; Compliance Orders. Any owner or operator of a property or structure who fails to comply with any provision of this Chapter, any provision of a code adopted pursuant to this Chapter, or any provision of Chapters 7, 10, or 11 shall be in violation of said provision, and subject to the enforcement authority and remedies granted to municipalities by state law, including without limitation 30-A M.R.S. § 4452. A condition that violates more than one provision shall constitute one violation. Each day any violation continues shall be a separate violation. Code enforcement officials shall provide oral and/or written notice of any violation to the operator and, if different, the owner; shall order that the responsible party(ies) comply with the applicable provision(s) of the Rockland Code; and shall set a reasonable deadline for compliance, which deadline may be as soon as the same day if the violation poses an immediate danger to the health, safety, or welfare of any person. Written notices shall, where appropriate, advise the violator of his right to appeal the code enforcement official's findings and orders; the form and deadline of such an appeal; and of the consequences of a failure to appeal. Evidence of the mailing of written notice to a violator by U.S. Certified Mail, Return Receipt Requested, shall be *prima facie* evidence of the receipt of the notice by the violator. A violator's failure to appeal a lawful order of a code enforcement official may forestall said violator's legal ability to contest any finding or order contained in the notice, pursuant to the doctrine of administrative *res judicata* or other provision of law or equity.

7. Coordination of Enforcement. Inspections conducted pursuant to Chapters 4, 10, and/or 11, notices of violations, and orders to comply, shall be coordinated and unified by the responsible representatives of the Code Enforcement and Fire Departments, to the extent reasonably feasible, for the purposes of minimizing the number of visits by inspectors and eliminating duplicative notices and inconsistent compliance deadlines. Emergency orders, however, shall not be delayed merely for the purpose of achieving such coordination of enforcement.

8. Re-inspections; Fees. Following the issuance of a notice of violation and order to comply, a code enforcement official shall reinspect the property or structure, on or after the deadline for compliance, to determine whether the violation(s) have been corrected. If the violation(s) have not been corrected, the violator shall be assessed a reinspection fee, set forth in Chapter 11, Article IV, Section 11-402, Land Use Fee Schedule, for each subsequent inspection required to secure compliance. This reinspection fee is purposed to prompt compliance, and to defray the administrative burden and expense – ultimately borne by the taxpayers – associated with securing code compliance by delinquent property owners and operators.

9. Appeals. Any person found to be in violation of this Code by a code enforcement official may appeal the official's findings and/or orders to the Zoning Board of Appeals by filing written notice of such appeal with the office of the Code Enforcement Department within thirty (30) days of the finding or order that is the subject of the appeal. Notice and proceedings of such appeals shall be conducted as set forth in Chapter 19, Article II, Section 19-202 of this Code.

Cross Reference: Ch. 19, Art. II, § 19-202.

10. Civil Action. If after having been provided with written notice pursuant to subsection 4-503(F), above, a violator fails to bring the property or structure into compliance within the time specified in the notice, the code enforcement official may cause to be instituted a civil action, in the name of the City of Rockland, any and all actions and proceedings, either legal or equitable, that may be necessary or appropriate to secure compliance with the provisions of this Code. The code enforcement official shall consult with the City Attorney for that purpose or, if properly certified, initiate a code enforcement proceeding pursuant to Maine Rule of Civil Procedure 80K, as amended. In any such action, the code enforcement official shall notify the City Manager of the proceeding, and seek to collect, where available, the reimbursement of the City's costs and attorney's fees.

State Law References: 30-A M.R.S. §§ 3104, 4452.

11. Records. An official, public record shall be kept of all permits, inspections, enforcement activities, and appeals authorized or required by this Chapter by the Code Enforcement Department and/or Fire Department, as appropriate.

Ch. 4, Sec. 4-504

Sec. 4-505 Inspection of Rental Housing and Converted Condominium Units

1. In addition to inspections authorized or required elsewhere in this Code of Ordinances, any person or entity conveying a multi-family dwelling with three or more dwelling units or residential condominium units in a building containing three or more units, shall certify at closing that each multi-family dwelling unit or residential condominium, and the structure in which they are housed, have been inspected by the responsible code enforcement official(s) for compliance with the Property Maintenance Code and Life Safety Code, and that a Certificate of Habitability or Temporary and Conditional Certificate of Habitability has been issued by the code Enforcement Officer or his designee. Existing stairs shall be inspected for compliance with the Property Maintenance Code, but shall not be inspected for compliance with the Life Safety Code. Eff: 12/13/17

2. If a notice of violation is issued to the owner or manager of a rental housing unit or condominium pursuant to Section 4-504(F), the Code Enforcement Officer nonetheless may issue a temporary and conditional certificate of habitability, provided that:

A. The violations do not, in the judgment of the responsible code enforcement officials, present a condition of immediate danger or hazard to the occupants; and

B. The owner or manager, or prospective buyer, has set forth a written plan of compliance acceptable to the responsible code enforcement officials both as to deadline and measures of correction.

C. At the end of the time allowed for correction of any violations cited, the responsible code enforcement officials shall reinspect the dwelling unit(s), and if he determines that the conditions cited have not been corrected, he may issue an order suspending the temporary and conditional certificate of habitability and may initiate code enforcement proceedings against the property owner or property manager pursuant to Maine Rule of Civil Procedure 80K.

3. In order to ensure that clients of Rockland's General Assistance program have safe and decent places to live, and to ensure that City General Assistance funds are not spent on substandard housing, any housing rental unit covered under this section which is to be rented to a recipient of General Assistance shall be inspected immediately before such recipient occupies it, whether or not said unit has a current and valid certificate of habitability. If the unit does not meet the standards required for such certificate, it shall not be rented either to the General Assistance recipient or to any other tenant until it does meet these standards.

Sec. 4-506 Relief from Personal Liability.

Any municipal officer or employee who acts in good faith in performing or refraining from performing any responsibilities outlined in this Chapter or in Chapter 7, 10, or 11 shall be relieved of personal liability for any injury or damage alleged to have been caused to persons or property as a result of such acts or alleged failure to act, and such officer or employee shall be defended and held harmless by the City in any proceeding alleging such injury or damage.

Sec. 4-507 Liability

This Chapter shall not be construed so as to relieve or lessen the responsibility or liability of any party that owns, operates, or occupies any property or structure that is subject to the provisions of this Chapter, nor shall the City be deemed to have assumed any such liability by reason of the inspection or any other action authorized by this Chapter.

State Law Reference: 14 M.R.S. §§ 8103, 8104, 8111.

ARTICLE VI Miscellaneous Provisions

Sec. 4-601 Spite Fences

Any fence or other structure in the nature of a fence, unnecessarily exceeding six (6) feet in height and kept and maintained for the purpose of annoying an owner or occupant of adjoining property, shall be deemed a private nuisance, as provided by the Revised Statutes of Maine.

State Law Reference: 17 M.R.S. § 2801.

Sec. 4-602 Swimming Pools

Ch. 4, Sec. 4-505

1. **Definition.** "Swimming pool" means an outdoor body of water enclosed in an artificial receptacle or other container whether in or above the ground used or intended to be used for swimming or bathing and designed for a water depth of 24 inches or more. Eff: 11/18/85

2. **Fences.** All permanent swimming pools in the open air shall be completely enclosed by a fence no less than four feet high and of a character reasonably intended to prevent unsupervised children from gaining access to the pool. Each opening in the fence shall be made self-closing and self-latching.

3. **Filling and Drainage Facilities.** All permanent swimming pools shall be equipped with filling and drainage facilities in a manner approved by the Code Enforcement Officer and all permits for their construction or alteration shall be approved by the Code Enforcement Officer before issuance.

4. **Size of Lot.** Outdoor swimming pools accessory to dwellings, apartment houses, hotels or motels, shall be permitted if not located between a building and a street line and if no part of pool or accessory structures are closer than 10 feet to side or rear lot lines. Eff: 7/13/94

Sec. 4-603 Demolition of Buildings

1. **Permit Required.** It shall be unlawful to wreck or demolish any building or structure in excess of five hundred (500) square feet in the City without first securing a permit therefor. No permit shall be issued for the demolition of any historic public building or structure listed on, or situated within a district listed on, the U.S. Department of the Interior's National Register of Historic Places without prior approval by vote of the Rockland City Council. Eff: 8/5/94

2. **Application for Permit.** An application for a permit to wreck any building or structure in the City shall be made in writing to the Code Enforcement Officer on a form prescribed by the Code Enforcement Officer. Such application is to give the location of the building or structure, the date when wrecking or demolition is to commence, the approximate duration of such wrecking or demolition, and such other information as may be required. The applicant shall notify all utility companies serving the premises at the time of application.

3. **Deposit.** Before a permit is issued, the applicant shall place a deposit with the City Treasurer in escrow in an amount established by order of the City Council, to serve as a performance guarantee that the property shall be restored to a safe and proper condition after such wrecking or demolition is completed.

"Proper and safe condition" means that all debris is cleared away, any remaining excavation or cellar hole is either filled in and tamped down, or surrounded by a chain link fence at least six (6) feet in height if such property is not to be immediately redeveloped. If such property is to be redeveloped for any purpose within two (2) months of such wrecking or demolition, then adequate barricades, to the satisfaction of the Code Enforcement Officer, shall be installed around the perimeter of such excavation.

If the Code Enforcement Officer finds that such property has been placed in a proper and safe condition as provided for in this section, he shall instruct the Treasurer to return the deposit. If the site is not cleared or placed in a proper and safe condition or work commenced to do so within ten (10) days of the completion of the wrecking or demolition, the City may itself proceed with the work, and the cost of such work by the City shall be deducted from the deposit; or demand on the applicant or on the bonding company or bank furnishing said letter of credit for reimbursement shall be made. Any remaining balance of such deposit after the City has performed the work shall be returned to the person who deposited it.

4. Bond. A certificate showing that public liability insurance in the amount of five hundred thousand dollars (\$500,000) has been obtained by the applicant, shall accompany any such application.

5. Inspection of Premises. Before any such permit shall be approved, the Code Enforcement Officer shall inspect the premises where the wrecking and demolition work is to take place, and ascertain that provision for proper care has been made so as not to endanger any connections with the City sewer and water systems or any electrical wires or installations.

6. Approval and Issuance of Permit. If the Code Enforcement Officer finds that the applicant has fully satisfied the requirements of this section, he shall approve the application and issue a permit for such wrecking or demolition.

Ch. 4, Sec. 4-602

7. Regulations for Proceeding With Work. All work of such wrecking or demolition shall be performed in a workmanlike manner and with the least amount of noise possible. Care shall be taken to protect neighboring structures with adequate shoring, reinforcement of party walls, and other precautions as may be needed to protect such structures. Signs stating alerting the public of the danger posed by the wrecking and demolition work poses, and forbidding trespassing shall be erected on each side of the building that faces a public street or alley, and in each such right of way to alert drivers and passers-by to the demolition work. Adequate protection shall be provided to prevent injury to any City or public utility appurtenances. It shall be the duty of all persons working on or responsible for such wrecking or demolition to see that children are warned away from such premises, and are not permitted to play in or on or frequent such structures.

Sec. 4-604 Fabric Structures

1. Purpose; Exception.

A. The purpose of this section is to regulate membrane covered frame structures to ensure that such structures do not constitute a fire hazard and that they are properly secured and maintained in good condition and not detrimental to a neighborhood. The Code Enforcement Officer may apply these regulations of fabric structures that were erected without a permit prior to the effective date of this section, in lieu of requiring their removal.

B. Exception: This Section shall not apply to seasonal enclosures such as screened tents or shelters that are easily collapsible and generally used for shade or shelter from insects, occasional use of camping tents and similar structures.

2. Definitions.

MEMBRANE COVERED FRAME STRUCTURE. A non-pressurized building wherein the structure is composed of a rigid framework to support a tensioned membrane which provides the weather barrier.

3. Non-Residential Property.

A. Procedure; Requirements. Membrane covered frame structures erected on non-residential property for a period exceeding one hundred eighty (180) days shall be subject to Section 3102 of the International Building Code as amended and must be approved by the Rockland Planning Board in accordance with Chapter 16, Article II of the Rockland

Code, regardless of size. Membrane covered frame structures erected on non-residential property for a period not exceeding one hundred eighty (180) days shall require a permit from the Code Enforcement Office and approval from the Rockland Fire Department and shall be in compliance with Section 3102 of the International Building Code as amended. Any temporary structure not in compliance with space and bulk standards of the zone in which it is located shall be subject to Section 19-309.1(G) of the Rockland Code.

B. Exception. Seasonal, temporary, plastic-covered buildings/structures in any WF Zone erected for a period not exceeding one hundred eighty (180) days and used for covering boats while undergoing repairs or renovations shall not require a permit.

4. Residential Property. Membrane covered frame structures erected on residential property shall require a permit if in place for a period exceeding fourteen (14) days in any given six-month period. No membrane covered frame structure permitted under this section shall have a footprint exceeding three hundred (300) square feet. Membrane covered frame structures with a footprint exceeding three hundred (300) square feet must be approved by the Rockland Planning Board which shall take into consideration the size, location and impact on the aesthetic value of the neighborhood. Any temporary structure not in compliance with space and bulk standards of the zone in which it is located shall be subject to Section 19-309.3 of the Rockland Code.

5. Standards. All membrane covered frame structures are subject to setback requirements. No membrane covered frame structure permitted in Section 4 shall be erected closer than five (5) feet from a principle structure. Membrane covered frame structures shall be anchored in accordance with the manufacturer’s specifications, and in such a way as to eliminate the possibility of being displaced by wind. Damaged membrane covered frame structures shall be removed or replaced within fourteen (14) days of the time they sustain damage. Membrane coverings must be maintained in good condition and not be torn, tattered or worn out. Unless otherwise approved by the Code frames of such structures without covering shall be removed or recovered within fourteen (14) days. Ch. 4, Sec. 4-604

ARTICLE VII Property-Assessed Clean Energy (“PACE”) Program

Sec. 4-701 Title; Purpose; Enabling Legislation

A. Title. This Article shall be known and may be cited as the Rockland Property-Assessed Clean Energy Program (the “Rockland PACE Program”).

B. Purpose. The purpose of this Article is to enable citizens to participate in a Property-Assessed Clean Energy Program to be administered by the Efficiency Maine Trust (the “Trust”) that provides financing for energy-saving improvements to owners of qualifying property in Rockland.

C. Enabling Legislation. The Rockland PACE Program is established pursuant to and shall be administered and construed in conformance with Title 35-A, Maine Revised Statutes, §§ 10151, *et seq.*

Sec. 4-702 Definitions

For purposes of this Article, the following words and phrases shall have the meanings indicated. Except as specifically defined below, or in the enabling legislation, words and phrases used herein shall have their customary and ordinary meaning.

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 either

(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. **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 to secure the owner’s repayment of funds advanced for

Energy-Saving Improvements to the property.

3. **PACE Assessment.** “PACE Assessment” means an assessment made against qualifying property to repay a PACE loan.

4. **PACE Loan.** “PACE Loan” means a loan, secured by a PACE mortgage, made to owner(s) of a qualifying property pursuant to a PACE Agreement to fund Energy-Saving Improvements.

5. **PACE Mortgage.** “PACE Mortgage” means a mortgage securing a loan made pursuant to a PACE Agreement to fund Energy-Saving Improvements to qualifying property.

6. **Qualifying Property.** “Qualifying Property” means residential real property located in Rockland that is not the subject of a tax or other municipal lien.

8. **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.

9. **Trust.** “Trust” means the Efficiency Maine Trust established pursuant to 35-A M.R.S. § 10103, and/or its authorized agent.

Sec. 4-703 Rockland PACE Program

1. **Establishment; Administration.** Rockland hereby establishes the Rockland PACE Program, which shall enable owners of qualifying property located in Rockland to access financing for Energy-Saving Improvements to property through PACE loans administered by the Trust or its agent. The City Manager shall (A) Ch. 4, Sec. 4-701 program administration contract with the Trust (the “Trust Contract”), in consultation with the City Attorney, to establish the terms and conditions of the Trust’s administration of the Rockland PACE Program; (B) establish and implement a local public outreach and education plan regarding the Rockland PACE Program; and (C) perform or cause to be performed any and all acts or activities required of Rockland for the administration of the Rockland PACE Program by the Trust.

2. **Trust Contract.** The Trust Contract will set forth the terms and conditions for the Trust’s administration of the Rockland PACE Program including, without limitation, that:

- A. the Trust shall enter into PACE Agreements with owners of qualifying property who seek funding from the Trust for Energy-Saving Improvements to the property;
- B. the Trust or its agent shall prepare and record on the Knox County Registry of Deeds a Notice of the PACE Agreement, thereby creating a PACE Mortgage lien on the property;
- C. the Trust or its agent shall disburse the PACE Loan to the property owner;
- D. the Trust or its agent shall provide the property owner or his designee PACE assessment statements and payment deadlines for repayment of the owner’s PACE Loan;
- E. the Trust or its agent shall be responsible for collection of the PACE Assessments;
- F. the City shall record discharges of PACE Mortgages upon notice from the Trust that the PACE Loan has been fully satisfied.

3. **Education and Outreach Program.** The City Manager shall establish and implement an education and outreach program to inform owners of qualifying property about the Rockland PACE Program and other home energy saving opportunities.

4. **Supplemental or Substitute Funding.** The City Manager is hereby authorized to seek supplemental or, if necessary, substitute funding for the Rockland PACE Program, subject to acceptance and appropriation of the same by the City Council for such purpose.

5. **Rules And Standards; Conflicts.** The Rockland PACE Program shall be conducted pursuant to applicable rules, regulations, standards, or other requirements established by the Trust for the administration of PACE programs in Maine, if consistent with applicable law and the terms and conditions of the City of Rockland / Trust contract. In the event any provision in this Article shall be found to be inconsistent with applicable law or a lawfully-adopted rule or regulation of the Trust, such law, rule, or regulation shall apply, but only to the extent of any such inconsistency.

Sec. 4-704 Liability; Assessments Not A Tax.

1. **Liability of Municipal Officials, Employees.** Notwithstanding any other provision of law to the contrary, Rockland’s municipal officers, assessor, tax collector, and other Rockland municipal employees or volunteers are not personally liable to the Trust or to any other person for claims, of whatsoever kind or nature, under, arising from, or in any way related to the Rockland PACE Program, or this Article, including without limitation any claims for or related to uncollected PACE Assessments.

2. **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. Eff: 11/12/10

ARTICLE VIII Maine Uniform Building and Energy Code

Sec. 4-801 Incorporation of Maine Uniform Building and Energy Code

1. **Adoption.** Pursuant to 5 M.R.S. § 12004-G, 5-A, the State of Maine has adopted the Maine Uniform Building and Energy Code (10 M.R.S. Chapter 1103) and said code is hereby adopted, along with any amendments thereto which may from time to time be adopted, and shall be referred to as the City of Rockland Building and Energy Code. The City of Rockland Code Enforcement Officer is hereby charged with enforcing said building and energy code, and any other applicable requirements adopted or imposed by the State of Maine.

State Law References: 5 M.R.S. § 12004-G, 5-A; 10 M.R.S. Ch. 1103. Eff: 02/09/11

Ch. 4, Sec. 4-703

Ch. 4, Sec. 4-704

CHAPTER 5 Cemeteries

Sections

5-101 Nuisance

5-102 City Cemeteries

5-103 Cemeteries Not Owned by City

5-104 Utilization of Burial Record Permits

5-105 Record of Burials

CHAPTER 5 Cemeteries

Sec. 5-101 Nuisance

Any cemetery, community mausoleum or columbarium established, maintained or operated in violation of or contrary to the provisions of the Revised Statutes of Maine as amended, is declared to be a nuisance which may be abated or enjoined as such at the suit of any citizen of this State.

Sec. 5-102 City Cemeteries

1. Property. The Director of Public Works shall be entrusted with and be responsible for all City property used in cemetery operations, and be responsible for the maintenance of the cemetery.

2. Rules. The Director of Public Works may adopt such rules and regulations as in his judgment may be necessary for the government of the cemetery owned by the City, provided: (1) that the rules are not inconsistent with the laws of the State or the ordinances of the City; (2) that they are approved in advance by the City Manager; and (3) that they are in writing and filed in the office of the City Clerk where they shall be available for public inspection at any reasonable time.

3. Decoration Regulated. In said cemetery, no curb, decoration, design, embellishment, or improvement of any sort shall be placed upon any burial lot, nor shall any alteration of the surface of the grounds be made, nor shall any labor be done unless the same shall have been approved by the Director of Public Works, provided that if any person feels aggrieved by the decision of the Director of Public Works he may appeal to the City Council. If any monument or structure or any inscription that may be placed in or upon any burial lot in said cemetery shall be determined by the Director of Public Works to be improper, and such decision is concurred in by the City Manager, the offensive or improper object shall be removed by the owner forthwith; if the owner fails to do so within the time limit specified in a written notice by the Director of Public Works, the City shall have the right to enter upon the premises and remove the offensive or improper object.

4. Removal Of Nuisance. If any trees or shrubs in or upon any lot in the cemetery shall, in the judgment of the Director of Public Works, by means of their roots, branches or otherwise become detrimental to the adjacent grounds or unsightly or inconvenient to the public, the City shall have the right to enter upon the premises and remove such trees or shrubs or any part thereof.

5. Injury To Monuments And Places Of Burial. Whoever willfully destroys or injures any tomb, gravestone, monument, or other object placed or designed as a memorial of the dead, or any fence, railing, or other thing placed about or enclosing a burial place; or willfully injures, removes, or destroys any tree, shrub, or plant within such enclosure, shall be punished by a fine of not more than five hundred dollars (\$500), or by imprisonment for less than one (1) year, as provided by the Revised Statutes of Maine.

State Law Reference: 13 M.R.S. §§ 1101-1349.

Sec. 5-103 Cemeteries Not Owned By City

1. No City Appropriations. The City Council shall not appropriate any funds for, nor shall any City funds be expended on any cemetery not owned by the City.

2. Maps Required. Any person, firm, association or corporation owning any cemetery in the City shall, within sixty (60) days after the passage of this Article, furnish to the City Clerk a map showing the location and number of each lot therein, and the name of every person buried therein so far as known to the owner or owners. Such owner or owners shall, within the same sixty (60) day period, make arrangements with the City Clerk, for monthly reports or otherwise, to the end that such map may be kept currently correct by the City Clerk.

3. Trust Funds Previously Accepted. Trust funds officially accepted by the City Council prior to the effective date of this Article for the care of lots in cemeteries not owned by the City shall be retained by the City in perpetuity in accordance with the trust originally reposed in the City; such funds shall be separately recorded, but may be invested jointly with other like funds; interest thereunder shall be expended according to the terms thereof, under the control of the City Manager, by the Director of Public Works, the work to be performed by him or under his direction.

4. Trust Funds Accepted in Future; Terms. Trust funds officially accepted by the City Council on and after the effective date of this Article for the care of lots, excluding the stone and sinking a grave, in cemeteries not owned by the City shall be accepted only on the following terms:

A. No such fund shall be less than \$1,000.

B. Such fund must be retained by the City in perpetuity;

C. Such fund shall be entered on the books of the Director of Finance and invested and held in accordance with the provisions

of the Revised Statutes of Maine; it shall not, however, be required that each fund be invested separately; any fund may be merged with other similar funds for joint investment;

D. Unless otherwise specifically provided by the terms of the grant or bequest, the annual income (actually earned) only shall be expended in performance of the requirements of the trust, and only such portion thereof as is necessary, in the opinion of the said Director of Public Works, to do so. A reasonable portion of the annual earned income may be gradually reserved for extraordinary repairs;

E. All expenditures for cemetery lot care must be for work actually performed, under the control of the City Manager, by or under the direction of the Director of Public Works;

F. Consent in writing to all of the applicable provisions of this Article and any amendments thereof, and any rules adopted under authority thereof.

State Law Reference: 13 M.R.S. § 1222.

Sec. 5-104 Utilization Of Burial Record Permits

The City Clerk shall compare burial permit records with all cemetery maps in his office, keep such maps currently correct, and report any possible violations of law to the City Attorney.

Sec. 5-105 Record of Burials

The City Clerk shall record in a book to be kept for that purpose, each interment made within the City's limits, together with the name, age, sex, color, occupation, condition, cause of death, date and place of death, date and place of burial, birthplace, parents' names, resident or non-resident, and the number of the lot or tomb where buried. Such book shall be kept safely and with the utmost care in the office of the City Clerk. The City Clerk shall keep all completed books of record in a fireproof vault at all times except when actually in use, as required by State Law.

State Law Reference: 22 M.R.S. § 2702; 5 M.R.S. § 95-B.

CHAPTER 6 Elections

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CHAPTER 6 Elections

ARTICLE I General Provisions

Sec. 6-101 General

The provisions of the laws of the State of Maine relating to the qualifications of electors, registration, the manner of voting, the duties of election officers and all other particulars in respect to preparation for, conducting, and management of elections, so far as they may be applicable, shall govern all municipal elections except as otherwise provided in the City Charter.

State Law Reference: 30-A M.R.S. §§ 2004, 2503, 2504, 2551-2556; 21-A MRSA § 1 et seq.

Sec. 6-102 Place and Time Of Opening Of Election

It shall be the duty of the City Council to fix the place and time of the opening of the polls in the election of officers, or in any special election to decide matters submitted to a vote of the citizens, and cause same to be inserted in any warrant and notification to the inhabitants of such election.

Sec. 6-103 Issuance Of Election Notice

The City Clerk shall announce the election as follows:

1. Notice posted. The clerk shall post or have posted a notice of election, attested by the clerk, in a conspicuous public place at or near the polling place in the City at least 7 days immediately before election day and at the polling place on election day.

2. Notice recorded. The clerk shall record a copy of the notice along with the times and places of posting.

Sec. 6-104 Form of Notice of Election

The notice of election must contain the following items: a heading that states "Notice of Election" in bold type, the day, date and title of the election, the voting district designation, if any, the name and location of the voting place, the opening and closing times of the polls and a list of the offices and referendum questions for that election. The clerk may add times for processing absentee ballots pursuant to Title 21-A, Section 759, subsection 7.

Sec. 6-105 Notice Of Elections By City Clerk

The City Clerk shall cause notice of all elections to be published in one or more newspapers published in the City between the time of issuing the notice of election and the time appointed for the election. This section is directory only, and a failure to comply with the same shall not affect the validity of any election which otherwise would be legal.

Sec. 6-106 Single Ward

The corporate boundaries of the City of Rockland shall constitute a single ward for purposes of voting. This ordinance change will not be effective until the General Election of November 1976.

Sec. 6-107 Registrar of Voters; Deputy Registrar of Voters; Registration Appeals Board

There shall be a single Registrar of Voters for the City of Rockland appointed pursuant to the provisions of Title 21-A, Section 101 of the Maine Revised Statutes Annotated. The Registrar may appoint one or more deputy registrars pursuant to the provisions of Title 21-A, Section 102 of the Maine Revised Statutes Annotated. There shall also be a Registration Appeals Board established and appointed pursuant to the provisions of Title 21-A, Section 103.

State Law Reference: 21-A M.R.S. § 101-103. Eff: 4/9/97

Sec. 6-108 Ballot And Election Clerks

The City Council shall appoint ballot and election clerks as provided in Title 21-A, § 503 of the Maine Revised Statutes Annotated.

Sec. 6-109 Compensation

Each warden, election and ballot clerk shall be paid such amount per day for each election held in the City of Rockland at which

they shall attend, as the City Council may determine for each election, subject to a minimum of six dollars (\$6) per day; provided that such minimum shall be at the rate of pay for any election for which the City Council has not made a specific determination of rate.

Sec. 6-110 Voting Machines

On and after September 1, 1959, balloting at all elections in the City of Rockland may be done by voting machines in accordance with the Revised Statutes of Maine, and all Acts amendatory thereto.

ARTICLE II Citizens Initiative and Referendum Ordinance

Sec. 6-201 Title and Purpose

This Article shall be known and cited as the Citizens Initiative and Referendum Ordinance. The submission to the vote of the citizens of any proposed ordinance dealing with legislative matters on municipal affairs or any such ordinance enacted by the City Council may be accomplished by the presentation of a petition therefor to the City Council in the manner as hereinafter provided. However, the provisions of this Article shall not apply to borrowings authorized by resolution of the City Council pursuant to Section 514 of the Charter, or to any administrative matters directly relating to the fiscal affairs of the City or tax levy of the City or any ordinance relative to such matters.

Sec. 6-202 Petition for Initiative or Referendum

1. Petitioner's Committee. Any five (5) or more qualified voters of the City may originate a petition for either an initiative or referendum election by signing such petition at the office of the City Clerk. The originators of a petition shall be known as the petitioner's committee and qualified as the circulators thereof.

2. Filing; Circulation; City Clerk's Authority. Whenever requested by the petitioner's committee, the City Clerk shall prepare the proper format of the petition, with a copy of their submitted proposal or ordinance thereon or attached thereto, and upon it being signed by the voters, the City Clerk shall file the petition with the date thereon and shall, during office hours for thirty (30) business days thereafter, keep the same open for signature by other qualified voters of the City. For a period of thirty (30) business days commencing on the date filing with the Clerk, copies of such petition may be circulated and endorsed only by those persons who have signed the original petition prior to its filing with the Clerk, and such circulators shall attest that all persons signing the petition did so in their presence.

3. Presentation to Council. At the expiration of the thirty (30) day period, the City Clerk shall declare the petition gathering period closed and shall, at the next meeting of the City Council, present the petition to the City Council, with a verification of the number of valid voter signatures obtained attached thereto.

4. Referendum Petition. In the case of a petition for referendum, the petition signed by five (5) or more voters shall be duly filed with the City Clerk as above provided within twenty (20) days after the enactment of the ordinance for which a referendum election is sought.

5. Initiative Petition; City Attorney's Authority. Any petition proposing an ordinance to be adopted by initiative shall, prior to filing with the City Clerk, be submitted to the City Attorney for review. The City Attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities and unconstitutional provisions, and to assure accuracy in its text and references, and clarity and precision in its phraseology, but the City Attorney shall not materially change its meaning and effect.

Sec. 6-203 Number of Signatures Required, Public Hearing and Validity

1. Number of Signatures; Hearing Date. If the number of valid signatures for the petition shall amount to at least ten per cent (10%) of the number of registered voters as of the date of the last preceding regular municipal election, as certified by the Registrar of Voters, the City Council shall set a date for a public hearing to be held within twenty-one (21) days thereafter.

2. Submission to Voters. At the next Council meeting, after such public hearing, the City Council shall upon finding the petition to be valid for initiative or referendum vote take the necessary steps to submit to the voters of the City the ordinance or matter proposed by the petition; provided, however, that in the case of the referendum, the entire repeal by the City Council of the ordinance sought to be referred, and in the case of the initiative, the passage by the City Council of the desired ordinance shall put an end to all proceedings under said petition.

3. Sufficiency of Petition; Court Review. Any determination as to the insufficiency of a petition by the City Council shall be subject to court review.

Sec. 6-204 Form for Petition

The petition used to originate the initiative or the referendum shall be substantially in the following form:

Petition to the Rockland City Council
Initiative or Referendum
For the Submission to the People
of the Question
Shall the proposed ordinance or matter,
a copy of which is set forth herein or
attached hereto, be adopted?

We, the undersigned, under oath, depose, and say: That we are duly qualified voters of the City of Rockland residing respectively at the addresses placed opposite our names, and we hereby petition the City Council to submit the foregoing questions to the voters of the City of Rockland.

Names	Residence	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____ I, _____, the City Clerk of the City of Rockland do solemnly affirm that the signatures appended hereto are the signatures of the persons whose names they purport to be, to the best of my knowledge, information, and belief.

_____ Date
_____ City Clerk

Copies of said petition may then be circulated and all such copies when filed shall contain or have attached thereto the following affidavit executed by the circulator thereof:

Affidavit of Circulator

I, the undersigned, _____, being the circulator of this petition upon my oath do solemnly affirm that I personally circulated this petition, that all signatures which total.....in number are affixed in my presence and that I believe them to be the signatures of the persons whose names they purport to be.

Date: _____
_____ Signature of Circulator

Subscribed to upon oath before me on this.....date of.....

Notary Public

Sec. 6-205 Special Election for Initiative or Referendum

Within ten (10) days after the first City Council meeting, held after the public hearing, the Municipal Officers shall set a time for the holding of a special election at which the proposed initiative or referendum question shall be submitted to the voters of the City, which special election shall be held not less than thirty (30) nor more than sixty (60) days after the Council meeting; provided that, if the date set for the special election shall fall within four (4) months of the next regular state or municipal election, no such special election shall be called and the question shall be submitted at the regular election.

Sec. 6-206 Publication of Ordinance

Whenever any ordinance is required, by the provisions of this Article, to be submitted to the voters for adoption or repeal, the City Council shall order the publication of the complete text thereof to be made in one or more newspapers of general circulation throughout the City, such publication to be made not less than five (5) days nor more than fifteen (15) days prior to the election.

Sec. 6-207 Special Ballots for Initiative or Referendum Election

The special ballots used for voting in the election shall set forth the title of the ordinance or other matter to be voted upon,

together with two (2) brief explanatory statements of not more than one hundred (100) words each, one prepared by the City Council and one prepared by the petitioners. These statements shall be descriptive of the intent of the proposed ordinance or matter to be voted upon. The ballot shall in substance also contain the words:

Shall the Ordinance (or proposal) entitled "....." be adopted. YES NO

Shall the Ordinance (or proposal) entitled "....." be repealed. YES NO

Sec. 6-208 Result of Election, Minimum Votes Required

If a majority of the qualified voters voting on the proposed or referred ordinance or matter shall vote in favor thereof, it shall take effect upon the declaration of the result of such election after the official canvas of the return of the votes by the Municipal Officers; provided the total number of votes cast for and against the questions equals or exceeds thirty percent (30%) of the total votes cast in the City at the last prior gubernatorial election.

Sec. 6-209 Order on Ballot and Conflicting Ordinances

1. Order on Ballot. In the event that two (2) or more ordinances are submitted at the same election, they shall be placed upon the ballot in order of the priority of the filing of the respective petitions and shall be given precedence upon the ballot over any and all questions submitted by the City Council on its own initiative.

2. Conflicting Ordinances. Any number of proposed or referred ordinances may be voted upon at the same election. In the event that two (2) or more ordinances adopted at the same election contain conflicting provisions, the ordinance receiving the highest number of votes at such election shall be paramount and all questions of construction shall be determined accordingly.

Sec. 6-210 City Council Proposals

The City Council may submit, on its own initiative, a proposition for the enactment, repeal, or amendment of any ordinance (except as herein otherwise provided) to be voted upon at any regular or special municipal election and should such proposition receive a majority of the votes cast thereon at any election, such ordinance shall be enacted, repealed, or amended accordingly, in accordance with the provisions of Section 6-209. However, the Council may also submit advisory questions on any municipal matters to the voters if it so desires.

Sec. 6-211 Repeal or Amendment of Enacted Ordinance

An ordinance enacted by a vote of the people at an initiative or referendum election shall not be repealed or amended for a period of five (5) years from the effective date of the ordinance, except by a vote of the people, unless such ordinance shall otherwise expressly provide. After five (5) years from the effective date of the ordinance, the City Council, after a public hearing, may repeal or amend such ordinance by vote of two-thirds (2/3) of its members.

Sec. 6-212 Notice of Public Hearing

Whenever a public hearing is required to be held in accordance with the provisions of this Article, notice of the time, place, and purpose of the hearing shall be published as required by Section 6-206.

CHAPTER 7 Fire Prevention and Suppression

ARTICLE I Fire and Emergency Medical Services Department

Sections

- 7-101 Purpose
- 7-102 Department Responsibilities
- 7-103 Personnel
- 7-104 Emergency Medical Services
- 7-105 Service Area; Outside Calls; Mutual Aid
- 7-106 Fire Investigations; Reports
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ARTICLE II Inspections and Enforcement

- 7-201 Fire Chief Responsible For Enforcement; Fire Marshall
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- 7-203 Site Plan and Subdivision Reviews; Building Permits; Existing Structures; Licenses

CHAPTER 7 Fire Prevention and Suppression

ARTICLE I Fire & Emergency Medical Services Department

Sec. 7-101 Purpose

This ordinance is intended to provide the City of Rockland with fire prevention, suppression, and investigation services, and emergency medical and ambulance services.

Sec. 7-102 Department Responsibilities

The City of Rockland Fire & Emergency Medical Services (“EMS”) Department is charged with the following duties and responsibilities:

1. The prevention and suppression of fires;
2. The provision of emergency medical and ambulance services;
3. Rescue and other emergency response and mitigation services;
4. Property inspections to assure, among other matters:
 - A. the proper storage and use of explosives and flammables, the installation and maintenance of automatic and other fire alarm systems, and fire extinguishing equipment;
 - B. the maintenance and regulation of fire escapes; and
 - C. the means and adequacy of exit in case of fire, from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheaters, and all other places in which numbers of persons work, live, or congregate, from time to time, for any purpose;
5. The investigation of the cause, origin, and circumstances of the fires; and
6. The maintenance of fire cause and loss records.

The Fire & EMS Department also shall have such other powers and perform such other duties as are set forth in this Code of Ordinances, and as may be otherwise conferred and imposed from time to time by law. The Fire Chief of the Rockland Fire & EMS Department may delegate any of his powers or duties under this Chapter to one or more Deputy Fire Chiefs.

Sec. 7-103 Personnel

The Fire & EMS Department shall be staffed with trained firefighters and emergency medical personnel who shall be employed in such capacities by the City Manager, in consultation with the Fire Chief. Fire & EMS Department employees may be regular employees of the City, or on call and paid on a *per diem* or similar basis. When feasible, the Fire & EMS Department may also utilize the services of trained volunteers, if doing so shall not impede the efficacy of the Department or the achievement of its mission. The Fire Chief shall appoint such Deputy Chief(s), Assistant Chief(s), officers, and supervisors as may be reasonably necessary to achieve a satisfactory command and incident structure.

Sec. 7-104 Emergency Medical Services

1. The Fire & EMS Department, whenever feasible and medically appropriate, shall provide emergency medical services within the City of Rockland, and provide emergency ambulance or other transportation of ill or injured persons from Rockland to the Penobscot Bay Medical Center in Rockport or other appropriate medical facility as directed by State of Maine medical protocols, or reasonable necessity.

2. Fees. The Fire & EMS Department shall charge fees for its emergency medical and/or transportation services whenever feasible, at rates set by Order of the City Council.

3. Mutual Aid. The City Manager, upon the recommendation of the Fire Chief, shall be empowered to enter into a written Mutual Aid Agreement with neighboring communities which provides reciprocal emergency ambulance service. A copy of the Agreement shall be placed on file with the City Clerk.

State Law Reference: 32 M.R.S. § 81 *et seq.*;

Cross Reference: 14 M.R.S. § 164, §§ 8101, *et seq.*

Sec. 7-105 Service Area; Outside Calls; Mutual Aid

1. Service Area. The service area of the Fire & EMS Department shall be the physical boundaries of the City, and the Fire Chief shall not permit the City's fire or emergency medical equipment to be deployed outside City limits, except where permitted by law or pursuant to a fee schedule, mutual aid agreement, or service contract or fee agreement with immediately- or nearly-adjacent communities. The City Council, by Order, may establish and from time to time amend a fee schedule for EMS service calls from outside the City. The City shall participate in and not opt out of the Maine First Responders State-Wide Mutual Aid Agreement. The City Manager, in consultation with the Fire Chief and City Attorney, is hereby authorized to enter into written service contracts or fee agreements with other municipalities or entities responsible for providing emergency medical services in other municipalities, providing for EMS services by the City for such other municipality(ies), so long as (1) the services the City therein agrees to provide do not unacceptably degrade the Fire & EMS Department's preparedness or capacity to respond to fire or emergency medical incidents within the City of Rockland, and (2) with respect to emergency medical services, and unless proscribed by law, the City is compensated by or on behalf of the recipient of the emergency medical services thus agreed to at the rates established by Order of the City Council, as applicable, and/or by applicable law. Nothing in this section shall preclude the Fire Chief, with the approval of the City Manager, from authorizing fire and/or emergency medical personnel to respond to calls from other communities (1) to combat a conflagration, conduct a rescue, or provide other needed fire suppression, EMS, or related emergency service, (2) to assist in the event of a disaster or other emergency within the meaning ascribed to those terms by Rockland's Emergency Management Ordinance, Ch. 2, Art. XXI.

State Law References: 32 M.R.S. §§ 81-95.

Cross References: 14 M.R.S. §§ 164, 8101-8118.

Sec. 7-106 Fire Investigations; Reports

The Fire Chief shall cause to be investigated the origin, cause, and circumstances of every fire occurring in the City of Rockland by which property has been destroyed or damaged and, so far as possible, shall determine whether the fire is the result of carelessness or design. Such investigations, whenever possible, shall commence immediately upon the arrival of Fire & EMS Department personnel at the scene. The Fire Chief, his designee, or a fire inspector, if any, shall notify the proper authorities designated by law to pursue the investigation of such matters, and cooperate with such authorities in the collection of evidence and in the prosecution of the case.

Every fire shall be reported in writing to the Fire Chief within one day after the occurrence of the same by the Fire Department officer on whose watch such a fire has occurred. Such report shall be in such form as shall be prescribed by the Fire Chief, and shall contain a statement of all facts relating to the cause, origin, and circumstances of such fire, the extent of the damage thereof, the insurance upon such property, if known, and such other information as may be required by the Fire Chief or by applicable law, including the injury, death, or rescue of persons.

Sec. 7-107 Alarm Systems

1. Purpose. In order to protect public safety and welfare and to assure that fire suppression systems for the protection of life and property are fully operational, it is necessary to require that such systems be correctly designed, installed, and maintained.

2. Municipal Fire Alarm System Terminated. The Rockland Municipal Fire Alarm Circuit is terminated effective April 1, 2011. The Fire Chief shall, prior to such termination, notify any property owner known to the Fire Chief to have an alarm box or system connected to the Municipal Fire Alarm Circuit of the termination of the municipal circuit. Such property owners shall, no later than April 1, 2011, remove, hide from public view, or convert each Gamewell fire alarm box on the premises to a registered initiating device. Where required pursuant to the Life Safety Code, property owners shall install and register a privately-monitored fire alarm system no later than April 1, 2011.

3. Alarm System Installation; Registration. No person shall initialize or operate any alarm system that includes any mechanism, equipment, or device designed to automatically transmit a signal, message, or warning from private or public property, including without limitation telephonic systems designed to operate automatically through the use of public telephone facilities to a governmental authority, or monitored by a private or public entity that in turn notifies the Knox County Communications Center (an "Alarm System"), except single-family dwellings or homes, without first causing a licensed or qualified professional to certify to the Fire Chief, in writing, that such system complies with all applicable codes,

regulations, and manufacturer's specifications. Such certification shall identify the type, manufacturer, and model of the Alarm System; shall state specifically the areas of the premises protected by the system; shall identify the owner of the property and the person or company that will monitor the system; shall include a copy of the building and/or occupant's evacuation policy; and shall reflect the owner's acknowledgment that he has read and understands the City's prohibition of and penalty for false alarms. The Fire Chief shall provide written confirmation of receipt of such certification which, together with the certification and other requirements herein, shall be retained on file with the Rockland Fire & EMS Department, and shall constitute the registration of such Alarm System.

4. System Requirements. Alarm Systems in Rockland shall include the following, in addition to requirements imposed by applicable codes and regulations:

A. Access. The owner or operator of every building with an Alarm System shall equip the building with a Knox Box® or similar device approved by the Fire Chief configured with the Rockland Fire Department keyway. The Knox Box® shall contain all keys necessary to access all parts of the building or complex, including but not limited to mechanical rooms, electrical closets, sprinkler systems, etc.. Alternatively, the owner or operator may provide the Department with and keep current a list of no fewer than three (3) responsible parties who are capable of responding to the location of the alarm within ten (10) minutes of notification, for the purpose of providing the Department access to the building or complex in the event of an alarm condition ("Responsible Parties"). Provided, however, that occupants that maintain on-site staffing or a twenty-four (24) hour, on-site security presence shall not be required to provide a Knox Box® or a Responsible Parties list at such staffed locations, so long as the employees or security personnel present shall be capable of providing the Department with access to all interior spaces of the building or complex.

The provision of a Knox Box, Responsible Party, or 24-hour on on-site staffing shall not preclude the Department from forcing entry if the Department's incident commander believes a hazardous condition is present within the building. The Rockland Fire & EMS Department shall not be responsible for any damage caused while forcing entry into any premises under an alarm condition.

B. Fire Alarm Control Panels. Upon the installation or replacement of any fire alarm control panel (FACP), the owner or operator of the premises shall surrender all extra keys to that panel to the City of Rockland Fire & EMS Department, and shall take sufficient precautions to assure that no FACP key remains in an unsecured location that may allow unauthorized persons access to the FACP. Where the building or occupancy utilizes a Knox Box®, a duplicate of the FACP key shall be kept therein.

C. Waterflow Detectors (Sprinkler System). Waterflow detectors installed in wet sprinkler systems must have incorporated in them an approved retard device which will prevent false signals from being sent to the Fire Department on occasions such as low water pressure or pressure surges in the riser.

D. Heat Detection. Heat Detection Devices must be of the combination "Rate of Rise" and "Fixed Temperature" type. Exceptions are locations where it is normal for rapid change of temperature to exist, such as areas housing; heating ovens, heating coils, boilers, furnaces, etc. A "Fixed Temperature" device of 190 degrees F rating shall be used in locations where these conditions exist. All Heat Detection Devices must be approved and bear the label of "Underwriters Laboratories". They must be installed and spaced according to the recommendations of the manufacturers and the "Underwriters Laboratories."

E. Sprinkler System Alarms. Any alarm bell which shall make local, external notification of a sprinkler system flow shall be of the hydraulically-operated water motor gong type, or an effective substitute acceptable to the Fire Chief in his sole discretion. An electric bell shall not be allowed as a substitute. Eff: 5/13/15

5. Alarms; Evacuations; Access to Premises.

A. Notifications.

(1) Priority. Where a fire alarm system shall be required by code to report, the first communication from the system or central station shall be to the Knox Regional Communications Center (KRCC), and not to the building, building owner, or responsible parties, any of which shall only be notified subsequent to notification of the Department through the KRCC.

(2) Trouble Conditions. Alarm Systems shall not report trouble conditions to the KRCC; only actual alarm activations shall be reported. Trouble conditions include low batteries, supervisory alarms, devices not properly reset, or other system monitoring controls that do not signal a true activation of an emergency alarm condition. Provided, however, that this prohibition of trouble conditions alarms shall not preclude the automatic reporting, as an alarm, in the event an Alarm System remains in a trouble condition for a period of time unacceptable under applicable codes, regulations, or standards.

B. Evacuation. The owner, operator, or Responsible Party for any building or occupancy protected by an Alarm System shall, upon activation of any alarm, cause the immediate evacuation of all occupants to a safe, exterior location, away from the affected building and in a location where their presence shall not impede public safety vehicles or personnel, and where they shall not be at risk of injury. All employees, residents, and other occupants of the areas served by the Alarm System shall be forewarned of the necessity to evacuate and shall be instructed to assist in facilitating the evacuation of the premises by those occupants unfamiliar with the physical location and operation of exits or with the building's emergency evacuation plan. Special provisions for "defending or sheltering in place" and for any procedure contrary to the above must first be approved by the Fire Chief of the City of Rockland after consulting with the Maine State Fire Marshal's Office, and shall be documented with the City Clerk, prior to their implementation.

C. Irrespective of the installation of a Knox Box® or similar device at the premises, one or more of the designated Responsible Parties shall promptly respond to an alarm and represent and act on behalf of the owner or occupant so long as any Department personnel remain on site. Each such RP shall have been trained, upon Department authorization, to reset the Alarm System, to take possession of the building from the Rockland Fire & EMS Department, and to engage a fire alarm technician to make any necessary repairs to the Alarm System within a timeframe to be identified by the Department.

D. Silencing and Resetting Alarms. No owner, manager or otherwise responsible party shall allow any person to silence or reset any activated fire alarm panel without the express permission of the officer in charge of the Department personnel responding to the alarm, including activations believed or known to be false in nature. If an Alarm System has been silenced, and/or evacuation has not occurred, the Department's officer in charge may, at his or her own professional discretion, cause the alarm to again sound in order to facilitate the evacuation of the premises prior to conducting any investigation as to the cause of the original alarm of fire, for the purpose of best assuring the safety of occupants. Upon identifying the cause of an alarm and determining that no hazard exists, the Department's incident commander may cause the alarm to be silenced and allow employees, residents, and other occupants to reenter the building.

E. Fire Watch. The Fire Chief or his or her designee shall have the authority to post a fire watch, the expense of which shall be borne solely by the property owner, or to order the indefinite evacuation of the building's occupants in the event their safety cannot be reasonably assured by a fire watch, so long as the Alarm System protecting the premises may remain inoperable, or another hazard shall continue to exist.

6. Maintenance and Testing. The owner and/or operator of each premises with an Alarm System shall cause the proper maintenance and inspection of such Alarm System with all applicable NFPA Codes and Standards. Such owner or operator shall notify the Rockland Fire & EMS Department any time testing, maintenance, or work of any kind is being undertaken on the fire alarm system. The Department will not respond to alarms received during testing or while maintenance or any other scheduled work on the system is being conducted, unless additional notification of an emergency at the site is made to the Knox Regional Communications Center. It shall be the responsibility of the property owner or operator to notify the Department, through the KRCC, of the presence of a true emergency condition at the premises during such testing or completion of maintenance or other work on the fire alarm system and to notify the Department of completion of said fire alarm system work, once said work or maintenance has been completed, in order to ensure the proper response to any future alarm activations.

7. System Deactivation. No Alarm System shall be discontinued without the prior approval of the Fire Chief, or his or her designee, which shall not unreasonably be withheld, but which may, in the Fire Chief's sole discretion, be contingent upon

A. the submission of satisfactory evidence that the use or occupancy of the premises is not as to require an approved Alarm System,

B. written approval of such deactivation by the fire insurance carrier for the property, and

C. a plan to properly remove any pull stations or other devices that would lead an occupant to believe the property was protected by a compliant fire alarm system. The removal of these system components shall be accomplished within a time frame approved by the Fire Chief, or his or her designee.

8. Violations; Penalty. Any violation of this section shall, pursuant to 30-A M.R.S. § 4452, subject the owner or other responsible operator of the premises to a fine of not less than \$100, an injunction of the violation, and other remedies provided therein. Each day that such violation shall continue shall constitute a separate violation.

9. Liability. The City of Rockland, the Fire & EMS Department, and/or any of its employees shall under no circumstances be liable for the failure of any fire alarm system to operate, notify the Department of a fire or other emergency, or prompt a response by the Department.

Sec. 7-108 False Alarms

A call for emergency fire or EMS services from the Rockland Fire & EMS Department made without an actual and reasonable belief that such service is required is a false alarm, and – irrespective of any criminal proceeding brought pursuant to 17-A M.R.S § 509 – shall be a civil violation, and, at the discretion of the Fire Chief, any person making or conspiring to make the false alarm shall be subject to a minimum fine of \$500. Nothing in the foregoing shall require the imposition of a fine, or foreclose the City from seeking other or additional remedies.

State Law Reference: 17-A M.R.S. § 509; 25 M.R.S. §§ 2396, 2453 *et seq.*

ARTICLE II Inspections & Enforcement

Sec. 7-201 Fire Chief Responsible For Enforcement; Fire Marshall

The Fire Chief shall be responsible for the enforcement of the Fire Prevention and Life Safety Codes and other provisions relating to the prevention, suppression, and investigation of fires adopted in Chapter 4 of this Code of Ordinances or imposed by law. The Fire Chief or his designee shall serve as Fire Marshal. The Fire Chief may detail such members of the Fire Department as inspectors as shall from time to time be necessary.

Sec. 7-202 Violations

It shall be unlawful for any person to impede any fire prevention or suppression measure or order undertaken or ordered by authorized personnel of the Fire & EMS Department. At fire or other incident scenes and in other exigent circumstances, the Fire Chief, or his designee, request that the Rockland Police Department enforce the lawful orders of authorized Fire & EMS Department personnel. Other violations of the Fire Prevention and Life Safety Codes or other applicable regulations shall be noted and prosecuted in the same manner as is provided in Chapter 4 for the general enforcement of building codes in the City of Rockland, either by a code enforcement official or designee of the Fire Chief for that purpose.

Sec. 7-203 Site Plan and Subdivision Reviews; Building Permits; Existing Structures; Licenses

The Fire Chief or his designee shall review and approve pertinent materials submitted as part of applications for site plan approval for the provision for emergency vehicle access and compliance with the Fire Prevention and Life Safety Codes. Before a building permit may be issued for any commercial building or multi-family dwelling, the Fire Chief or his designee shall inspect the premises for conformance with the Fire Prevention and Life Safety Codes and other legal requirements relating to the prevention and suppression of fires or the provision of emergency medical, evacuation, emergency management, or similar services. The Fire Chief or his designee shall participate in the inspection of rental housing units pursuant to Chapter 4, Article V, Section 4-505, and assist in the enforcement of the Fire Prevention and Life Safety Codes, generally, pursuant to Chapter 4, Article V, Section 4-504. The Fire Chief or his designee, when requested by or on behalf of the City Council, shall indicate in writing whether an applicant for a business, entertainment, or similar license is and will be in compliance with the Fire Prevention and Life Safety Codes in the event such license is granted.

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CHAPTER 8 GENERAL ASSISTANCE

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**CHAPTER 8
GENERAL ASSISTANCE**

ARTICLE I Department of Public Welfare

Sec. 8-101 Establishment

There shall be a Department of Public Welfare, the head of which shall be the Director of Public Welfare who shall be appointed by the City Manager. State Law Reference: 22 M.R.S. § 4302.

Sec. 8-102 Duties

The Director of Public Welfare shall:

1. City Program. Be responsible for the planning, budgeting, reporting and control of the City Welfare program.
2. State Law. Exercise all the powers and perform all the duties conferred or imposed by State law upon Overseers of the Poor and the Municipal Board of Child Welfare.

**ARTICLE II
Statement of Policy**

The Municipality of The City of Rockland 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 herein and in 22 M.R.S. § 4301 et seq.

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

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

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. Within 24 hours of receiving an application, the administrator will give the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also give the applicant written notice that 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 may require applicant to show proof that expected income has been used on basic necessities before non-emergency municipal assistance is released.

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

The administrator will post notice stating the day(s) and hours the administrator will be available. The administrator, or other designated person, will be available to take applications in the event of an emergency at all other times. A copy of this ordinance and Maine General Assistance law will be readily available to any member of the public upon request. Notice to this effect will be posted. Applicants will be scheduled by appointment. Those who cannot wait for the next available time may wait at the office for a cancellation or for when the administrator is free. The administrator may make home visits if the evidence presented is not satisfactory and further verification is needed or when the applicant cannot come to the office due to infirmity.

Ch. 8, Sec. 8-101

ARTICLE III Definitions

Section 8-301—Common Meaning of Words

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

Section 8-302—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 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 medical services as recommended by a physician, nonprescription drugs, telephone 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 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.

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 708 of this ordinance less the household income as calculated pursuant to section 707 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.

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 (22 M.R.S. § § 4301(4), 4308(2), 4310).

General Assistance Program. A service administered by a municipality for the immediate aid of persons Ch. 8, Sec. 8-301 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 a town manager, welfare director, or caseworker (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 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 or otherwise responsible for supporting the household shall be considered as available to the applicant only when there is a pooling of income (22 M.R.S. § 4301(6)). Pooling of income is considered to exist when the income of the household members is contributed to a pool from which household expenses are paid without regard to the member’s pro-rata share of such expenses. If income is pooled, the applicant must provide proof of income for all members and consent for verification from each.

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, any payments received as an annuity, retirement or disability benefits, veterans’ pensions, workers’ compensation, unemployment benefits, benefits under any state or federal categorical assistance program, supplemental security income, social security and any other payments from governmental sources unless specifically prohibited by any law or regulation, court ordered support payments, income from pension or trust funds, and household income from any other source, including relatives or unrelated household members.

The following items 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)).

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

Lump Sum Payment. “Lump sum payment” means a one-time or typically nonrecurring sum of money issued to an applicant or recipient after an initial application. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers’ compensation payments, unemployment benefits, disability income, veterans’ benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a nonliquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. The term “conversion of a non-liquid resource to a liquid resource” refers, in general, to a settlement of an insurance claim filed a Ch. 8, Sec. 8-302 or destroyed property (22 M.R.S. § 4301(8-A)).

Material Fact. A material fact is 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 708 of this ordinance or the actual cost of any such basic necessity, whichever is less.

Misconduct. “Misconduct” means conduct evincing such willful or wanton disregard of an employer’s interest as is found in deliberate violations or disregard of standards of behavior which the employer has a right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer’s interests or of the employee’s duties and obligations to his or her employer (26 M.R.S. § 1043(23)).

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

Municipality of Responsibility. The municipality which is 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.

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 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 (Ch. 8, Sec. 8-302) be available to the individual (22 M.R.S. § 4317). Potential resources include the TANF (previous 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).

Available resources also include the services, commodities or facilities made available by private organizations when 1) the applicant voluntarily agrees to utilize such services, 2) the municipality has established a contractual relationship with the private organization to provide services or commodities when requested, 3) the municipality is able to secure the services or commodities needed by an applicant from the private organization for any consideration acceptable to both the organization and the municipality, or 4) the service is available and offered at no cost to the applicant and deemed necessary by a physician, psychologist or other professional retraining or rehabilitation specialist. Charities may be considered private organizations which are available resources only if the charity places no unreasonable requirements on the applicant which are violative of the applicant’s fundamental rights.

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.

Unmet Need. An applicant’s unmet need is the household’s 30-day need as established by section 706 of the ordinance less the household income as calculated pursuant to section 707 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 or authorized by 22 M.R.S. § 4316-A to the extent such obligations ensure a continuing potential eligibility for general assistance when complied with, result in ineligibility when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

ARTICLE IV Administrative Rules and Regulations

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

Section 8-401 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/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. If an applicant requests a fair hearing, the fair hearing authority may be given copies of the record prior to the hearing. The claimant will have access to information that is available to the hearing authority.

Information from Other Sources; Penalty. Information furnished to the municipality by the Department of Social Services or any other agency or institution pursuant to 22 M.R.S. § 4314, is confidential. The 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 8-402—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.

Case Records. The administrator will establish and maintain a separate case record for each applicant or recipient. Each case record will include at least the household's applications, budget sheets, information concerning the types and amounts of 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, and any requests for fair hearings and the fair hearing authority decisions. Workfare participation will also be recorded, as will any cash repayments to the municipality. The record may also include any narrative writings documenting the need for general assistance, the results of home visits, collateral information, referrals, changes in status, the reason(s) for the release of confidential information, adjustments in aid, and suspension or termination of eligibility. Case records will not include information or material that is irrelevant to an applicant's or recipient's application or 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 or burning.

ARTICLE V

Application Procedure

Section 8-501—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 509 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)). 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 personally present themselves to the administrator. The administrator will discuss other alternatives with a client and identify other resources available. Ch. 8, Sec. 8-402

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 or visiting the applicant's home with his/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 Department of Human Services' 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 will be available to accept applications for assistance whenever necessary (22 M.R.S. § 4304). It is emphasized that applications outside normal hours must be true emergencies as defined in law and not the result of an applicant's failure to keep a scheduled appointment or to come in at the posted hours of operation.

Section 8-502—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 8-503—Contents of the Application

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

- a) applicant's name, address, date of birth, Social Security number, and phone number;
- b) names, date(s) of birth, and Social Security number(s) of other household members for whom the applicant is seeking assistance;
- c) total number of individuals in the building or apartment where the applicant is residing;
- 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.

Section 8-504—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 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. Ch. 8, Sec. 8-502 The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant’s signature or written authorization.

Eligibility Requirements. The administrator will inform 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-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 Department of Human Services;
- 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. 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 VII, “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 8-505—Responsibilities of the Applicant at the Time of Application

The applicant has the responsibility at the time of *each application* to provide accurate, complete and current information and verifiable documentation concerning his or her income, resources, assets, household employment, how the applicant

has spent his or her income, the names and addresses of any relatives legally liable for the applicant's support, and any change in this information from a previous application that would affect his or her 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).

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Section 8-506—Action on Applications

Written Decision. The general assistance administrator will give a written decision to the applicant concerning his/her eligibility *within 24 hours after 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 606 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:

- 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 Department of Human Services if he/she believes the municipality has acted illegally (22 M.R.S. § 4321).

Section 8-507—Withdrawal of an Application

An application is considered withdrawn if:

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

Section 8-508—Temporary Refusal to Accept Application

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

- a) when the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. 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 be accepted when his/her conduct is under control;

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

Section 8-509—Emergencies

An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which if not alleviated immediately could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household (22 M.R.S. § 4301(4)). Although they may be considered otherwise ineligible to receive general assistance, persons who apply for assistance to alleviate an emergency will 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).

Disqualification. A person who is currently disqualified from receiving General Assistance due to a violation of sections 605,606,607,608 or 704 of this ordinance is ineligible to receive emergency assistance (22 M.R.S. § 4308(2)(A)). 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 Ch. 8, Sec. 8-506 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/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, lack of child care, 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).

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

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 that money. 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 municipality is responsible for providing assistance. If another municipality was responsible, the Department will recover the amount due from the other municipality (22 M.R.S. § § 4307(5), 4307(6)).
- d) From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.
- e) The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection (d), even when such a grant will not totally alleviate the emergency situation.
- f) The administrator may waive this limitation on emergency assistance in life threatening situations or for first time 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.

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Section 8-510—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/her eligibility and, if eligible, will grant assistance until he/she establishes a residence in another municipality (22 M.R.S. § 4307). Any applicant who has an apartment, house, or other accommodation in which he/she has been living in another municipality will be considered to be a resident of that municipality.

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 (see above) if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging.

***Note:** Municipalities which **illegally deny** housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for **up to 6 months** 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 Department of Human Services in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his/her eligibility and, if eligible, *will grant assistance* until the Department has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the Department will recover the amount due from the other municipality. (22 M.R.S. § § 4307(5), 4307(6)).

ARTICLE VI 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 8-601—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. § 4316-A(1-A)) (*see section 605 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. § Ch. 8, Sec. 8-510)

“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 708 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 8-602—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 or a resource; 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 707 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).

When an application for categorical assistance has been made, requests for general assistance which may be met by the retroactive payment in the next thirty days will not be paid by the City; for those needs which are immediate and may not be delayed, reimbursement may be sought by the City from the recipient of such aid.

Section 8-603—Personal Property

- a) **Liquid Assets.** No person owning assets easily convertible into cash, including but not limited to, bank deposits, stocks, bonds, certificates of deposit and other marketable security, will be eligible for general assistance unless and until he or she uses these assets to meet his/her basic needs, and thereby exhausts them.
- b) **Tangible Assets.** No person owning or possessing personal property consisting of more than one motor vehicle, or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household will be eligible for general assistance. Exceptions may be made when a person is making an initial application 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, medical care, rehabilitation or training facilities, or if it is essential to 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, 30-day notice, to make a good faith effort to trade that automobile in to a reputable automobile dealer 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/her Ch. 8, Sec. 8-602 failure to liquidate or trade down the excess value of any automobile asset can result in disqualification (22 N.J.A.C. 8-17). The municipality will neither pay nor consider as necessary expenses any car payment for which the applicant is responsible. General assistance for travel-related needs shall be computed in accordance with section 708(F)(6), (7) "Work Related/Travel Expenses." Consideration will be given as to whether other local transportation, such as Coastal Trans, is available to the applicant or the applicant's ability to walk whenever a claim is made for mileage or such expense. Jobs within Rockland are generally considered within walking distance.
- d) **Insurance.** Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may be considered as a tangible asset when an applicant has received assistance for 4 weeks or more after an application for assistance.
- 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/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 an arms-length transaction.

Section 8-604—Ownership of Real Estate

- a) **Principal Residence.** For purposes of General Assistance solely, the applicant's principal residence, including any adjoining land, is considered an exempt resource, even if temporarily unoccupied because of employment, job training, education, illness or disaster, provided there is demonstrated an intent to return. If the applicant owns land in excess of the minimum lot size for the zone or district in which the home is located, then that land may be considered a potential resource if:

1. The applicant has received General Assistance for the *last 120 consecutive days*; and

2. The applicant has the legal right to sell the land (e.g., any mortgagee will release any mortgage, any co-owners agree to the sale, zoning or other land use laws do not render the sale illegal or impracticable); and
3. The applicant has the financial capability to put the land into a marketable condition (e.g. the applicant can pay for any necessary surveys); and
4. The land is not utilized for the maintenance and/or support of the household; and
5. A knowledgeable source (e.g., a realtor) indicates that the land in question can be sold at fair market value, for an amount which will aid the applicant's financial rehabilitation; and
6. No other circumstances exist which cause any sale to be unduly burdensome or inequitable.

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

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

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

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

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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 708 of this ordinance*) (22 M.R.S. § 4320).

Section 8-605—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 will be required to accept any suitable job offer or opportunity for rehabilitative services, except as provided below (*see "Exemptions"*). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

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

Verification. Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers. For the duration of any repeat applicant's period of unemployment or partial employment, the administrator will establish the number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements (The applicant must apply for 5 jobs per week during the months of November thru April, and apply for 10 jobs per week

during the months of May through October.) 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. A form will be issued to the applicant that must be signed by each job interviewer and must be returned before further assistance will be given. Repeat applicants must also sign up at the Maine Job Service as well as go through the job orientation process. The applicant must do job search any time he/she is employed less than 30 hours per week. Unemployed parents and other work eligible persons are all required to do job search. In household where there are children under the age of six, one parent will be excused from the job search once the other parent obtains employment if there are no other persons available to take care of the children. Applicants must also show that they have applied for unemployment benefits whether or not they think they are eligible. Applicants are expected to seek employment from employers likely to be hiring and from those whom the Welfare Director recommends as possibilities. An applicant must make his job applications in person and not over the telephone whenever possible.

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 worksearch 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 000*).

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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 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.

If during the 120 day disqualification period the recipient makes a timely and reasonable request to perform the work assignment which he/she, without just cause, failed to perform, the disqualified recipient will be given an opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible. If the recipient has an emergency need and cannot make up the work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency, but the provision of such emergency assistance will not bar the administrator from subsequently enforcing the 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 recipients must work.

Recipients who have asked to regain their eligibility during a 120 day disqualification period and who agree 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 circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

Any recipient who intentionally causes damage to property or harms other employees by his/her actions 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.

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 administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the Department of Human Services.

The special provisions regarding the opportunity to regain eligibility after a disqualification for Ch. 8, Sec. 8-605 are detailed in section 606 of this ordinance, under "*Eligibility Regained*".

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

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

Section 8-606—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 605 regarding *just cause*, *dependents*, and *exemptions* also apply to the municipal workfare program.

Consent. Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

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. (*Note: The federal minimum wage as of September 1, 1997 is \$5.15.*)
- 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:

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 - 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 operated under the control of the Department of Human Services 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/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/her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S. § 4309).

If the administrator requires a doctor's statement to verify an applicant's illness or disability, the municipality will pay for the doctor's evaluation if the applicant has no means to pay for the exam, however in such a case the administrator will choose the doctor. The administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S. § 4316(5)). The administrator may request the District Nurses' opinion before sending the applicant to a doctor.

- 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;
 - 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 supervisor, telephone numbers; and Ch. 8, Sec. 8-606
 - 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) In addition to any disqualification penalty that may apply, the consequences of refusing to perform or completely failing to perform the workfare assignment, without just cause, or performing the entire workfare assignment below the average standards that job without just cause, will be the termination of the entire general assistance grant. Notice of the grant termination will be provided the workfare participant in accordance with section 6.10 of this ordinance.
- 5) If some 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.
- 6) 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.

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/her work assignment.

Disqualification. Any person who willfully fails to perform or willfully performs below average standards the work assigned by the municipality, without just cause, will be ineligible for assistance for 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 unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

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

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

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause, failed to perform, the disqualified recipient will be given an 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, but the provision of such emergency assistance will not bar the administrator from subsequently enforcing the 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 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.

Ch. 8, Sec. 8-606

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 with no opportunity to requalify.

Any recipient who intentionally causes damage to property or harms other employees by his/her actions 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 Department of Human Services (22 M.R.S. § 4316-A(2)).

Section 8-607—Use of Resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource which may reduce his/her need for general assistance (*see section 302 for definition of "Resources"*). People who refuse or fail to make a good faith effort to secure a potential resource *after receiving written notice* to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S. § 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 Department of Human Services determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
- 6) the Department of Human Services 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/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/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/her parents are financially capable of repaying the municipality (22 M.R.S. § 4319). With regard to any such application, the municipality may seek verification of the applicant's need for general assistance by contacting his/her parents. If the applicant's parents declare a willingness to provide the applicant with his/her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his/her parents for basic needs, the administrator may find the applicant to be in no need for general assistance for the reason that his/her needs are being 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 resources. Any applicant who refuses to utilize such potential resources, without just cause, after receiving written 7-day notice will be ineligible for further assistance until he/she makes a good faith effort to utilize the resources.

Ch. 8, Sec. 8-607

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 8-608—Period of Ineligibility

No one will have his/her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S. § § 4321-4322). Each person will be notified in writing of the reasons for his/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 605, 606*). Recipients who do not comply with the work requirement associated with their grant of assistance and are disqualified before the period covered by the grant of assistance expires, shall be disqualified for 120 days following the end of the period covered by the

assistance grant. People who do not comply with a work requirement and are disqualified after the period covered by the grant of assistance expires will be disqualified for 120 days from the date of the written notice of ineligibility. 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 704, "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.

ARTICLE VII Determination of Eligibility

Section 8-701—Recognition of Dignity and Rights

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

Section 8-702—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/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). Ch. 8, Sec. 8-608

Section 8-703—Verification

Applicant's Responsibility. Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her need, income, use of income, expenses, and any changes in information previously reported on the application. The administrator will require documentation of the 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 that are reasonably obtainable. The recipient is responsible for notifying the administrator of any changes in his/her household or income that may affect his/her eligibility.

When determining an applicant's eligibility, the administrator will seek all necessary information first from the applicant. Information needed from other sources, with the exception of public records, will be gathered *only with the knowledge and consent of the applicant* (22 M.R.S. § 4309(1-B)).

Decision. If an applicant does not have the necessary information at the time of application, the administrator will give the applicant the opportunity to provide the information prior to the expiration of the 24 hour period within which the administrator must act on the application. Except when assistance is conditionally granted pursuant to this municipality's workfare-first policy (see section 606), if all the necessary information has been provided and the applicant is eligible, assistance will be granted. If the applicant does not provide the required information needed within the 24 hour period,

and the administrator cannot determine the applicant's eligibility, the applicant will be denied assistance (in writing) for that reason (22 M.R.S. § 4309(1-B)).

Denial of Assistance. The administrator will not grant assistance to any applicant who refuses to supply necessary information and documentation concerning his/her needs, income and other resources, or who refuses to grant permission for the administrator to contact other persons to verify the information. If the administrator has attempted to verify the information but is unable to determine if the applicant is eligible because the applicant has refused to provide or allow the administrator to verify the necessary information, the applicant will be denied assistance until the necessary verification has been accomplished (22 M.R.S. § 4309(1-B)).

Right to Verify. It is the administrator's responsibility to determine and verify the eligibility of each applicant. The administrator may seek and verify information from all appropriate sources including, but not limited to: the Department of Human Services and any other department of the state having information that has a bearing on an applicant's eligibility, financial institutions, employers, landlords, physicians, and legally liable relatives. The administrator will request the applicant's written consent authorizing the administrator to receive the necessary information (22 M.R.S. § 4314).

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 8-704—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:

- 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; Ch. 8, Sec. 8-703
- 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 an 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/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/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.

Section 8-705—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 any application the administrator will determine the applicant’s eligibility on the basis of a 30-day prospective analysis. For reasons of administrative efficiency, however, the administrator may elect to disburse that 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 re-determination of eligibility.

Section 8-706—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 509 of this ordinance*).

Applicants will also not be considered in need of general assistance if their income, property, Ch. 8, Sec. 8-705 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 708 (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 listed in section 708 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 must document his/her use of income to the administrator. 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. Any repeat applicant may be required to verify that such an expenditure of income was for basic necessities.

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.

Cable television, cigarettes/alcohol, gifts purchased, costs of trips or vacations, court fines paid, repayments of unsecured loans, credit card debt, costs associated with pet care, etc., are not considered basic necessities and will not be included in the budget computation.

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/her income for basic necessities or fails to reasonably document his/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/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/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 708. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (*see section 509*). 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 Ch. 8, Sec. 8-706ed and is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in section 708 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 8-707—Income

Income Standards. Applicants whose income exceeds the overall maximum level of assistance provided in section 708 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 708, 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 509 of this ordinance*). To calculate weekly income and expenses, the administrator will divide the applicants' monthly income and expenses by 503.

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 not be considered available income and will be deducted (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 Ch. 8, Sec. 707 is deducted to reduce the amount of general assistance the applicant is eligible to receive, although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise obviated an actual fuel-related cost over 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/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/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.
- 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 Human Services' Support Enforcement Location Unit.
- 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.
- 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/her income and his/her pro-rata share of actual household expenses.
- h) **Lump Sum Income.** A lump sum payment as defined in this ordinance and received by a household prior to the date of application for general assistance will be considered as income available to the household, with the exception of any 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.

In the case where a lump sum payment was received by a household at any time prior to the date of application for general assistance, the administrator will assess the need for prorating an applicant's general assistance according to the following criteria (22 M.R.S. § 4301(7)):

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- 1) identify the date the lump sum payment was received;
- 2) subtract from the lump sum payment all required payments;
- 3) subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities provided by general assistance in reasonable conformance with the specific maximum levels of assistance, per month, provided in this ordinance; any 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 (22 M.R.S. § 4301(7));
- 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 by subsection (4) by the aggregate maximum monthly allocation of general assistance available to the household pursuant to 22 M.R.S. § 4305(3-B) (*see Appendix A*).

The dividend remaining after following the above guidelines represents the number of months from the receipt of the lump sum payment during which an income level equivalent to the maximum monthly allocation of general assistance for the household will be deemed available to that household. No proration of lump sum income can extend longer than 12 months from the date of application. Applicants who have been declared ineligible for reasons of lump sum proration will not be eligible for emergency general assistance during the period of proration *unless* additional eligibility can be established.

Section 8-708—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 this section, an applicant’s eligibility for general assistance will be first determined by subtracting his/her income from the overall maximum level of assistance designated immediately below 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 509 of this ordinance.

Number in Household	Monthly
1	\$754
2	\$755
3	\$928
4	\$1186
5	\$1315
6	\$1390

*Add \$69.00 a month for each additional person

Eff: 11/13/17

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.

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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 Human Services on or about October of each year. 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 maximum amounts allowed for food are:

Number in Household	Weekly	Monthly
1	\$46.51	\$200
2	\$85.35	\$367
3	\$122.33	\$526
4	\$155.35	\$668
5	\$184.42	\$793
6	\$221.40	\$952
7	\$244.65	\$1052
8	\$279.53	\$1202

*Add \$150 a month for each additional person

Eff: 11/13/17

The administrator will exceed the above maximums when necessary for households having members with special dietary needs. The administrator may require a doctor’s statement 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 within the allowed maximum levels below and in accordance with the housing assistance limits and exceptions provided in Title 22, section 4308, subsection 1-A and 1-B. 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/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.

Housing Assistance Limit. In FY 2013, there will be a 9-month limit on the amount of housing assistance that can be provided to GA recipients. There are, however, two exceptions to the limit. One of the exceptions is the existing emergency provision enabling GA administrators to provide applicants with assistance “in a life-threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person” (22 M.R.S. § 4301(4)), The other is the newly enacted “hardship extension”. The hardship extension allows the distribution of housing assistance to GA applicants with a hardship limit who have “severe and persistent mental or physical conditions” or applications pending with the Housing Administration. Eff: 08/08/12

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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 Private Homes. When applicants are living in private homes or sharing dwelling units with other people who are not requesting general assistance, 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 Human Services, Division of Health Engineering, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

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

- (1) the marketability of the shelter's equity;
- (2) the amount of equity;
- (3) the availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs;
- (4) the extent to which liquidation may aid the applicant's financial rehabilitation;
- (5) a comparison between the amount of mortgage obligations and the anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing;
- (6) the imminence of the applicant's dislocation from owned housing because of his/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. If after reviewing the above criteria the administrator determines that: (1) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size; (2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or reamortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and (3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property, then 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 a mortgage payment is necessary, the administrator will pay the actual amount due, up to Ch. 8, Sec. 8-708ed 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/her home. If there is not sufficient equity in the home with which to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he/she is responsible for finding alternative housing within his/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 (22 M.R.S. § 4320). No lien may be enforced against a recipient except upon his/her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance, or who would again become eligible for general assistance if the lien were enforced.

If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment it must file a notice of the lien with the county 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 payment and all subsequent mortgage 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 or the imposition of interest. This notice must include the same information that appeared on the original intent-to-file notice sent to the recipient.

The municipality will charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate not to exceed the maximum rate of interest allowed by the State Treasurer 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/her property taxes, the administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process (36 M.S.R.A. § 841(2)) and General Assistance. If the applicant chooses to seek property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

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

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The maximum amounts allowed for housing are:

Number of Bedrooms	<u>Unheated</u>		<u>Heated</u>	
	Weekly	Monthly	Weekly	Monthly
0	\$139	\$596	\$161	\$694
1	\$139	\$596	\$161	\$694
2	\$168	\$724	\$198	\$851
3	\$212	\$913	\$255	\$1096
4	\$230	\$989	\$282	\$1212

Eff: 11/13/17

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

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

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

*Add \$7.50 a month for each additional family member.

Eff: 12/10/14

Electricity Maximums for Households that Use Electrically Heated Hot Water. The maximum amount allowed for electric utilities for dwelling units that have electrically heated hot water shall be \$70 per month for the first member of the household, with an additional \$10 per month for each additional household member.

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$20.65	Ch. 8, Sec. 8-708
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$38.75	\$167.00
6	\$41.00	\$176.00

*Add \$10.00 for each additional family member.

Eff: 12/14/18

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 amount for fuel as provided below.

In accordance with the following conditions, the administrator may allow as a budgetable expense the amount of an applicant's summer-loaded special payment arrangement (SPA) or budget payment arrangement (BPA), as calculated by the electric utility and entered into by the applicant, even when the arranged payment amount exceeds the above maximums or actual usage.

- 1) The SPA or BPA, when annualized, does not exceed the above monthly maximums, when annualized, for non-electrically heated dwelling units.
- 2) The SPA or BPA, when annualized, does not exceed the above monthly maximums and the fuel assistance maximums, when annualized, for electrically heated dwelling units.
- 3) The administrator determines, in consultation with the utility, that the payment arrangement does not include in any part the installment payment of past debt unless the municipality guaranteed to the utility the allowance of such an arrangement as a condition of averting a disconnection.

Pursuant to the use-of-income requirements in section 706 of this ordinance, whenever the administrator budgets for SPA's or BPA's under this section, the recipient will be required to pay the SPA or BPA him or herself to the extent of the income capacity of the household.

Non-Electric Utilities. The allowed amount for water and sewer utility service will be budgeted at the actual 30-day cost for those services.

- 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 509. 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 509 of this ordinance.

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

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
January	225	September	Ch. 8, Sec. 8-708
February	225	October	
March	125	November	200
April	125	December	200
May	50		

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.

- E) Personal Care and Household Supplies.** Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items, up to the maximums below. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry

supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags, and light bulbs.

Number in Household	Weekly Amount	Monthly Amount
1-2	\$10.50	\$45
3-4	\$11.60	\$50
5-6	\$12.80	\$55
7-8	\$14.00	\$60

Eff: 12/14/07

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:

Number of Children	Weekly Amount	Monthly Amount
1	\$12.80	\$55
2	\$17.40	\$75
3	\$23.30	\$100
4	\$27.90	\$120

Eff: 12/14/07

F) **Other Basic Necessities.** Expenses falling under this section will be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

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

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

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

considered an allowable expense the applicant must provide a written statement from a physician certifying that the telephone is essential.

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

Any person who cannot pay his/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 706 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/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.
- 6) **Work-Related Expenses.** In determining need, reasonable and actual work-related expenses are deducted from earned income. These expenses include transportation at the actual costs not to exceed Ch. 8, Sec. 8-708 child care costs, work clothes and supplies. The applicant is required to provide documentation substantiating the costs and that the expenses were necessary. Amended 09/11/08
- 7) **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. The rate at which such necessary travel will be budgeted is \$.42/mile, and 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. Amended 09/11/08
- 8) **Burials, Cremations.** Under the circumstances and in accordance with the procedures and limitations described below (*see section 709*), the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons.
- 9) **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 8-709—Burials; Cremations

Funeral Director Must Give Timely Notice. In order for the municipality to be liable for a burial or cremation expense, the funeral director *must* notify the administrator *prior to the burial or cremation or by the end of three (3) business days following the funeral director' 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. Amended 10/10/07

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 510 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 obligation to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent that the 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.

Ch. 8, Sec. 8-709

The Financial Responsibility of Certain Family Members. Grandparents, parents, children and grandchildren of the deceased, who live in Maine or own property in Maine, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. 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. Amended 10/10/07

Consideration of the Financial Responsibility of Family Members. Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality

will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

Proration of Familial Responsibility. A proration of familial financial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found to have a financial capacity to make a partial financial contribution, or the administrator is unable to determine the financial capacity of one or more of said relatives. Under these circumstances, each legally liable relative is considered to be responsible for his or her pro rata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit the aggregate of all pro rata shares less the share of any legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

Eight Days to Determine Eligibility. The administrator *may take up to eight (8) days from the date of contact by the funeral director* to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The eight (8) -day eligibility determination period from the date of contact by the funeral director shall be used as necessary to make third-party collateral contacts, verify the listing of legally liable family members and determine their respective financial capacities to contribute to the burial or cremation, contact the personal representative of the deceased's estate, if any, and other related administrative tasks. The administrator shall not use this 10-day period allowed by law to unreasonably delay the municipality's decision. Amended 10/10/07

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

Burial Expenses. The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. *The maximum amount of general assistance granted for the purpose of burial is \$1,125, with additional payments, where there is an actual cost, for:*

- (1) the wholesale cost of a cement liner if the cemetery by-laws require one;
- (2) the opening and closing of the grave site; and
- (3) a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally-owned cemetery or in a cemetery under municipal control, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

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The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to: removal of the body from a local residence or institution; a secured death certificate or obituary; embalming; a minimum casket; a reasonable cost for necessary transportation; and other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

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. *The maximum amount of assistance granted for a cremation shall be \$785, with additional payments, where there is an actual cost, for a cremation lot in the least expensive section of the cemetery, a reasonable cost for a*

burial urn not to exceed \$50, and transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

Section 8-710—Notice of Decision

Written Decision. The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving an application (22 M.R.S. § 4305(3)) (*see Article IV, section 506*).

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 506 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 Department of Human Services 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)).

ARTICLE VIII
The Fair Hearing

Section 8-801—Right to a Fair Hearing

Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his/her authorized representative has the right to request a fair hearing (22 M.R.S. § 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 8-802—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 Ch. 8, Sec. 8-801 or explanation, the administrator will make an entry in the case record and file any correspondence involved.

Written Request. To obtain a fair hearing, the claimant, or his/her authorized representative, must make a written request within 5 working days of receiving the administrator’s decision to 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/her case.

Section 8-803—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 8-804—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/her case. The claimant shall be permitted to review his/her file prior to the hearing. At a minimum, the claimant will be told the following information, which will govern all fair hearings. All fair hearings will:

- a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, Ch. 8, Sec. 8-803 the claimant wants present, and the general assistance administrator, his/her agents, counsel and witnesses;
- b) be opened with a presentation of the issue by the fair hearing authority;
- c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;
- d) allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;
- e) give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses presented at the hearing; and examine all evidence presented at the hearing;
- f) result in a decision, based exclusively on evidence or testimony presented at the hearing; and
- g) be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record.

Any material reviewed by the fair hearing authority must be made available to the claimant or his/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.

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 8-805—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 Ch. 8, Sec. 8-805 as a further legal right to appeal the decision pursuant to the Maine Rules of Civil Procedure, Rule 80B. To take advantage of this right, the claimant must file a petition for review with the Superior Court within 30 days of receipt of the fair hearing decision.

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

ARTICLE IX
Recovery of Expenses

Section 8-901 Recipients. The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his/her executors or administrators in a civil action. Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S. § 4318).

Section 8-902 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.

Offsetting Workfare Performed from Workers' Compensation Liens. The municipality shall "offset" the value of any workfare performed by a GA recipient, at a rate not less than minimum wage, from the recipient's Workers' Compensation Lien.

Section 8-903 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 Department of Human Services 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).

Section 8-904 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, 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).

ARTICLE X
Severability

Ch. 8, Sec. 8-901

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.

CHAPTER 9

Harbor and Waterfront

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CHAPTER 9

Harbor and Waterfront

ARTICLE I General Provisions; Definitions

Sec. 9-101 Applicability

This chapter applies to all areas of Rockland Harbor within the City of Rockland. The provisions of this Chapter shall also apply to the facilities and boat-launching ramp at the City-operated waterfront area at Chickawaukie Lake.

Sec. 9-102 Enforcement

It shall be the duty of the Harbor Master or designees to enforce the provisions of this Chapter, by causing the person or persons offending any of the provisions of the ordinance, rules or regulations to be prosecuted for the penalty or penalties incurred.

Sec. 9-103 Obedience to Orders

No person shall fail to observe any lawful order of the Harbor Master with reference to the navigation and disposal of his watercraft within the limits of the harbor. Any person who shall obstruct or hinder the Harbor Master in the lawful performance of his duties or fail to obey a lawful order of the Harbor Master shall be guilty of a Class E crime as allowed by Title 38 MRSA sec. 13, and subject to penalty of a maximum of six(6) months imprisonment and/or a five hundred dollar(\$500) fine to be recovered on complaint by the Harbor Master before the Sixth District Court. The Harbor Master may arrest and deliver to the Police Department on shore any person committing an assault upon him or another person acting under his authority, as provided by the Revised Statutes of Maine.

Sec. 9-104 Penalties

1. Except as provided in Sec 9-103, a violation of the harbor ordinances in this Chapter may be prosecuted and relief, fees, fines and penalties granted and assessed pursuant to the provisions of Title 30-A, Maine Revised Statutes, Section 4452.

2. All violations of any of the sections of this Chapter shall be considered upon complaint to the Sixth District Court and any and all fines and penalties therefrom, excepting costs of the court, shall revert to and for the use of the City of Rockland.

Sec. 9-105 Definitions

1. The following definitions apply to the enforcement and application of the ordinances and regulations of Rockland Harbor:

- A. Anchorage. An area where vessels may be anchored, moored or otherwise berthed at a wharf, dock, slip or pier.
- B. Army Corps of Engineers Permit. A permit from the Corps of Engineers that is required for all moorings which are rented to others or which are used as a part of a business for their own vessels or the vessels of customers who pay no rent for using the mooring.
- C. Berth. The place where a vessel lies when at anchor or when made fast at a dock, float, moored float, mooring, pier, slip, wharf, or any other facility used for securing a vessel.
- D. Commercial Vessel. A vessel that generates income through its use and operation.
- E. Dinghy. A vessel associated with a specific larger vessel and principally used for transportation from the larger vessel to a landing or other vessel. Also referred to as a "tender" or skiff". Dinghies do not qualify for the assignment of a mooring site.
- F. Federal Navigation Project: In Rockland Harbor, the Federal Navigation Project (FNP) includes the channels shown as dredged and maintained by the U.S. Army Corps of Engineers on NOAA Chart 13307 and the Rockland Breakwater. Anchorage's shown on the same navigation chart are not a part of the FNP.
- G. Mooring. The term mooring shall include all means of securing a vessel to a particular location, other than temporarily by anchor for a period of less than two weeks, or by attaching it to the shore, or to a wharf, float,

dock or pier, and shall include year-round and seasonal moorings.

- H. **Mooring Permit.** A permit issued annually by the Harbor Master to an applicant, authorizing the applicant to utilize a specific mooring site for a specific size and type of vessel, for a period of one (1) year.
- I. **Mooring Site.** A geographic location within the harbor, described by Latitude and Longitude, which is assigned by the Harbor Master, for the placement of mooring tackle to which an owner secures a vessel.
- J. **Private Mooring.** A mooring owned by an individual for his/her exclusive private use for a boat owned exclusively by the individual receiving the permit. Occasional use by friends may be allowed. A private mooring must be occupied each season for at least 14 days by the permit holder's boat or the mooring site can be assigned to a new occupant.
- K. **Qualified Mooring Inspector.** A person, including a scuba diver, who satisfies the harbor master that he/she is qualified to inspect mooring tackle as to condition and size. Qualifications shall be judged by experience in installing and inspecting moorings, familiarity with mooring tackle, including the size and kind of mooring tackle needed for safe mooring of given sizes of vessels, and familiarity with the mooring regulations of the City of Rockland. Qualification can be given for specific types of moorings; i.e. embedded anchors v mooring blocks. A current Certificate of Insurance for liability for failure of work performed is required to receive qualification.
- L. **Rental Mooring.** A mooring owned by a business or individual which is rented or leased to a customer for a fee. Rental moorings must have Army Corps of Engineers permits as well as City of Rockland permits. In addition, the owner of the mooring must provide a current Certificate of Insurance covering the rental use of the mooring(s) when applying for a City mooring permit.
- M. **Resident.** All persons whose primary residence is in the City of Rockland.
- N. **Riparian Owner.** The person, corporation or municipality who has deeded rights to property immediately above the mean high water line along a surveyed section of at least 100 feet of the shoreline.
- O. **Service Mooring.** A mooring owned by a business or individual conducting business which is used for mooring vessels which are owned by that business, mooring vessels which are being serviced by the business or used as a maneuvering device for leaving or entering a berth. No fees may be charged by the business or individual for the use of a service mooring.
- P. **Transient Vessel.** A vessel, the operator or owner of which seeks a temporary (14 days or less) place to berth within Rockland Harbor.
- Q. **Vessel.** The term vessel shall mean any watercraft used or capable of being used for transportation. Rafts shall also be considered vessels as appropriate.
- R. **Watercraft.** The term watercraft shall mean any vessel, dinghy, barge, float or raft; without distinction to method of propulsion; which is present within the applicable area of these ordinances.

ARTICLE II Harbor and Waterfront Facilities & Management

Sec. 9-201 Municipal Facilities

1. City of Rockland shall operate and/or administratively control the following facilities in and around Rockland Harbor:
 - A. **Rockland Public Landing.** This facility exists primarily to serve transient vessels visiting Rockland and the short term docking needs of vessels moored in the harbor. Services are provided on a limited basis, and on a seasonal schedule. It shall be available with floats installed from May 15 to October 15 each calendar year. Usage fees are set by Order of the City Council.
 - B. **Rockland Middle Pier.** This facility shall serve the commercial passenger carrying vessels operating in and around Rockland. Embarkation, debarkation and utilities shall be available at this facility. It shall be available with floats installed from May 15 to October 15 each calendar year. The Middle Pier also may be available for long term winter dockage with limited utilities, between October 15 and May 15. Usage fees are set by Order

of the City Council.

- C. Rockland Municipal Fish Pier. This facility is to serve the commercial fishing industry, on a year round basis. Permit, dockage, storage, utility, and other fees and charges shall be established by Order of the City Council.
- D. Rockland Breakwater Lighthouse. This structure shall be available for public access on a seasonal basis.
- E. Snow Marine Park Boat Launch Ramp. This facility serves that portion of the boating public using trailers to launch and retrieve their vessels. It shall be available with floats installed from May 15 to October 15 each calendar year. Long term parking for up to 7 days is available for vehicles and trailers. Parking for greater than 7 days is prohibited without express permission of the Harbor Master. The parking of trailers by themselves is prohibited without permission of the Harbor Master. Usage fees are set by Order of the City Council.
- F. Johnson Memorial Park. This facility has a boat launching ramp for small trailed vessels wishing to use the waters of Chickawaukie Lake.
- G. Snow Marine Park, Harbor Park, Buoy Park, Berliawsky Park. These municipal sites are operated for use by the public at large. Special events may be held on the grounds with approval from the Harbor Management Commission and payment of applicable fees. Usage fees are set by Order of the City Council.
- H. Buoy Park Launch Ramp: This ramp shall be operated for hand carried vessels such as kayaks, canoes, rowing shells and dinghies. The facility shall not be used by trailers without permission of the Harbor Master.
- I. Rockland Harbor Mooring Sites. Assigned by the Harbor Master upon application and payment of applicable fees to all persons and businesses for the placement of a mooring. The Harbor Master shall establish and maintain rental moorings for transient vessels. Rockland Harbor shall be open to all for access as required by the U.S. Government and the State of Maine. Usage fees are set by Order of the City Council.
- J. Other Municipal Waterfront Properties: Waterfront sites along the waterfront and owned by the City of Rockland shall fall under these jurisdictions with the exception of properties involved in sewage and sanitation.

Sec. 9-202 Channels

1. The channels within Rockland Harbor include the federally dredged channels marked upon NOAA chart 13307. These channels were completed by the Army Corps of Engineers (ACOE) in 1959 and are subject to the rules and regulations of the ACOE for purposes of municipal harbor management. Other channels include:

- A. A channel from the area of the Rockland Public Landing, running due east (090T) for a distance of 400 yards and a width of 80 feet to facilitate movement of vessels through the central harbor mooring areas. This channel is not marked by aids to navigation. It is displayed on the mooring area chart maintained by the City of Rockland.
- B. A channel in the southern portion of the waters of Rockland Harbor, marked by federal buoy (green Can # 5) to facilitate movement of vessels in and out of the shipyard located in that area. This channel is not dredged and is not part of the Federal Navigation Project.
- C. A channel in the northern portion of the waters of Rockland Harbor, marked by federal buoys (green Can # 5, Can # 3, Can #1) to facilitate movement of vessels in and out of the shipyards and wharves located in that area. This channel is not dredged and is not part of the Federal Navigation Project.

Sec. 9-203 Anchorage Areas

Three federal anchorage areas are marked on NOAA chart 13307 and are defined in the United States Coast Pilot Vol. 1, Chapter 2, Part 110. These anchorage areas are not considered a part of the Federal Navigation Project. Mooring sites have been created which occupy portions of these marked anchorage areas. These mooring sites are not considered within the Federal Navigation Project as defined by the USACOE.

Sec. 9-204 Mooring Areas

1. The mooring areas of Rockland Harbor are described below. A chart showing the mooring areas and channels in color shall be on permanent display at the public building at the waterfront.

2. The Rockland Harbor Mooring Areas can be described on a chart as follows:

A. Central Harbor.

Beginning at the northeasterly corner of the pier of Dragon Cement (Latitude 44 degrees 05 minutes 48 seconds North; Longitude 069 degrees 06 minutes 02 seconds West); thence in a straight line proceeding in a northerly direction to the southeast corner of the Coast Guard Pier (Latitude 44 degrees 06 minutes 15 seconds North; Longitude 069 degrees 06 minutes 03 seconds West); thence in a westerly, southwesterly, southerly and easterly direction along the shoreline at high tide to the aforementioned northeasterly corner of the pier of Dragon Cement, the point of beginning. This mooring area is divided into two smaller fields, Central North, and Central South, for management purposes. This division allows for a channel between the smaller fields to facilitate movement of vessels.

B. Outer Central Harbor.

Beginning at the northeasterly corner of the pier of Dragon Cement (Latitude 44 degrees 05 minutes 48 seconds North; Longitude 069 degrees 06 minutes 02 seconds West); thence in a straight line proceeding in a northerly direction to the southeast corner of the Coast Guard Pier (Latitude 44 degrees 06 minutes 15 seconds North; Longitude 069 degrees 06 minutes 03 seconds West); thence in an easterly direction along the federal channel to Longitude 069 degrees 05 minutes 43 seconds West; thence southerly along the meridian to a point in the water Latitude 44 degrees 05 minutes 49.5 seconds North Longitude 069 degrees 05 minutes 43 seconds West; thence westerly to the aforementioned northeasterly corner of the pier of Dragon Cement, the point of beginning. This mooring area is divided into two smaller fields, Outer North, and Outer South, for management purposes. This division allows for a channel between the smaller fields to facilitate movement of vessels.

C. Lermond Cove

The Lermond Cove Mooring Area beginning at the northeasterly corner of the seawall of Marine Colloids (Latitude 44 degrees 06 minutes 28 seconds North; Longitude 069 degrees 06 minutes 13 seconds West); thence in a straight line to the southwestern corner of the wharf of Arey Marine (Latitude 44 degrees 06 minutes 39 seconds North; Longitude 069 degrees 06 minutes 16 seconds West); thence in a westerly, southwesterly, southerly and easterly direction along the shoreline at high tide to the aforementioned northeasterly corner of the pier of Marine Colloids, the point of beginning.

D. Crockett Point.

The Crockett Point Mooring Area is defined starting at the southeast corner of the Coast Guard Pier (Latitude 44 degrees 06 minutes 15 seconds North; Longitude 069 degrees 06 minutes 03 seconds West); thence easterly 090 degrees true to the point on the water Latitude 44 degrees 06 minutes 15 seconds North; Longitude 069 degrees 06 minutes 00 seconds West; thence northerly along the meridian to a point on the water at Latitude 44 degrees 06 minutes 53 seconds North; Longitude 069 degrees 06 minutes 00 seconds West; thence westerly to the shoreline and westerly along the shoreline to the southwestern corner of the wharf of Arey Marine (Latitude 44 degrees 06 minutes 39 seconds North; Longitude 069 degrees 06 minutes 16 seconds West); thence along a line to the northeasterly corner of the seawall of Marine Colloids (Latitude 44 degrees 06 minutes 28 seconds North; Longitude 069 degrees 06 minutes 13 seconds West); thence along the seawalls and shoreline to the southeast corner of the Coast Guard Pier which is the point of beginning. This mooring area is divided into two smaller fields, Crockett Point North, and Crockett Point South, for management purposes.

E. North End.

The North End Mooring Area is defined starting at the point on the water Latitude 44 degrees 06 minutes 15 seconds North; Longitude 069 degrees 06 minutes 00 seconds West; thence easterly 090 degrees True to a point on the water Latitude 44 degrees 06 minutes 15 seconds North; Longitude 069 degrees 05 minutes 35 seconds West; thence northerly along the meridian to a point on the water Latitude 44 degrees 06 minutes 53 seconds North; Longitude 069 degrees 05 minutes 35 seconds West; thence westerly along the parallel to a point on the water at Latitude 44 degrees 06 minutes 53 seconds North; Longitude 069 degrees 06 minutes 00 seconds West; thence southerly along the meridian to the starting point.

F. South End.

At the South End of Rockland Harbor the mooring area is bounded by a line on the water described by the extension of the Southerly side of the Central Maine Vocational Technical School building in a direction toward the Rockland

Breakwater of Magnetic 79 degrees 40 minutes through a point of Latitude 44 degrees 05 minutes 28 seconds; Longitude 069 degrees 06 minutes 26 seconds on the shoreline to a point of Latitude 44 degrees 05 minutes 34 seconds West; Longitude 069 degrees 06 minutes 00 seconds West; thence northerly to Latitude 44 degrees 05 minutes 44 seconds North; Longitude 069 degrees 06 minutes 00 seconds West; thence westerly to the southeasterly corner of the pier of Dragon Cement(Latitude 44 degrees 05 minutes 44 seconds North; Longitude 069 degrees 06 minutes 02 seconds West); thence in westerly and southerly directions along the seawalls and shoreline at high tide to the aforementioned shoreline boundary point of Latitude 44 degrees 05 minutes 28 seconds; Longitude 069 degrees 06 minutes 26 seconds.

G. Jameson Point.

In order to afford the same protection for all mooring registrants, the Jameson Point Mooring Area shall be marked on the water by four (4) buoys marked "Mooring Area" which shall be at the outside corners of the mooring area near the Jameson Point pier, the edges of the mooring area being straight lines between these buoys.

H. Breakwater

Beginning at a point on the water Latitude 44 degrees 06 minutes 42 seconds North Longitude 069 degrees 05 minutes 03 seconds West; thence westerly 270 degrees true to a point on the water Latitude 44 degrees 06 minutes 42 seconds North Longitude 069 degrees 05 minutes 30 seconds West; thence southerly along the meridian to a point on the water Latitude 44 degrees 06 minutes 27 seconds North Longitude 069 degrees 05 minutes 30 seconds West; thence easterly along the parallel to a point on the water Latitude 44 degrees 06 minutes 27 seconds North Longitude 069 degrees 05 minutes 03 seconds West; thence northerly along the meridian to the point of beginning.

Sec. 9-205 Prohibited Activities in Channels, Anchorages and Mooring Areas

1. No person shall be allowed to anchor or moor boats, vessels or other craft, nor to place or allow the placement of lobster traps or pots, crab traps or pots, fish nets, fish seines, as well as buoys, floats, warps, lines, anchors and other appurtenances or apparatus associated with or connected to such traps, pots, nets and seines, within the designated channels of Rockland Harbor as defined in the City records and posted by the Harbor Master. The anchoring of boats, vessels or other craft, the placement of fish nets or fish seines, as well as floats, lines, anchors and other appurtenances associated with such nets and seines shall not be permitted in the mooring areas of Rockland Harbor as defined in Section 9-109, paragraph two.

2. During a period of time beginning at sunrise on June 15 and ending at sunrise on September 15 of each and every year, no person shall place or allow the placement of lobster traps or pots, crab traps or pots, as well as the buoys, warps, lines and other appurtenances or apparatus associated with or connected to such traps or pots within the Central North and Central South Mooring Areas, as defined in Section 9-109, paragraph two of the Rockland City Code and posted at the public waterfront facility. The Harbor Master shall cause removal of and shall be authorized to remove any lobster traps or pots, crab traps or pots, as well as the buoys, warps, lines and other appurtenances or apparatus associated with or connected to such traps or pots within the Central North and Central South Mooring Areas during this period as they constitute hazards and obstructions to navigation within these mooring areas, all as provided by the Revised Statutes of Maine.

3. No person shall moor a vessel, boat, scow or raft to any buoy or beacon placed by the City or United States Government agencies in the waters of Rockland Harbor to define channels for vessels, or in any manner make the same fast thereto, or willfully destroy any such buoy or beacon.

Sec. 9-206 Discharge of Refuse, Waste or Petroleum From Vessels or Wharves

1. No owner, owners or master of any vessel, or any other person shall cast or throw, or cause or suffer to be cast or thrown from their vessels, docks or wharves, or from any other place, any stone, sand or any other things into the channel or Rockland Harbor or Chickawaukie Lake, whereby the navigation of the same may be injured.

2. No owner, owners or master of any vessel, or any other person shall or may cause the discharge of fish wastes, excrement, garbage, refuse, decayed fish, decayed food of any kind into Rockland Harbor or Chickawaukie Lake. The imposition of a penalty for violation of this section shall not excuse the violation or permit it to continue; such violation shall be remedied within a reasonable time, or within such time limit as may be specified in any notice given by the Harbor Master, and each day or portion thereof such violation continued to exist following the expiration of the time limit specified in any such notice shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions, nor preclude the City Attorney from causing to be instituted an appropriate action to prevent, restrain, correct or abate any violation.

3. No owner, owners or master of any vessel, or any other person shall or may cause the discharge of petroleum products of any kind into Rockland Harbor or Chickawaukie Lake. The imposition of a penalty for violation of this section shall not excuse the violation or permit it to continue; such violation shall be remedied within a reasonable time, or within such time limit as may be specified in any notice given by the Harbor Master, and each day or portion thereof such violation continued to exist following the expiration of the time limit specified in any such notice shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions, nor preclude the City Attorney from causing to be instituted an appropriate action to prevent, restrain, correct or abate any violation.

Sec. 9-207 Abandoned Boats, Vessels, Wrecks, Etc.

1. Abandonment Prohibited. No person shall cause to be abandoned any watercraft or related equipment or appurtenances on the shores within Rockland Harbor or on the waters of Rockland Harbor, whether on a mooring or at anchor. Nor shall any person abandon or cause to be abandoned any boat, vessel, hull, or any raft at any wharves, docks or permanent floats within Rockland Harbor. No person shall abandon any boat, vessel, hull or watercraft upon unimproved shoreline, dock, float, mooring or at anchor except with the express consent and approval of the owner of the dock, float, mooring, shoreline or in the case of anchored watercraft, the consent and approval of the Harbor Master.

2. Presumption. Any boat, vessel, hull or raft left within the confines of Rockland Harbor and which has been unattended for a period of seven (7) days without the express consent and approval of the owner of the dock, float, mooring, shoreline or in the case of anchored watercraft, the consent and approval of the Harbor Master; shall be declared abandoned.

3. Disposal. Property deemed to be abandoned under this section shall be handled by the City according to the procedures established in Title 25, Section 3501 et seq. of the Maine Revised Statutes Annotated.

4. Penalty. As allowed in Title 38, sec 12. Each day the violation is permitted to exist beyond the limits above described shall be considered a separate offense.

5. Impounding. If an abandoned watercraft is deemed to be a nuisance, a threat to navigation or a safety hazard, the Harbor Master may impound the watercraft at a site designated for this purpose. Impounding shall continue until such time as all procedures pursuant to Title 25 Section 3501 et seq. of the Maine Revised Statutes Annotated have been completed or the owner of the watercraft has paid all costs involved with the impounding as well as any fines which have been assessed.

Sec. 9-208 Wharves: Obstruction by and Removal of Vessels

1. No owner or master of any steamer, vessel, boat or watercraft of any kind shall permit or suffer his watercraft to be more than one (1) tier deep, or in such a manner as to obstruct the free passage of other vessels going in and coming out, at any wharf in the City, after the master or owner of such vessel shall have been directed to remove the same by the Harbor Master.

2. The Harbor Master is hereby authorized, and it shall be his duty, to remove or cause to be removed any vessel or boat from any wharf in Port of Rockland when so requested by the owner of the wharf; and whenever he shall deem it necessary, he shall remove or cause to be removed any vessel lying in tier; and if any vessel, boat or raft shall anchor or lie contrary to any ordinance, rule or regulation, the Harbor Master shall forthwith give notice to the owner or master thereof, or to the person having the care of same, to remove the same; and if the notice be not complied with without delay, the Harbor Master shall make or cause the removal, at the expense of the owner or master of the vessel, boat or raft.

3. When appropriate, the provisions of Chapter 17 sec 17-419 governing the towing of motor vehicles shall also apply to the removal of boats, vessels or other craft from wharves, docks, and moorings.

Sec. 9-209 Removal from Public Wharves, Docks, Moorings and Boat Launching Ramps and Floats

Notwithstanding the provisions of Section 9-208 the Harbor Master or his appointed representative is hereby authorized to remove to a safe location without prior notice to the owner, any boat, vessel or other craft left at the public wharves, docks, moorings and boat launching ramps and floats for a period in excess of twenty-four (24) hours at the expense solely of the owner of the boat, vessel or craft. When appropriate, the provisions of Chapter 17 sec 17-419 governing the towing of motor vehicles shall also apply to the removal of boats, vessels or other craft from public wharves, docks, and moorings of boat launching ramps and floats.

Sec. 9-210 Operating Restrictions and Annoyances

1. Whoever operates any watercraft, vessel, water skis, surfboard, personal watercraft or similar device, however propelled, upon the waters of Rockland in a manner which endangers any person or property shall be guilty of a Class E crime as provided in Title 38, Maine Revised Statutes.

2. Whoever operates any watercraft, vessel, water skis, surfboard, personal watercraft or similar device, however propelled,

upon the waters of Rockland recklessly shall be guilty of a Class E crime as provided in Title 38, Maine Revised Statutes.

3. Whoever operates any watercraft, vessel, water skis, surfboard, personal watercraft or similar device, however propelled, upon the waters of Rockland while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana shall be guilty of a Class E crime as provided in Title 38, Maine Revised Statutes.

4. All power driven vessels run or operated in any tidal or other waters within Rockland shall be provided or equipped with proper and suitable mufflers or other devices which shall effectively deaden sound. The muffler shall be used all the time the engine or the motor boat is in operation; provided that it shall be allowable to cut out the mufflers, in case of boats while competing in boat races held under the auspices of some regularly organized club and with the approval of the Harbor Master, between the hours of eight (8) o'clock in the morning and sunset following.

Sec. 9-211 Safe Operating Speeds

The following shall be the maximum safe operating speeds of all vessels in Rockland Harbor:

1. Maximum Safe Operating Speed, Outer Harbor.

A. Outer Harbor Defined. Bounded on its East side by the West side of the Rockland Breakwater, including a projected line from the South end of the Breakwater to the black can buoy "S-1" at Spear's rock on the South side of the Harbor. Bounded on its West side by a projected line of North and South (True) at the location of the red nun buoy "N-2" in Rockland Harbor (Longitude 069 degrees 05 minutes 37 seconds West).

B. Safe Operating Speed in Outer Harbor. Speed limit in the outer harbor will be a maximum of ten (10) knots for displacement hulls only, except that for all types of hulls it shall be unlawful to operate a vessel in such a manner as to cause a wash, wake or waves that damage, endanger or unreasonably disturb any person, wharf, float, anchored or moored vessel, or vessel tied up to any pier, float, dock, or wharf while within an area of two hundred (200) yards from any float or mooring area or within one hundred (100) yards of an anchored boat or vessel.

2. Maximum Safe Operating Speed, Inner Harbor.

A. Inner Harbor Defined. Bounded on its East side by a projected line of North and South (True) at the location of the red nun buoy "N-2" in Rockland Harbor (Longitude 069 degrees 05 minutes 37 seconds West). Bounded on its West side by the shores and docks of Rockland Harbor.

B. Safe Operating Speed in the Inner Harbor. It shall be unlawful to operate a vessel within the Inner Harbor in such a manner as to cause a wash, wake or waves that damage, endanger or unreasonably disturb any person, wharf, float, anchored or moored vessel, or vessel tied up to any pier, float, dock, wharf or marina.

C. Channels; Mooring Areas; Docks. All types of watercraft, boats and vessels operating within any maintained channel, mooring areas or within one hundred (100) yards of any dock, shall maintain a speed which creates no discernible wake.

3. Exceptions. Nothing in these speed or wake regulations shall make unlawful any action necessary to (a) navigational safety, (b) observance to rules of the road, and (c) emergency missions by emergency or public safety craft. The burden shall be upon any person asserting the exception by this paragraph as a defense to a prosecution for violation of any speed or wake regulation.

4. Penalty. Violation of safe operating speed ordinances shall be deemed a civil violation, as provided in 38 M.R.S. § 12.

Sec. 9-212 Snow Marine Park and Johnson Memorial Park: Boat Launching Ramps and Floats

1. The boat launching ramps and floats were constructed to facilitate the launching and retrieval of vessels which are transported by wheeled trailer. This includes privately owned recreational vessels, small vessels used in commercial fishing (full time and part time), larger recreational vessels and commercial fishing vessels transported by commercial boat haulers, rental vessels launched for use by customers for short periods of time. The facilities are not intended to be commercial fishing industry support facilities, nor heavy equipment loading facilities. The movement of construction equipment, freight and supplies across the ramp for transport to other sites is specifically prohibited. A fee structure recognizing intended use for recreation and

extended use by commercial entities shall be used to compensate for the differences in user populations. These categories shall be:

- A. Private User - Those persons who use the ramp to launch and retrieve their personal boats.
- B. Commercial Boat Rental Companies - Companies using the launch ramp for the launch and/or retrieval of boats and PWC rented for the use of others.
- C. Boat Service Companies - Those companies who use the ramp for the pickup and delivery of vessels as a part of their repair service business, but do not charge a fee for transport of the vessel.
- D. Commercial Boat Transporter - Those companies who use the ramp for launch or retrieval of boats for which they receive transport or delivery fees. This includes delivery of boats by boat sales companies to the customer.
- E. Fees for use of the boat launching ramps and floats facility shall be set by Order of the City Council.

2. No person shall place, or allow to lie, any boat, vessel or any other craft at or on the public boat launching ramps or floats for a period in excess of thirty (30) minutes unless by special permission of the Harbor Master for reasons of mechanical failure, illness, or similar emergency. In no case shall such permission exceed a period of twenty-four (24) hours.

3. No person shall interfere with the lawful use of the public launching ramps and floats, within the City, by another person. The use of the public launching ramps shall be limited to launching and recovery of boats from and to wheeled trailers. The use of the public boat launching floats shall be limited to the embarking and disembarking of boat passengers along with their incidental possessions. Any exceptions of these limitations shall be by written permission of the Harbor Master.

Sec. 9-213 Rockland Public Landing

1. The City shall maintain and operate the Rockland Public Landing for the primary purpose of service to the transient boating public. Dockage for dinghies shall be provided at this facility for the convenience of the users of Rockland Harbor during the period May 15 to October 15 of each calendar year for a fee. Docking at the Public Landing shall be limited to two hours; unless the vessel operator agrees to payment of fees to allow for a longer stay at the facility.

2. No person shall place, or allow to lie, any boat or vessel or other craft at a public wharf, dock, or mooring, for a period in excess of two (2) hours, except as allowed by other sections or with the express permission of the Harbor Master or his/her appointed representative.

3. All dinghies permitted by the Harbor Master for dockage shall be removed from the facility prior to October 15th of each calendar year.

4. The Harbor Master shall seek and maintain appropriate federal security clearance for part or all of the facility. Passenger-carrying vessels that require a U.S. Coast Guard secure facility meeting the requirements established in Title 33, Code of Federal Regulations, Section 105 and that embark or disembark passengers shall pay a (1) wharfage charge and (2) port development fee, per passenger as per the vessel's lower berth capacity. The port development fee shall be utilized exclusively and reserved for pending or future capital and other expenses incurred by the City in maintaining and improving Harbor Park, its facilities, and/or harbor and waterfront areas along or serving Harbor Park.

5. Fees. Shall be set by City Council Order.

6. Penalty for violation of this section shall be as allowed in 38 M.R.S. § 12 in addition to the accumulated docking or mooring fee.

Sec. 9-214 Rockland Middle Pier

1. The City shall maintain and operate the Rockland Middle Pier for the primary purpose of service to commercial passenger carrying vessels during the period of May 15 to October 15 inclusive of each calendar year. Vessels desiring summer berths at this facility shall make application to the Harbor Management Commission by October 31 for the following season. The Middle Pier also may be available for long term winter dockage with limited utilities, between October 15 and May 15. The Commission shall award berthing to such vessels as best utilize the space available and may consider among other things - vessel capability of safely operating within the navigable constraints of the facility, current uses and users, number of passengers which the vessel will carry, vessel schedules (daily and full season), availability and effect on parking and traffic at the facility, and availability of and vessel need for public utilities. Preference will be given to those vessels requesting berths for full season and obligating their vessel to that full season.

2. Applications for berths are available from the Harbor Master Office on the waterfront.

3. The Harbor Master may authorize vessels permitted to dock at the Middle Pier to embark or disembark passengers

from the Public Landing, if space is available and on only an occasional basis, without incurring additional wharfage charges.

4. Fees for docking at this facility shall be set by Order of the City Council.

Sec. 9-215 Special Events: Harbor Park, Buoy Park, Snow Marine Park

1. Any organization may apply for permission to hold special events on the waterfront properties owned by the City. Organizations shall provide a certificate of insurance covering the event, agreed upon police assistance for traffic or crowd control and an agreement on set up and clean up of municipal property for the event. Applications for events are available at the Harbor Master Office on the waterfront and, for those events that require the exclusive use of one or more parks, shall be filed with the Harbor Management Commission at least 30 days prior to the event. The Harbor Management Commission shall be the review authority for special events in and requiring the exclusive use of one or more waterfront parks; the Harbormaster in consultation with the City Manager shall be the review authority for special events in waterfront parks that do not require the exclusive use of park(s). Applications shall be reviewed and granted, granted with conditions, or denied on the basis of reviews and recommendations by the Police Chief, Fire Chief, and Harbormaster, and conformity of the proposed special events with any criteria and limitations imposed thereon by any order or policy of the City Council.

The review authority may authorize the placement of up to four off-premises signs within a Rockland right-of-way, or on private property adjacent to street rights-of-way so long as the applicant has been granted permission from the property owner, that:

- A. Do not exceed 32 sq. ft. in area each;
- B. Are placed no sooner than 14 days prior to the start of the special event, and are removed within 24 hours of the end of the special event;
- C. The sign locations meet all the requirements in the Rockland Sign Ordinance, Ch. 19, Art. III, Sec. 19-315(3)(E) – Placement, except for subsection 19-315(3)(E)(4); and

Sign installations must be safe, not create a hazard to the public, and be maintained in good repair. Eff: 6/10/15

2. Public access to Harbor Park shall not be restricted for more than four weekends during the period Memorial Day to Labor Day of each year.

3. Up to three food vendors may be allowed in Buoy Park, situated between the Lobster Cooker and the Middle Pier, and one food vendor may be allowed at the Municipal Fish Pier, during the season of May 1 to October 31 of each calendar year. Special event organizers granted exclusive use of Buoy Park may charge the Buoy Park vendors a fee at a rate no greater than that charged other concession operators during the event, and may require such vendors to relocate their concession stands to a location with Harbor or Buoy Park where other food concessions are to be located during the event, in which instance the food vendor may reduce their fee paid to such special event organizer by the actual cost of thus relocating. Special event organizers may in no event require a food vendor to cease operations or remove his or her stand from Buoy Park. Eff: 5/13/15

In addition, one food vendor may be allowed in Snow Marine Park and one food vendor may be allowed in Johnson Memorial Park during the season of May 1 to October 31 of each calendar year.

4. Organizations, including for-profit organizations, may be allowed to use Harbor, Buoy, or Snow Marine Park between May 1 and October 31 of each calendar year on a recurrent, regularly-scheduled basis that is no more frequent than once per week, for less than 6 hours, so long as such use does not conflict with other special events.

5. Fees for using municipal properties for all events shall be set by Order of the City Council. Requests for waiving of fees shall be directed to the Harbor Management Commission as delegated by the City Council in Sec 2-703.

Sec. 9-216 Public Grounds

No person shall place, or allow to lie, any boat, skid, trailer, or other craft on the waterfront public grounds for a period in excess of twenty-four (24) hours unless by special permission of the Harbor Master for reasons of mechanical failure, illness, or similar emergency. When appropriate, the provisions of Chapter 17 sec 17-419 governing the towing of motor vehicles shall also apply to the removal of boats, skids, trailers or other craft from waterfront public grounds.

ARTICLE III Mooring Permits & Inspections

Sec. 9-301 Mooring Permit Requirements

It shall be unlawful to place a mooring within Rockland Harbor without a permit from the City of Rockland. It shall be

unlawful for any person or vessel to violate the terms and conditions of any permit issued pursuant to these ordinances. It shall be unlawful for any vessel to use any mooring permitted by the City of Rockland without express approval of the permit holder or the Harbor Master in emergency situations. An emergency situation will be temporary in nature (no more than twenty four hours) to allow the vessel owner to make repairs or to make arrangements with a repair facility. Notification of use of a mooring for an emergency must be made to the Harbor Master via telephone or marine radiotelephone. It shall be unlawful for any person or vessel to use any mooring not permitted by the City of Rockland.

Sec. 9-302 Mooring Permit Conditions

1. Applications for renewal of mooring permits for any calendar year period must be filed with the Harbor Master by March 15th of the current year on forms prescribed by the City of Rockland. Mooring permit renewal applications received after the March 15th deadline are subject to a late fee per mooring permit as set by City Council Order.
2. All mooring permits expire on December 31st of the calendar year.
3. Mooring permit applications for new moorings will be accepted throughout the year subject to space availability.
4. Mooring permits are not assignable to others nor transferable upon the sale of the mooring tackle. Private mooring assignments must be used solely for the boat listed in the mooring application. Occasional use by friends may be allowed. Exceptions to this are described in subparagraph 13 below.
5. Mooring permit applications must be complete when submitted and shall specify the name, address and telephone number of the applicant; the purpose of the mooring – whether private, service or rental (see Section 9-105); the type and size of the mooring tackle to be used; whether the mooring tackle has been inspected, by whom and when; the name, length, draft, beam, tonnage and registration or documentation number, model, type and principal use of the vessel to be placed on the mooring; the municipality in which excise tax is paid on the vessel; and a legible signature of the permit applicant noting acceptance of all permit conditions. Failure to submit a complete application may be cause for rejection by the Harbor Master.
 - A. Mooring site location, depth of water at Mean Low Water, and maximum length vessel allowed at the mooring site is determined by the Harbor Master and shall be provided to the applicant on their renewal application.
6. Any mooring intended for use as a rental mooring must have an Army Corps of Engineers permit and a Certificate of Insurance for moorings attached to the municipal application. Failure to submit these documents may be cause for rejection by the Harbor Master. A mooring permitted as a private mooring or service mooring may not be converted into a rental mooring.
7. Any mooring intended as a private mooring must have a copy of the current year payment of excise tax for the boat assigned from the municipality in which that tax is paid. Maine residents must pay the excise tax in the municipality of their residence. Persons from outside the state of Maine shall pay excise tax on their boat either (1) In their state of residence or (2) In Rockland – the place in which the vessel is placed on a mooring, berthed in a slip at a marina, or is stored for the off season. This may be at a place other Rockland but is assumed to be Rockland until proof of payment of the excise tax for another municipality is presented. All vessels, whether documented or state registered, are liable for payment of excise tax in the State of Maine if proof of payment elsewhere is not provided.
8. The Harbor Master shall maintain waiting lists for mooring areas in which no more vessels can be safely moored, showing the priority of each applicant.
9. The Harbor Master shall maintain charts of each mooring area showing the location of all permitted moorings.
10. Any applicant rejected by the Harbor Master shall be notified in writing within 30 days of receipt of completed application as to the reason for rejection. The Harbor Master decision may be appealed to the Harbor Management Commission. (Sec 2-703).). The applicant shall have 30 days in which to file an appeal.
11. For purposes of increasing the efficiency of a mooring area, for the safety of vessels or for other harbor management improvements the Harbor Master may direct that a mooring site be vacated and that the mooring tackle be moved at the owner's expense to a new location. The Harbor Master decision may be appealed to the Harbor Management Commission. (Sec 2-703). The applicant shall have 30 days in which to file an appeal.

12. Mooring site assignees may change vessels on their assigned mooring site only with the permission of the Harbor Master. In general they will be limited to the same approximate size and type of vessel unless, in the judgment of the Harbor Master, a change can be made without adversely affecting the adjoining mooring space assignees or the safety of the vessels and mooring area about them.
13. Permit holders whose mooring sites are not used for any consecutive three month period between May 1 and October 31 of any calendar year shall have their site deemed as abandoned unless:
 - A. Written notification is made to the Harbor Master describing extenuating circumstances such as sale of boat, emergency situations, inability to use boat in a season, etc. A permit for the site must remain valid with all fees paid.
 - B. Those sites which remain unused into and through a second valid permitted year shall have the mooring tackle removed by the Harbor Master at the owner's expense at the end of the permit period and the mooring site shall be assigned to other persons or entities in accordance with these regulations unless a waiver has been obtained from the Harbor Management Commission.
14. Any person or entity not complying with any of the provisions of this section of the ordinances regarding mooring permits may result in the rejection of mooring permit applications, revocation of a current permit, the removal of mooring tackle from Rockland Harbor at the owner's expense, forfeiture of ownership of the mooring tackle and/or a fee of no less than fifty dollars(\$50.00) for the services of the Harbor Master in achieving compliance. The Harbor Master decision may be appealed to the Harbor Management Commission. (Sec 2-703). The applicant shall have 30 days in which to file an appeal.
15. Application forms for permits may be obtained from the Harbor Master at the Harbor Building on the waterfront. Copies of harbor plan maps may be purchased from the Harbor Master at the Harbor Building on the waterfront.
16. Fees for permanent mooring permits shall be set by Order of the City Council.

Sec. 9-303 Assignment, Grandfathering and Transferring of Mooring Rights and Locations

1. The Harbor Master shall assign mooring sites for approved mooring permits based on vessel size and assignment priority of the applicant.
 - A. In assigning mooring sites the Harbor Master shall maintain channels and access to piers, wharves and docks.
 - B. Moorings for vessels 50 feet in length or greater(including all appendages) or 20 feet in breadth or greater may at the discretion of the Harbor Master be assigned only in non-congested waters.
 - C. No person may receive permits for more than one(1) private mooring site per boat owned., and no more than three(3) private mooring sites total.
 - D. No person or entity may receive permits for more than five(5) service mooring sites.
 - E. No person or entity may receive permits for more than twenty(20) rental mooring sites.
2. Once a mooring permit has been approved and/or a mooring site has been assigned, the mooring permit holder must comply with the following provisos regarding these mooring rights:
 - A. Mooring rights shall be non-assignable.
 - B. Mooring rights shall be non-transferable.
 - C. Persons or entities having mooring permits as of December 31st of the calendar year in a given location who apply for a permit renewal prior to March 15th of the next calendar year shall have priority for that location as against other persons with the same or lower priority under Sec 9-114 of these ordinances.
 - D. Subject to the provisions of Sec 9-113.2.C above, persons awarded permits shall have priority for that location as against other persons or entities with the same or lower priority under Sec 9-114 of these ordinances, provided that (a) the mooring is not abandoned, (b) the owner files timely applications every year to renew the permit for that mooring site, (c) the owner pays all applicable fees in a timely fashion.

3. No grandfathering of rights for a particular mooring site nor rights for transfer of a particular mooring site are conveyed by these ordinances.

- A. This includes corporations or entities owning mooring tackle and having mooring sites assigned. Sale of a corporation or entity may require the movement of mooring tackle to new sites assigned by the Harbor Master.
- B. Those individuals with two(2) mooring sites and only one(1) boat at the time of enactment of these ordinances shall retain the right to renew two(2) mooring sites so long as permits remain valid and all fees are paid.

Sec. 9-304 Mooring Site Assignment Priorities

1. Rockland Harbor shall be managed with equal and open access to all persons and entities. Mooring sites in each mooring area shall be assigned by the Harbor Master on a first come, first served basis, subject to the application requirements and conditions. Assignment priorities may exist when providing access to all, as prescribed by current state and federal regulations. These priority assignments are:

- A. First, to riparian owners is granted the right to one mooring site in waters as reasonably close to their property as is safe for the vessel or use applied for by the property owner. A riparian owner must have a boat to place on the mooring. Simple shoreline ownership does not meet the requirements for having a mooring. Exception: Marinas which are riparian owners may have one rental mooring which is not required to have a vessel assigned.
- B. Second, to commercial fishing vessels owned by residents of the City of Rockland.
- C. Third, to pleasure vessels and other commercial vessels owned by residents of the City of Rockland.
- D. Fourth, to recreational vessels or commercial fishing vessels owned by non-residents.
- E. Fifth, to entities or persons seeking to establish rental moorings or service moorings.
- F. Sixth, to other commercial vessels owned by non-residents.
- G. Seventh, to vessel owners seeking multiple mooring sites or seeking to move their existing mooring to a new site.

2. Notwithstanding any other provision of this section, no moorings for vessels 50 feet or greater in length(including all appendages) or 20 feet in beam shall be assigned in the following mooring areas:

- A. Lermond Cove
- B. Central South

Sec. 9-305 Mooring Tackle Standards and Requirements

1. All moorings must be of sufficient size and weight, with chain or rope in sound condition to properly secure the moored vessel and the float attached to the mooring line shall be of sufficient size and buoyancy to remain afloat when not attached to the vessel. Each mooring float shall be marked with the number of its assigned permit, and with the vessel or mooring owner’s name.

2. The following standards for mooring tackle shall be complied with:

- A. No mushroom anchors or danforth anchors shall be set as primary mooring tackle in Rockland Harbor.
- B. Permanent moorings shall be granite block, concrete or embedded anchor.
- C. Minimum size construction of moorings, based upon vessel size shall be:

Boat Length	Boat Weight	Block Weight	Bottom Chain Size	Top Chain Size
16-20 feet	Up to 2000 lbs	1000 lbs granite 2000 lbs concrete Embedded Anchor	1”	½” chain ¾” nylon doubled
20-30 feet	Up to 8000 lbs	2500 lbs granite 4000 lbs concrete Embedded Anchor	1”	½” chain 1” nylon doubled
30-40 feet	Up to 16000 lbs	4000 lbs granite	1-1/8”	½” chain

		7000 lbs concrete Embedded Anchor		
40-50 feet	Up to 25000 lbs	6000 lbs granite	1-1/8"	1/2" chain
		10000 lbs concrete		
Over 50 feet	Over 25000 lbs	10000 granite Embedded Anchor	1-1/8"	3/4" chain

This chart contains minimum standards for new mooring tackle. Mooring tackle already installed at the time on enactment of this ordinance is grandfathered until such time as it is removed. It is recommended that vessels moored year-round and/or in open waters should upgrade 1-3 steps from the minimum.

- D. Bottom chain shall be of the size indicated above and shall be of a scope equal to the depth of water at Mean Low Water but no greater than the depth of water at Mean High Water.
- E. Top chain shall be of the size indicated above and shall be of a scope equal to the depth of water at Mean High Water but no greater than 1.5 times the depth of water at Mean High Water.
- F. Pennants shall be of non-floating nylon or manila, minimum 3/4" size, shall be of a bridle construction with two legs and shall be of a scope of approximately three(3) times the distance from the forward chock to the waterline of the vessel.(Approximately 12 feet for vessels 20 to 30 feet in length, 15 feet for vessels 30 to 40 feet in length, 20 feet for vessels 45 to 55 feet in length, and 25 to 35 foot pennant for vessels 60 feet and greater.)
- G. Pickup buoys(if used) shall be attached with small line no longer than the pennant itself.

3. Mooring Markers/Float Buoys:

- A. The following standards for mooring balls shall be complied with:
 - (1) Private/Service Moorings shall be marked by white hardball, polyball or conical buoy or mooring box which shall have the name of the owner or vessel and the assigned mooring permit number painted on the marker in black. It is recommended that the word PRIVATE also be stenciled on the buoy.
 - (2) Rental Moorings shall be marked by a plain white hardball, polyball or conical buoy painted to identify the control of the mooring including telephone number or radio channel for contact, and the assigned mooring permit number. It is recommended that the word RENTAL also be stenciled on the buoy.
 - (3) Winter Markers: Mooring buoys and pennants shall be removed prior to November 15th of each year unless the mooring is used on a year-round basis. A winter marker of sufficient buoyancy shall be placed on the mooring. This marker shall be stenciled or etched with the assigned mooring permit number.

4. Mooring Tackle Retrievals and Failures

- A. The retrieval of mooring tackle which has failed and lies on the bottom is the sole responsibility of the mooring tackle owner.
- B. The failure of mooring tackle which results in a vessel drifting loose and any subsequent damage that that vessel may cause or incur is the sole responsibility of the mooring tackle owner.

5. Any person or entity not complying with any of the provisions of this section of the ordinances regarding mooring tackle standards may result in the rejection of mooring permit applications, revocation of a current permit, the removal of mooring tackle from Rockland Harbor at the owner's expense, forfeiture of ownership of the mooring tackle and/or a fee of no less than fifty dollars(\$50.00) for the services of the Harbor Master in achieving compliance.

Sec. 9-306 Mooring Tackle Inspections

1. A qualified mooring inspector shall inspect all mooring tackle not less than once every two years. Failure to comply will result in the rejection of a mooring permit renewal application and removal of the mooring tackle at the owner's expense.

2. All qualified mooring inspectors must submit a mooring inspection certificate for each mooring inspected to the Harbor Master. Private mooring owners may not qualify to inspect their own mooring. Failure to submit inspection certificates will result in the removal of an inspector from the list of those qualified.

3. The Harbor Master may at his/her discretion cause a mooring to be hauled or may hire a diver for inspection of a mooring at any time at the mooring owner's expense if:

- A. The mooring tackle has not been inspected in accordance with these ordinances;
- B. The Harbor Master has reasonable cause to believe the mooring is unsafe.

Sec. 9-307 Mooring; Penalty for Neglecting to Remove or Replace

In case of the neglect or refusal of the master or owner of any boat or vessel to remove his mooring or to replace it by one of different character, when so directed by the Harbor Master, the Harbor Master shall cause the mooring to be removed, or shall make such change in the character thereof as required, and shall collect from the master or owner of such boat or vessel the sum of one hundred dollars(\$100) for either of such services rendered. In addition, the owner of the mooring tackle shall be liable for all expenses incurred to comply with the Harbor Master Order, as provided by Title 38, Maine Revised Statutes.

State Law Reference: 23 M.R.S. § 2801; 25 M.R.S. § 3501; 29 M.R.S. § 1111; 30-A M.R.S. § 4452; 38 M.R.S. §§ 1-285

Cross Reference: Chapter 2, Article VII; Chapter 17, § 419.

Eff: 12/14/12

CHAPTER 10
Health

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- 10-102 Health Officer Empowered to Establish Rules
- 10-103 Penalty
- 10-104 Penalty - Further Violations

ARTICLE II Filth

- 10-201 Removal of Private Nuisances

ARTICLE III Odor

- 10-301 Odor Nuisance Control and Abatement

CHAPTER 10
Health

ARTICLE I General Provisions

Sec. 10-101 State Law Incorporated

The statutes of the State of Maine relating to public health, sanitation, and the prevention of disease and the spreading thereof, and the rules and regulations of the Maine Department of Human Services, or any successor thereto established by law, and all amendments or additions thereto, are hereby expressly incorporated into and made a part of this Chapter, and no person shall violate any such law, rule or regulation.

Sec. 10-102 Health Officer Empowered To Establish Rules

The Health Officer is hereby authorized to prepare such rules and regulations respecting infectious diseases and health, not inconsistent with State law, the City Charter and any ordinance of the City, as he deems necessary for the protection of the public health, which rules after approval by the City Council shall be effective and kept on file in the office of the City Clerk available at all reasonable times for public inspection, and administered by the Health Officer under the direction of the City Manager. No person shall violate any such rule or regulation.

Sec. 10-103 Penalty

Every person who shall be guilty of a violation of any provision of this Chapter to which a particular penalty is not annexed, shall forfeit and pay a sum of not more than one hundred dollars (\$100), to be recovered to the use of the City on complaint or by other appropriate action before the Sixth District Court.

Sec. 10-104 Penalty - Further Violations

The imposition of a penalty for violation of this Chapter shall not excuse the violation or permit it to continue; such violation shall be remedied within a reasonable time, or within such time limit given by the appropriate City Official, and each day such nuisance continues to exist following the expiration of the time limit specified in any notice given to the owner of the premises by the appropriate City official for the abatement of such nuisance shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions, nor preclude the City Attorney from causing to be instituted an appropriate action to prevent, restrain, correct or abate a violation of this Chapter.

ARTICLE II Filth

Sec. 10-201 Removal of Private Nuisances

As provided by the Revised Statutes of Maine, when any source of filth whether or not the cause of sickness is found on private property and deemed to be potentially injurious to health, the owner or occupant thereof shall, within twenty-four (24) hours after notice from the Health Officer, at his own expense, remove or discontinue it; and if he neglects or unreasonably delays to do so, he forfeits not exceeding three hundred dollars (\$300); and the Health Officer shall cause the nuisance to be removed or discontinued; and all expenses thereof shall be repaid to the City by such owner or occupant, or by the person who caused or permitted it. Eff: 07/11/12

State Law Reference: 22 MRSA, §§ 454-A, 1561.

ARTICLE III Odor

Sec. 10-301 Odor Nuisance Control and Abatement

I. Purpose. The purpose of this Ordinance is to assure the comfort, convenience, safety, health and welfare of the people of the City of Rockland, to protect the environment, to promote the development of an economically sound and stable community, and to provide for the prevention control and abatement of public odor nuisance.

The City of Rockland finds and concludes that because most odorous pollutants have a complex chemical composition and may elicit a broad spectrum of responses by the receptors, special methods must be employed in their measurement and characterization. Although analytical data are more precise and may be useful in identifying a source, it is the human

response or the sensory data that is most critical in determining the necessary degree of odor control. Analytical data may be used to specify permissible emission levels from a source but sensory data must be employed to assess the impact in the surrounding community. The latter is the City's primary concern.

II. Authority and Administration.

A. Authority. This Ordinance is adopted pursuant to 30-A M.R.S. § 3001 and the City's Home Rule Powers as provided for in Article VII-A of the Maine Constitution and Title 30-A M.R.S. §§ 2101-2109 and in accordance with the authority of the City of Rockland to seek judicial remedies in order to protect the inhabitants of the City of Rockland, the City as a municipal corporation, and individual residents of the City as provided for by the laws of the State of Maine, including, but not limited to 17 M.R.S. §§ 2702, 2705 and 2706; 30-A M.R.S. § 2002 and at common law.

B. Administration and Enforcement. The Code Enforcement Officer of the City of Rockland shall administer and enforce this Ordinance.

III. Prohibited Activities.

No person, wherever located, shall:

A. Cause or allow the emission of odorous air contaminants from any source such as to result in objectional odors at the lot line of the source; or

B. Cause the erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations, offensive smells or other annoyance, become injurious and dangerous to the health, comfort or property of individuals, or of the public and creates a public nuisance as defined by 17 M.R.S. § 2701; or

C. Do any process, rendering, or operate or use any device, machine, equipment, or other contrivance for the rendering of animal or marine matter unless all gases, vapors and gas entrained effluents from these processes are controlled in such a manner as to effectively abate any objectionable odor by utilizing the best available control technology.

IV. Exempt Activities.

A. The provisions of this Ordinance shall not apply to any device, machine, equipment, or other contrivance used exclusively for the processing of food for food service establishment, or is owned and operated by the City of Rockland.

B. When a source, other than those using rendering processes, is a manufacturing process or agricultural operation, provided that the best available control technology is utilized in order to control the emission of objectional odorous gases created by such a manufacturing process or agricultural operation.

C. No odor source, land use, activity, or person shall be exempt from this Ordinance because of grandfathering or because of being an existing use or activity at the time this Ordinance is enacted. This Ordinance applies to all existing and future odor sources, land use, activities and persons in the City of Rockland, except as otherwise provided herein.

D. The provisions of this Ordinance shall not apply to the activities of any person engaged in the business of processing fresh or frozen fish for human consumption. As used in this subsection, "processing" means the continuous operations carried on by such person, at a facility maintained by that person, where fish is unloaded, cleaned, prepared, packed, frozen or cooked, and the inedible portions of such fish are prepared for transport and disposal outside the City of Rockland, but excluding storage, handling, reduction, transportation or rendering of fish waste.

V. Objectionable Odor Determination.

An odor will be deemed objectional and is a public nuisance when any of the following occurs:

A. Creates a public nuisance at common law; or,

B. The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations or offensive smells become injurious and dangerous to the health, comfort or property of individuals, or of the public; or

C. All the members of a panel consisting of the Code Enforcement Officer and three residents of the City of Rockland selected by the City Manager to assist the Code Enforcement Officer to investigate complaints on a case by case basis and who are not aggrieved by the source determine following concurrent, personal observation, that the odor at the property line of the source based on City Tax Maps or elsewhere in the City is objectionable taking into account its nature, concentration, location, and duration and are able to identify the source; or

Eff: 05/09/18

D. On or adjacent to residential, recreational, institutional, retail sales, hotel or educational premises when odor is detectable after it is diluted with four volumes of odor-free air as measured by the use of dynamic olfactometry provided for in Franz, J.J. and Prokop, W.H. "Odor Measurement by Dynamic Olfactometry," Journal of the Air Pollution Control Association, Vol. 30, No. 12: 1228-1297, December 1980 which is incorporated herein by reference;

E. Samples for the source are taken and found to rate from a panel provided for in Section V(C) a response of over 2.0 in terms of butanol olfactometer scale steps as determined by the method developed by Sweeten et al ("A Butanol

Olfactometer for Field Measurement of Ambient Odors," Sweeten, J.M., McFarland, A.R., Sorel, J.E., Gauntt, R.O., and Reddell, D.L., Journal Air Pollution Control Association, Vol. 34: 208-213, 1984) which is incorporated herein by reference and which is an adaption of ASTM E 544-75 (reapproved 1981) which is incorporated herein by reference.

VI. Observation and Measurement Procedures.

- A. For the purpose of this Ordinance, two odor observations and/or measurements shall be made within a period of one hour, these measurements being separated by at least fifteen (15) minutes.
- B. Odor observation and/or measurements shall be taken to arrive at a determination that an objectionable odor exists shall be at or beyond the property line or at or near places where people live or work.

Ch. 10, Sec. 10-301

VII. Abatement of Objectionable Odors.

The Code Enforcement Officer, or any court may order the abatement of objectionable odors by ordering:

- A. Any person who operates or uses any device, machine, equipment or other contrivance for the rendering of animal matter to provide that all gases, vapors, and gas entrained effluents from such facility are incinerated at a temperature of not less than 1200 degrees Fahrenheit for a period not less than 0.3 seconds, or processed by condensation or such manner which will provide the best available control technology.
- B. Any person incinerating or processing gas, vapor, or gas entrained effluents to provide, properly install, and maintain in good working order and in operation, devices to monitor temperature, pressure, or other operating conditions.
- C. Effective new or existing odor control devices, systems, or measures be installed and operated such that no vent, exhaust pipe, blowoff pipe, or opening of any kind shall discharge into the ambient air any odorous matter, vapor, gases, or dust, or any combination thereof, which create objectional odors.
- D. Odor producing materials to be stored, transported, and handled in a manner that:
 - 1. Odors produced from materials are confined, abated or treated using the best available control technology and that accumulation of such materials resulting from spillage or other escape is prevented.
 - 2. Whenever dust, fumes, gases, mist, odorous matter, vapors, or any contamination thereof escapes from a building used for rendering animal or marine matter in such a manner and amount as to cause an objectional odor, the Code Enforcement Officer or court may require that the building or buildings in which rendering, handling, and storage are done be tightly closed and ventilated in such a manner that all airborne effluent materials leaving the building be treated by an effective means using the best available control technology to treat odorous matter before release to the ambient air.

VIII. Trade Secrets and Proprietary Information.

When determining compliance to any of the terms of this Ordinance, the City may take whatever acts are necessary to protect trade secrets and/or proprietary information to the extent permitted by the laws of the State of Maine.

IX. Definitions.

"Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access.

"Animal and Marine Matter": Any product or derivative of animal life.

"ASTM" is the American Society for Testing and Materials.

"Best Available Control Technology" (BACT) means an emission limitation process based on the maximum degree of reduction for each odor causing pollutant emitted from or which results from the source, which on a case-by-case basis, taking into account energy, environmental and economic impact, and other costs, determines is achievable for such source through application of production processes or available methods, systems, and techniques. In no event shall application of BACT result in emissions of any pollutant which would cause objectional odors by any applicable standards under this Ordinance. If the technological or economic limitations on the application of measurement methodology to a particular source would make the imposition of an emission standard infeasible, a design, equipment, work practice, operational standards or combination thereof may be prescribed instead to satisfy the requirements for the application of BACT. Such standards shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results. This BACT standard includes emission limitation which we achieved in practice by that class or category of source nationally under air emission permits of any state and as required under the United States Clean Air Act, 42 U.S.C. § 1857, as amended, by the United States Environmental Protection Agency (EPA) and as may be documented in the BACT Clearinghouse published by the EPA for that class or category of source.

"Food Service Establishment": Any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, roadside stand, industrial feeding establishment, private, public, non-profit organization or institution routinely serving food, catering kitchen, commissary or similar place in which food is placed for sale or served on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public, with or without charge.

"Odor" shall mean that property of an emission which stimulates the sense of smell.

"Odor Concentration": The number of cubic feet that one cubic foot of sample will occupy when diluted to the odor threshold. It is a measure of the number of odor units in one cubic foot of the sample. It is expressed in odor units per cubic foot.

"Odor Units": One cubic foot of air at the odor threshold

"Person": Any individual, partnership, co-partnership, firm, company, corporation, association, ~~joint stock company~~, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative. Ch. 10, Sec. 10-301

"Process": Any action, operation, or treatment and the equipment used in connection therewith, ~~and all methods or forms~~ of manufacturing or processing that may emit smoke, particulate matter or gaseous matter.

"Rendering": Any heating process, including cooking, drying, dehydrating, digesting, evaporating and protein and/or oil concentrating of animal or marine matter.

X. Violations, Enforcement and Fines.

A. Violation and Enforcement. The Code Enforcement Officer, upon finding that any provision of this Ordinance is being violated, is authorized to issue notices of violations, orders to correct, schedules to correct, to enter into administrative consent decrees and agreements and to institute legal proceedings to enjoin and/or abate violations of this Ordinance in his capacity as the Code Enforcement Office, in the name of the City of Rockland and on the behalf of, and as representative of and as a party with individual residents of the City of Rockland, who are aggrieved by the violations and to recover fines and costs for the City of Rockland.

B. Fines. A person who violates the provisions of this Ordinance or the condition(s) of an order of the Code Enforcement Officer, shall be guilty of a civil violation and on conviction shall be fined not less than \$1,000 nor more than \$2,500. Each day such violation continues shall constitute a separate violation. All fines shall be paid to the City of Rockland. Such persons shall also be liable for court costs and reasonable attorney fees incurred by the City of Rockland.

XI. Validity and Separability and Conflict With Other Ordinances.

A. Validity and Separability. Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

B. Conflict with Other Ordinances. Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirement shall apply.

XII. Appeals.

An appeal from a decision or order of the Code Enforcement Officer shall be taken to Superior Court pursuant to Rule 80B, Maine Rules of Civil Procedure. Eff: 6/9/88

CHAPTER 11 Licenses, Permits and Franchises

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REPEALED 06/09/04

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CHAPTER 11

LICENSES, PERMITS AND FRANCHISES

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Sec. 11-101 Application Required

Any person required by the provisions of Articles I to V, VII, X and VI of this Chapter to obtain from the City (1) a license to engage in the operation, conduct or carrying on of any trade, profession, business or privilege, (2) a permit to commence, proceed or continue to perform any act, or (3) a franchise, shall make written application therefor over his signature to the City Clerk upon forms provided by him and shall state such facts as may be required. Applications shall be accompanied by the required fee, which will be returned if the license, permit or franchise applied for is not issued.

Sec. 11-102 City Clerk's Duty

As agent of the City Council, the City Clerk is hereby authorized and directed to (1) receive all applications required by Articles I to V, VII, X and XI and (2) act thereon with reasonable promptness consistent with the nature of the matter, by either (a) issuing the license, permit or franchise as applied for, subject to the limitations on his authority as contained herein, or (b) denying same and so notifying the applicant personally or in writing addressed to his address as shown in the application, such notice to state the reason for such denial.

Sec. 11-103 City Clerk; Authority Limitations

The authority of the City Clerk to issue licenses, permits and franchises is hereby limited as follows:

1. Agent of Council. The City Clerk acts as agent of the City Council.
2. Council Reservation. Anything in Articles I to V, VII, X and XI to the contrary notwithstanding, the City Council hereby reserve sole power to grant or to deny licenses, permits and franchises. Certifications by officials and any other restriction in this Chapter are standards set up for the direction of, and limitations placed upon the authority of the City Clerk in the exercise of his powers granted herein as agent of the City Council, are not to be construed as limitations on or as delegations of power by the City Council. In such specific cases or classes as it may desire at any time, the City Council may assume original jurisdiction.
3. Manager's Order. The City Clerk shall confer with the City Manager relative to any applications which the City Clerk in his discretion deems may not be in the best interest of the City, and shall deny or defer action for a specified period on any license, permit or franchise application if so ordered in writing by the Manager.
4. Certification. In all cases where certification by any City official is required as a condition precedent to issuance of any license, permit or franchise by the City Clerk, he shall notify promptly such officer or officers and shall not issue the license, permit or franchise until and unless all required certifications are received, as evidenced by signature on the application. Whenever any required certification is refused by the appropriate City official, the license, permit or franchise applied for shall be denied.
5. Ownership Certificate. No license, permit or franchise shall be issued to partnerships or to persons engaged in business as a sole proprietor under any name, style or designation other than their own name exclusively, unless and until such partnership and sole proprietor have filed certificates in the office of the City Clerk as required by the Revised Statutes of Maine.
6. Conformance With Zoning Ordinance. No license, permit or franchise shall be issued to any applicant for any use at any location where such use is prohibited by the Zoning Ordinance, unless the Code Enforcement Officer shall certify on the application that such use is an approved non-conforming use under such ordinance. Eff:11/12/93

Sec. 11-104 Appeals

Whenever the City Clerk denies a license, permit or franchise as applied for, such denial may be made the subject of an appeal to the City Council by the applicant if written notice of such appeal addressed to the City Clerk is received by him within ten (10) days of the date of his written notice of denial. The City Council shall consider such an appeal at its first regular meeting thereafter, or at an earlier special meeting at its discretion.

Sec. 11-105 Bonds

Where the provisions of Articles I to V, VII, X and XI require that the applicant furnish a bond, such bond shall be furnished in the required amount and be approved thereon by the City Attorney as to legal and financial sufficiency prior to acceptance by the City Clerk. Bonds in amounts over five hundred dollars (\$500) must be corporate surety. All bonds shall be in amounts of five hundred dollars (\$500) unless otherwise specifically stated. All fr Ch. 11, Sec. 11-101 s required and conditioned by the City. All license bonds shall be conditioned as required by Sta s not so set forth, then as may be required by the City Attorney. All permit bonds shall be conditioned as follows: (1) that the applicant will indemnify and hold harmless the City of Rockland against all liability, judgements, costs and expenses which may in any manner accrue against the City because of any negligence or alleged negligence in the performance of the work for which the permit was issued, or because of any other negligence or alleged negligence, or in consequence of the granting of such permit; (2) that the applicant will in all things comply strictly with the conditions of the permit; and (3) that the applicant will pay to the City of Rockland any damages caused to property of the City of Rockland by such operation. The City Attorney in his discretion is authorized to accept or to require one or more insurance policies as a substitute for or supplement to any required bond when he considers such to be necessary to protect the interest of the City.

Sec. 11-106 Certifications

1. In all cases where certification by any one of the following City Officials is required as a condition precedent to issuance of a license, permit or franchise by the City Clerk, such certification shall be based upon actual inspection within twenty (20) days after notification by the City Clerk. In addition to the requirements for inspection and certification set for in the Rockland Code, all of the inspections listed in paragraphs A through D of this subsection shall also be performed on premises for which an application for a new, transfer or renewal of an on-premises liquor license, or medical marijuana production facility has been submitted to the City Council. The standards governing inspections and findings shall be as follows: Eff: 01/10/18

A. Code Enforcement Officer. That the proposed operation complies with all applicable State law and local ordinances, including but not limited to the Building Code and Zoning Ordinance.

B. Fire Inspector. That the premises comply with all applicable State law and local ordinances, including but not limited to the Fire Prevention Ordinance.

C. Plumbing Inspector. That the premises in which the applicant proposes to conduct the trade, profession, business or privilege comply with all applicable State laws and local ordinances relative to plumbing.

D. Police Chief. That the applicant is of good moral character, that the safety and good order of the community will not be affected adversely by the granting of the license, permit or franchise, and, in the case of a liquor license application, that those disturbances, incidents and violations set for in 28 M.R.S., Section 653(2)(C) and (D) have not been problems at the licensed premises in the past.

2. When a license, permit or franchise application is before the City Council for approval, and the inspections in this section are not complete, or the results of the completed inspections are unsatisfactory, the Council shall take one of the following actions:

A. Table the application until the next scheduled Council meeting, or to another date certain, so that the inspections and/or certifications can be satisfactorily completed before the vote to approve is taken.

B. Deny the application.

C. Vote to grant the application, the grant to become effective only on the date when satisfactory completion of the inspections and/or certification is achieved and not before.

D. Vote to grant the application for a limited time period only, that time period to expire on the date of a regular or special Council meeting, so that if satisfactory completion of the inspections and/or certifications is not achieved by the expiration of that time, the license, permit or franchise can be denied by vote at that meeting, or if satisfactory completion is achieved, the application can be granted without conditions.

E. Vote to grant the application notwithstanding the absence of certification by the City Clerk (pursuant to Sec. 11-103 of this Article), the Code Enforcement Officer, the Plumbing Inspector, the Fire Inspector and/or the Police Chief. Eff: 11/12/93

Sec. 11-107 Effective Date

The effective date of all licenses, permits and franchises shall be the actual date of issuance thereof by the City Clerk.

Sec. 11-108 Exhibition of License, Permit or Franchise

Any person to whom a license has been issued shall keep same exhibited at all times in a conspicuous place in the place of business for which the license was granted if the business is carried on at a fixed place of establishment; otherwise he shall carry such license on his person when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege

for which the license is granted. Any person to whom a permit or franchise is issued shall keep the same at the place where the operation is being performed at all times when the operation is in progress and until it is completed, if the permit or franchise is to cover an operation; otherwise he shall keep it at his fixed place of business, and if none, on his person. Any person receiving a license, permit, or franchise shall produce the same for examination when so requested by any City official.

Ch. 11, Sec. 11-106

Sec. 11-109 Existing Licenses and Permits

All existing licenses and permits duly issued by the City prior to the effective date of Articles I to V, VII, X, and XI which cover for a definite period thereafter and which by their terms expire within one year after the effective date of Articles I to V, VII, X and XI are hereby confirmed. All licenses and permits issued for an indefinite term, or which were issued for a definite term of more than one year, are hereby revoked as to future applicability as of a date thirty (30) days after the date of the Articles referenced above. Any holder of a license or permit revoked by the terms of this section may, within twenty (20) days after the effective date of Articles I to V, VII, X and XI, appeal in writing to the City Council through the City Clerk for such adjustment, as he feels proper under the circumstances if the holder feels that such revocation affects an existing contract or right or causes an injustice.

Sec. 11-110 Insurance

When policies of insurance are required, such policies shall be approved as to substance and form by the City Attorney; such policies shall be issued by insurance companies duly admitted to transact business in Maine and public liability policies shall be at least in the following amounts: (1) bodily injury liability limits of five thousand dollars (\$5,000) for one (1) person and ten thousand dollars (\$10,000) for any number of persons in the same accident, and (2) property damage liability limit of one thousand dollars (\$1,000).

Sec. 11-111 Liability

The City of Rockland assumes no liability in connection with, or as a consequence of the issuance of, any license, permit, or franchise.

State Law Reference: 14 M.R.S. § 8103.

Sec. 11-112 Nuisance

Nothing in this or in any other ordinance shall be construed as authorizing the right of any person to create or to maintain a nuisance.

Sec. 11-113 State Applications

All license or permit applications to the State of Maine which require the consent of the Municipal Officers of the City of Rockland, and which require public notice and hearing, must be approved by the City Council. The City Clerk is hereby authorized to execute such consents on behalf of the City Council after such approval. Applications for licenses to sell wine or malt liquor at farmers markets in Rockland pursuant to 28-A M.R.S § 1366(4) shall also require the approval of the City Council following public notice and hearing (Eff: 04/10/13). Applications for State of Maine Off-Premises Catering Permits for providing alcohol for special events that do not require public notice or hearing, may be approved and executed by the City Clerk pursuant to Title 28-A §1076(7)(D), provided that the applicant holds a current State of Maine Liquor License, as specified by Title 28-A §1052, or is a qualified licensed catering service as defined in Title 28-A, §2(15)(P), unless such special event is to take place on property owned by the City of Rockland, in which case approval must be by the City Council. Eff: 11/9/07

Sec. 11-114 Suspension or Revocation

Any license, permit, or franchise issued by the City may by written notice be suspended by the City Manager, and may be suspended or revoked by the City Council, in either case for cause. The person to whom such license, permit, or franchise was issued shall have the right to a hearing before the Council on any such action of the City Manager, provided

a written request therefor is filed with the City Clerk within ten (10) days after receipt of notice of such suspension. The City Council may confirm such suspension or revoke or reinstate any such license, permit, or franchise. The action taken by the City Council shall be final. No refund of any part of a license, permit, or franchise fee shall be made in connection with the suspension or revocation of any license, permit, or franchise for cause.

Sec. 11-115 Suspension or Revocation Cause

The term "cause" as used in Section 11-114 hereof shall include the doing or omitting of any act, or permitting any condition to exist in connection with any trade, profession, business or privilege for which a license, permit, or franchise is granted under the provisions of Articles I to V, VII, X and XI, or any premises or facilities in connection therewith, which act, omission or conditions is:

1. contrary to the health, morals, safety or welfare of the public;
2. unlawful, irregular, or fraudulent in nature;
3. unauthorized or beyond the scope of the license or permit granted;
4. forbidden by the provisions of State law or City ordinance, or any duly established rule or regulation of the City applicable to the trade, profession, business, privilege, act or operation for which the license, permit, or franchise has been granted;
5. the result of failure to comply continuously with all conditions required as precedent to the approval of the license, permit, or franchise.

Ch. 11, Sec. 11-109

It is hereby expressly provided that the violation of any of the State laws pertaining to the operation of motor vehicles, or violation of the City of Rockland Traffic Code, shall be grounds for the suspension or revocation of licenses issued to a driver, but not to an owner of any taxicab guilty of such violation.

Sec. 11-116 Term

The term of all licenses shall be for a period of one (1) year from the effective date, except where the required fee indicates a lesser period. All permits shall be issued for such term not more than one (1) year as the City Clerk in his discretion deems appropriate and warranted by the subject matter, except a building permit which shall have no term but which shall expire and be cancelled by the City Clerk unless the permitted operation is commenced and actively prosecuted during the period of one (1) year after the effective date of the permit.

Sec. 11-117 Transferability

No license, permit, or franchise issued under Articles I to V, VII, X and XI shall be transferable unless specifically authorized by the provisions of those Articles or by the action of the City Council.

Sec. 11-118 Enforcement

It shall be the duty of the Police Chief to require prompt compliance with the provisions of Articles I to V, VII, X and XI and to prosecute all violators thereof.

Sec. 11-119 Penalties

Unless otherwise specifically provided by law, the penalty for failure to obtain a license, permit, or franchise as and when required by Articles I to V, VII, X and XI is hereby determined to be twice the amount of the required license fee or five (5) times the amount of the required permit fee, as the case may be, but not less than ten dollars (\$10) nor more than one hundred dollars (\$100) for each offense, to be recovered to the use of the City on complaint or by other appropriate action before the Sixth District Court. Each day that such violation is allowed to continue shall constitute a separate offence. Eff: 12/14/18

ARTICLE II Licenses, When Required

Sec. 11-201 Auctioneers

No person shall engage in the trade or business of auctioneer in the City of Rockland without first obtaining a State license therefor. Non-residents must obtain both a State and a municipal license, however. Application for the State license shall be made in accordance with the Revised Statutes of Maine as amended; application for municipal license shall be made to the City Clerk.

State Law Reference: 32 M.R.S. §§ 284-299.

Sec. 11-202 Bowling Alleys; Pool Rooms

No person shall conduct, maintain or operate any place open to the public for bowling or for playing pool or billiards without first obtaining a license. No such license shall be granted except upon certification of the Police Chief, the Fire Chief, Building Inspector and Plumbing Inspector. Such establishments shall not operate and shall be closed to the public between midnight and sunrise. A licensee shall furnish a five hundred dollars (\$500) surety bond, conditioned as required by the Revised Statutes of Maine.

State Law Reference: 8 M.R.S. §§ 1, 2.

Sec. 11-203 Dances (Public)

No person shall conduct a public dance without first obtaining a license. In no event shall any such license be granted except upon certification of the Police Chief, the Fire Chief, the Building Inspector and the Plumbing Inspector. No dancing shall be permitted in any public dance later than 1:00 A.M. without prior consent of the Police Chief. No person shall conduct any public dance without providing at his expense the services of a special police officer, selected by and under the direction of the Police Chief. This section shall not apply to dances conducted by local ~~governmental or school~~ authorities or organizations, nor dances given by any local non-profit association.

Ch. 11, Sec. 11-116

State Law Reference: 8 M.R.S. §§ 161, 162.

Sec. 11-204 Dances, Festivals, Shows

No person shall conduct a public dance, exhibit, sponsor, hold, promote or operate any pageant, amusement show, theatrical performance, including a music festival or any festival or exhibition, which in excess of two hundred (200) persons are reasonably anticipated to attend and where a substantial portion of the entertainers or persons attending will be out of doors, without first obtaining a license. In no event shall any such license be granted except upon certification of the Police Chief, the Fire Chief, the Building Inspector and the Plumbing Inspector that the issuing and granting of the license would not create a hazard, nuisance or annoyance. No such dance, pageant, exhibit, amusement show, theatrical performance, music festival or any other festival or exhibition shall be permitted later than 1:00 A.M., without prior consent of the Chief of Police. No person shall conduct any public dance, exhibit, pageant, amusement show, theatrical performance including a music festival or any other festival or exhibition without providing at his expense the services of special police officers as determined and selected and under the direction of the Police Chief. This section shall not apply to dances, exhibits, pageants, amusement shows, theatrical performances including a music festival or any other type of festival or exhibition conducted by local government or school authorities, or service organizations, nor dances given by any local non-profit associations.

State Law Reference: 22 M.R.S. §§ 1601-1607; 8 M.R.S. §§ 501, 502.

Sec. 11-205 Employment Agencies

No person shall operate an employment agency for profit or remuneration without first obtaining a license therefor. No such license shall be granted except upon certification of the Police Chief. A licensee shall furnish surety bond in such amount and form as required by the Revised Statutes of Maine.

State Law Reference: 26 M.R.S. §611 & §1083.

Sec. 11-206 Exhibitions, Performances and Shows

No person or organization except for school functions, which shall be the responsibility of SAD #5, shall conduct or operate any exhibition, performance or show at which an admission fee is charged without first obtaining a license therefor. No such license shall be granted except upon certification of the Police Chief and the Fire Chief. Either the Fire Chief or the Police Chief, or both, may condition their certificate of approval upon the presence of one or more members of their respective departments or some person or persons satisfactory to and under the direction of the Fire Chief or Police Chief; in which event such expense shall be reported to the City Clerk as a part of the certificate and collected by the City Clerk prior to the issuance of a license, if the applicant is a person or organization which does not reside in the City. No license fee shall be charged for events conducted by local government or school authorities or organizations, or by local non-profit organizations. Provided, however, that no circus or carnival shall be licensed without the approval of the City Council.

State Law Reference: 8 M.R.S. Sec. 501, 502.

Sec. 11-207 Hawkers and Peddlers

No person shall engage in the business of hawking or peddling of goods, wares and merchandise at retail within the City limits without first obtaining a license therefor. Such license shall be granted for a specified period not to exceed one (1) week and only upon certification of the Police Chief. This does not apply to commercial agents or other persons selling by lists, catalogues, or otherwise, goods, wares, or merchandise for future delivery; to persons selling fish, or to persons selling farm, dairy, or orchard products of their production, or to persons selling bark, wood or forest products, or to persons selling Christmas trees, Christmas wreaths, Christmas greens or Christmas cards or seals. Eff: 11/12/93

Sec. 11-208 Itinerant Vendor

No person shall engage in the business of that of an "itinerant vendor" without first applying for a license to, and making payment therefor, to the City. No such license shall be granted without filing the required State license with the City Clerk, nor shall license be granted except upon certification of the Police Chief and Fire Chief. The words "itinerant vendor" for the purposes of this Chapter, shall be construed to mean and include all non-resident persons, both principals and agents, who engage in a temporary or transient business in the City, and who, for the purpose of carrying on such business, hire, lease or occupy any building or structure for the exhibition and sale of such goods, wares and merchandise, or who sell goods, wares and merchandise at retail from a car, wagon or other conveyance. No such itinerant vendor shall be relieved or exempted from the provisions and requirements hereof by reason of associating himself temporarily with any local dealer, trader or merchant, or by conducting such temporary or transient business in connection with the business of, or in the name of any local dealer, trader or merchant. The license fee shall be as provided in Ch. 11, Sec. 11-204 Revised Statutes of Maine. This section shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to bona fide sales of goods, wares and merchandise by sample for future delivery, nor to hawkers or peddlers on the streets or peddlers from vehicles all as provided by the Revised Statutes of Maine. THE LICENSEE SHALL NOT SELL ANY GOODS ON THE DESIGNATED PARADE ROUTE DURING THE TIME SET FOR ANY PARADE. Eff: 12/9/87

State Law Reference: 32 M.R.S. §§ 14701-14716.

Sec. 11-209 Junk Dealer

No person shall engage in the business of junk dealer without first obtaining a license therefor. The word "junk" as herein used shall mean old iron, chain, brass, copper, tin, lead, or other base metals, old rope, old bags, rags, waste paper, paper clippings, scraps of woolens, clips, bagging, rubber, and glass, and empty bottles of different kinds, when less than one (1) gross and all articles discarded or no longer used as a manufactured article composed of any one or more of the materials mentioned. A license shall be granted only after certification by the Police Chief, Fire Chief, Building Inspector, and plumbing Inspector, and only upon application agreeing to comply with the following conditions:

1. Screening. All buildings, lots or places wherein junk is placed or kept shall be completely screened from the view of any public street by a sufficient fence, screen or building, and no junk shall be placed so it is visible from any public street;
2. Records. The licensee shall keep in a separate book, open for inspection by any public officer, a written record showing the time of purchase of each article purchased by him, a brief description of the article, and the name and residence of the person from whom such article was purchased or received;
3. Hours. No licensee shall purchase or receive any article (a) between the hours of 7:00 PM and 7:00 AM, (b) on any Sabbath, (c) from any person under the age of seventeen (17) years, without the written consent of parent or guardian, or (d) from a person known or suspected to be a thief or a receiver of stolen property. NO work or business shall be conducted on any legal holiday before 10:00 AM Eastern Standard Time or Daylight Saving Time, whichever shall be in effect at the time;
4. License. A license is required for each place or premises where the business or any part thereof, including storage, is conducted, and shall specify the particular place licensed. No licensee shall engage in the business in any manner at any place without first obtaining a license for each such particular place.

The Police Chief shall be responsible for inspection of all junk yards periodically, and shall report immediately to the City Manager, who in turn shall report to the City Council any continuous violation of the above license conditions.

State Law Reference: 30-A M.R.S. §§ 3751-3760.

Sec. 11-210 Lodging Houses And Short-Term Rentals

1. Lodging House License.

A. License Required. No person shall operate a Lodging House, Bed & Breakfast Establishment, Inn, Motel or Hotel without first obtaining annually a one-year license therefor from the City Council. Eff: 09/07/16

B. Definitions. For the purposes of this subsection¹

“Lodging house” means a building other than a single-, two-, or multi-family structure in which a licensed operator provides, for a fee, sleeping accommodations for sixteen (16) or fewer persons on either a transient or permanent basis, with or without meals served to occupants only, but without separate kitchen facilities for individual occupants; provided, however, that the building may include a separate, additional dwelling unit occupied by the owner or manager that includes kitchen facilities for such owner or manager’s personal use.

C. Certifications; Public Hearing. Such license shall not be granted except upon the certification of the Police Chief, Fire Chief, Code Enforcement Officer (Building Inspector), and Plumbing Inspector pursuant to this Section and Section 11-106.

Prior to granting such licenses, the City Council shall hold a public hearing, notice of which shall be posted in a public location and advertised at least seven days before the hearing.

There shall be a non-refundable application and / or annual license fee for ~~the~~ Lodging House License which shall be set by Order of the City Council.

D. Standards. Following the public hearing, the City Council may condition or deny any Lodging House license upon the basis of a recommended condition or denial of certification by either the Police Chief, Fire Chief, Code Enforcement Officer, or Plumbing Inspector pursuant to Section 11-106. The City Council may condition, suspend or revoke a Lodging House License, following a public hearing, on the basis of the licensee’s non-compliance with any applicable law, ordinance, or regulation, or license certification, condition, or criteria.

State Law Reference: 30-A M.R.S. § 3801 & § 3811.

Ch. 11, Sec. 11-209

2. Short-Term Rentals Permit.

A. Purpose. The purpose of the Short-Term Rentals Permit is to authorize the use of legally-existing single-, two-, and multi-family structures for the accommodation of short-term guests, for compensation, for periods of less than one month, while ensuring the safety of the occupants and minimizing the impact of such use on the surrounding neighborhood.

Short-Term Rentals Permits and the revenue they make available to homeowners helps makes Rockland affordable for persons on fixed or limited incomes; enhances and diversifies accommodations available to visitors and tourists; and provides travelers with affordable accommodations from which to explore Rockland and the Midcoast region. If not made the subject of appropriate, limited regulations, however, the use of residential properties for short-term rentals may create adverse impacts on surrounding residential uses including, without limitation, increased levels of traffic, parking demand, light and glare, and noise. Such impacts are deleterious to the public health, safety, and welfare of the neighborhood and the City because they impair the livability and desirability of Rockland neighborhoods for year-round residential uses.

B. Definitions. For the purposes of this Subsection¹:

(1) Family. Two or more persons related by blood, marriage, civil union or adoption who reside together as a single housekeeping unit, sharing common kitchen and bathroom facilities. A “family” for zoning purposes may also consist of (1) two or more persons related by blood, marriage, civil union, or adoption and no more than three additional person who are not related, or (2) no more than three unrelated persons, who occupy a dwelling unit as a single housekeeping unit, sharing common kitchen and bathroom facilities.

(2) “Minimum Stay Period” means the minimum number of nights for which a Short-Term Rental may be rented to guests. Guests may stay for less than the minimum stay period provided that the STR remains vacant until the end of the minimum stay period. *(For example, if the minimum stay period is four (4) nights, this does not preclude rental to guests for two (2) nights, provided the unit remains unrented for the two (2) subsequent nights before being occupied again as a short-term rental.)*

(3) “Owner-Occupied” describes a dwelling unit that is such owner’s primary residence and is occupied, including over-night, by such owner when any part of the structure is rented as a short-term rental.

(4) “Short-Term Rental” (“STR”) means the use of all or part of a legally-existing dwelling unit for rental to a person or persons unrelated to the owner or occupant of the unit, for consideration, for periods of less than one month, as follows:

(a) Short-Term Rental – 1 (“STR-1”) means either:

(i) an owner-occupied single-family structure in which not more than one bedroom is rented or offered for rent to one person or one family for periods of less than one month, or

¹ See Ch. 19, Art. III, Sec. 19-302 for definitions of words and phrases not defined herein.

(ii) a dwelling unit in a two-family structure in which one unit is occupied by the owner of the entire structure that is rented or offered for rent by one person or one family for periods of less than one month.

(b) Short-Term Rental – 2 (“STR-2”) means either:

(i) a single-family structure that is not occupied by its owner that is rented or offered for rent to one person or one family for periods of less than one month, or

(ii) one dwelling unit in a non-owner occupied two-family structure rented or offered for rent to one person or one family for periods of less than one month.

(c) Short-Term Rental – 3 (“STR-3”) means one dwelling unit in a multi-family or mixed-use structure that is rented or offered for rent to one person or one family for periods of less than one month.

C. Permit Required. Effective November 1, 2016, no person shall operate a Short-Term Rental without first obtaining annually a one-year permit therefor from the Code Enforcement Office.

D. Eligibility. The City Clerk may accept applications for Short-Term Rentals from only those persons who are eligible to apply, as follows:

(1) Short-Term Rental Permits may not be granted to a renter, lessee, or other party who is not the owner of the proposed short-term rental or the owner’s property manager, and no renter or lessee of a dwelling unit may sub-let the rented or leased premises as a short-term rental;

(2) Where the proposed short-term rental is a single-family structure, the applicant must demonstrate in the application either that (a) the structure is the applicant’s primary residence, (b) the applicant’s primary residence is at another residence within the City of Rockland, or (c) the applicant is a resident living in one of the municipalities listed below or, d) the applicant has provided evidence of an individual or management company whose residence, or in the case of a management company, whose business is in Rockland, Thomaston, Owls Head, Rockport, Warren, Camden, Hope, Cushing or St. George, and who is available to provide around-the-clock on-site response capacity to address complaints arising from the short-term rental of the structure; Eff: 02/08/17

(3) Where the proposed short-term rental is an approved accessory apartment, the applicant must demonstrate in the application that the applicant owns and maintains his/her primary residence at Ch. 11, Sec. 11-210 on the same lot to which the short-term rental is accessory;

(4) Where the proposed short-term rental is a unit in a duplex or two-unit condominium, the applicant must demonstrate that the applicant owns and maintains his/her primary residence in the other unit in the duplex or two-unit condominium, or if such unit is not the primary residence of the applicant, that the applicant either (a) maintains his/her primary residence elsewhere in Rockland or b) is a resident of one of the municipalities listed below or c) has provided evidence of an individual or management company who’s residence, or in the case of a management company, whose business is in Rockland, Thomaston, Owls Head, Rockport, or Warren and who is available to provide around-the-clock on-site response capacity to address complaints arising from the short-term rental in the structure. Eff: 02/08/17

E. Application Fee. The City Council may establish a non-refundable application fee for Short-Term Rental Permits, and/or a permit fee which may include a graduated fee schedule on the basis of the number of rooms of the facility and/or other criteria.

F. Notice. Within seven (7) days of receipt of a complete application for a Short-Term Rental Permit, the City Clerk shall submit the application to the Code Enforcement Officer and, by U.S. Mail, First Class, provide notice of such application to the owner(s) of record of abutting parcels, including owner(s) of record of parcels located directly across a street or other way from the subject parcel, at least seven (7) days prior to issuing such license. Such notice shall include the name, address, and telephone number of the person(s) responsible for management of the STR. Notice is effective upon mailing.

G. Permitting Authority; Review Criteria. The authorized Permitting Authority shall grant, grant with conditions, or deny applications for Short-Term Rental Permits, applying the level of review criteria (“Review Level”) as defined below, consistent with Table 11-210(2), no sooner than fourteen (14) days after the Clerk mails notice of such application to abutters pursuant to Subsection E and no later than thirty (30) days when the Code Enforcement Officer is the Permitting Authority, or sixty (60) days when the Planning Board is the Permitting Authority. When the application is for the renewal of a current Short-Term Rental Permit and the permittee is in compliance with this and other applicable Ordinances, the City Clerk may grant an administrative extension of such current permit for up to thirty (30) days when reasonably necessary to allow the continuance of the accommodations during the permit review and renewal process. All Short-Term

Rentals are also subject to the Additional Requirements set forth in Subsection G.

Review Level I:

Applicant shall provide evidence or certificate of current insurance providing coverage for the use of the premises as a short-term rental. Evidence of such insurance must be available for inspection at all times while a unit or structure is used for Short-Term Rental. Eff: 02/08/17

Applicant shall provide the name, address, and telephone number of the person(s) who will be responsible for management of the STR.
Applicant shall provide two on-site parking spaces for a single-family structure and three on-site spaces for a two-family structure.

Applicant shall not currently be in violation of any applicable law, ordinance, or regulation relating to a short-term rental, lodging house, bed and breakfast establishment, hotel or motel, or other commercial residential facility.

Review Level II:

Applicant shall demonstrate compliance with applicable² building, fire prevention, and life safety codes upon inspection by the Code Enforcement Officer and Fire Chief or their designees.

Applicant shall provide evidence or certificate of current insurance providing coverage for the use of the premises as a short-term rental. Evidence of such insurance must be available for inspection at all times while a unit or structure is used for Short-Term Rental. Eff: 02/08/17

Applicant shall provide the name, address and telephone number of the person(s) who will be responsible for management of the STR.

Applicant shall provide two on-site parking spaces if Ch. 11, Sec. 11-210 one and one-half on-site parking spaces for each dwelling unit in a two- or multi-family structure.

Applicant shall not currently be in violation of any applicable law, ordinance, or regulation relating to a short-term rental, lodging house, bed and breakfast establishment, hotel or motel, or other commercial residential facility.

When the Planning Board is the Permitting Authority under Table 11-210(2), it shall grant, condition, or deny the application by taking into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography, and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; signage, and lighting; compatibility with existing uses; availability of necessary public services; and compliance with applicable requirements of all City ordinances.

Planning Board review of the STR is only required for initial applications, applications where the property at which an STR is located has changed ownership, or applications after an STR license has been suspended. Otherwise, for STR license renewals, the Code Office shall be the Permitting Authority.

Table 11-210(2)

Type of Accommodation	Type of Structure	Minimum Stay Period	Permitting Authority in Residential AA, A, and B Zones	Permitting Authority in Other Zones	Review Level

² See Chapter 4 – Buildings, Inspections & Enforcement.

STR-1	Single-Family (rental of one room in owner-occupied structure or one unit in an owner-occupied two-family structure)	1 night up to less than 1 month	Code Office	Code Office	I
STR-2	Single-Family (whole house)	1 nights up to less than 1	Planning Board	Code Office	I
	Two-Family (one unit rented monthly and one unit rented less than one month)	1 nights up to less than 1 month	Planning Board	Code Office	I
STR-3	Multi-Family or Mixed Use	1 nights up to less than 1	Planning Board	Planning Board	II

H. Additional Requirements. In addition to the standards set forth in Section 11-106 and other applicable law, ordinance, or regulations, the following criteria shall apply to applications for Short-Term Rentals:

- (1) The occupancy classification of a single-family structure, or a unit in a two-family or multi-family structure, used as a STR shall be in compliance with that of a “one-family dwelling” as described in Chapter 24 § 24.1.1.1 of NFPA 101 Life Safety Code/2012;
- (2) Short-term rentals shall be to a single individual or family;
- (3) The maximum occupancy (for STR-2) shall be limited to two people per existing bedroom plus no more than two additional children under the age of twelve;
- (4) Provided that there are approved fire separations between dwelling units in an existing duplex or condominium structure, each unit under separate, unrelated or affiliated owners, Ch. 11, Sec. 11-210 a single-family structure for the purposes of Short-Term Rentals Permit provisions. new condominium units
- (5) Multi-family dwellings must be a permitted use in the zone in which it is located in order to rent any unit as a STR-3;
- (6) An approved functional sprinkler system is required in any multi-family dwelling in which a single unit is used as a STR-3;
- (7) No detached accessory building, recreational vehicle, trailer, tent, or other mobile residential equipment other than a mobile home may be permitted or rented as a short-term rental;
- (8) The use of a dwelling unit as a STR does not violate any applicable condition of municipal approval, covenant, or other lawful restriction on the use of the parcel;
- (9) Notwithstanding anything to the contrary in Section 19-315, signage identifying, advertising, providing wayfinding, or otherwise relating to the use of a dwelling as a STR is not permitted, either on- or off-site;
- (10) The Permittee must maintain accurate, up-to-date records of all rental transactions in the STR, including the number of guests and the duration of their stays. Such records must be available for review by the Code Enforcement Officer upon request;
- (11) The Permittee must post in plain sight to visitors near the entrance a Notice that identifies the name, address, phone number(s), e-mail address, and emergency contact of the operator of the STR, and, when the STR is not subject inspection by the City’s Code Enforcement Officer and Fire Chief pursuant to Table 11-210(2), the following disclaimer:

NOTICE

The Operator of these accommodations, [print permittee’s name] has been granted a City of Rockland Short-Term Rentals Permit, Permit No. _____, pursuant to Rockland Code of Ordinances, Ch. 11, Art. II, Sec. 11-210(2). THE GRANTING OF THIS PERMIT DOES NOT CONSTITUTE A FINDING BY THE CITY OF ROCKLAND OR OTHER CODE

ENFORCEMENT AUTHORITY THAT THE PREMISES ARE IN COMPLIANCE WITH APPLICABLE BUILDING, PROPERTY MAINTENANCE, FIRE PREVENTION, LIFE SAFETY, OR OTHER APPLICABLE CODES OR REGULATIONS. No inspection for compliance with such regulations has been conducted, and none is required for Operator to acquire a Short-Term Rental Permit or to conduct that business at these premises so long as the Operator's use of the premises is in conformance with and does not exceed the scope of the Short-Term Rentals Permit;

- (12) The Permittee must assure that each advertisement of the STR includes Permittee's City of Rockland Short-Term Rentals Permit number;
- (13) Renters of short-term rentals may not sublease any portion of the short-term rental to another person, family, or entity; and
- (14) The Permittee shall maintain permit eligibility in conformance with Sec. 11-210(2)(D) continuously during the permit period.
- (15) No food prepared at the STR may be served by or on behalf of the Permittee to guests without current state certification for such food service, when required.
- (16) Beginning March 15, 2018, no new non-owner occupied short term rental applications may be processed. Previously approved non-owner occupied short term rental applicants will have until April 15, 2018 to re-apply for their permit. After April 15, 2018, new applications may be issued in the order in which they are received until the maximum number reaches 45 if that number has not already been reached or exceeded. Each year all short term rental applications must be renewed before March 15. Previously approved non-owner occupied short term rental applications shall be issued first. New applications for non-owner occupied short term rentals received during the course of the year may be issued after March 15, in the order in which they are received until the number reaches 45 or the number that were processed before April 15, 2018, whichever is greater. For the purpose of this section, processed shall mean a completed application has been received, paid for and scheduled for Planning Board review.

Eff: 3/14/18

I. Complaints. Complaints regarding STRs filed with the Police Department shall be brought to the Code Enforcement Officer as soon as practicable. Any person may also file a complaint with the Code Enforcement Officer. The Code Enforcement Officer shall establish and maintain a log of all complaints for each STR received and substantiated by the City. The Code Enforcement Officer shall seek the correction of all substantiated complaints by the Permittee.

Ch. 11, Sec. 11-210

J. Suspension, Revocation, or Denial of Permit. The Permitting Authority may deny any Short-Term Rental Permit upon failure of the applicant to meet all regulations set forth in this section. When, in the judgement of the Code Enforcement Officer, the nature and/or number of complaints warrants further review of the STR, he shall provide a report of the same to the City Council for its consideration. The City Council may condition, suspend, or revoke a Short-Term Rental Permit, following a public hearing, on the basis of the licensee's non-compliance with any applicable law, ordinance, or regulation, or license certification, condition, or criteria.

3. Penalties.

A. Operation Without Permit. Whoever operates a lodging house or, after November 1, 2016, rents or advertises for rent a short-term rental without a license or permit therefor shall be penalized with a fine of five hundred dollars (\$500) for the first offense and additional fines of one thousand dollars (\$1,000) for each offense. Following notice by the Code Enforcement Officer, any person or entity who fails to abate such violation by immediately ceasing such rental or advertising for rent and fails to apply for a license or permit therefor, shall be penalized with a fine in accordance with this section, to be recovered upon complaint before the Maine District Court in Rockland, for the use of the City. Each day following said notice from the Code Enforcement Officer that such violation is allowed to continue shall constitute a separate offense. Eff: 06/13/18

B. Violation of Law, Ordinance, or Regulation. A lodging house licensee or short-term rental permittee who violates any applicable law, ordinance, or regulation other than the violations contained in paragraph A above, and who, following notice by the Code Enforcement Officer fails to abate such violation within the period prescribed shall be penalized with a fine of two hundred and fifty dollars for each such violation, to be recovered upon complaint before the Maine District Court in Rockland, for the use of the City. Each day such violation is allowed to continue shall constitute a separate

violation. Eff: 06/13/18

C. In addition to or instead of such penalty(ies), in the sole the discretion of the City, the City may seek an injunction prohibiting the operation of the lodging house or short-term rental until the offense or violation shall have been abated.

4. Transitional Provisions. Notwithstanding anything to the contrary herein, the provisions in this Ordinance Amendment relating to the permitting of short-term rentals, and penalties for violations of such provisions, shall be implemented as follows:

A. Reservations.

(1) Persons or entities who operated a short-term rental in Rockland at any time between January 1, 2015, and December 31, 2015, which STR is not of a type that may be permitted as a STR-1, STR-2, or STR-3, and who received reservations for short-term rentals at the same premises between January 1, 2016, and May 31, 2016, may honor such reservations and provide such short-term rentals without a permit therefor. No new reservations for short-term rentals may be accepted after the effective date of this ordinance unless such rentals were offered for rent in 2015 prior to December 31, and would fall within the definition of a STR-1, STR-2, or STR-3.

(2) Persons or entities who operated a short-term rental in Rockland at any time between January 1, 2015, and December 31, 2015, which STR, if permitted, would fall within the definition of a STR-1, STR-2, or STR-3, and who receive reservations for short-term rentals at the same premises for dates between January 1, 2016, and prior to October 30, 2016, may honor such reservations and provide such short-term rentals without a permit therefor.

B. Registration. All parties operating Short-Term Rentals prior to November 1, 2016, are required to register each such Short-Term Rental with the Code Office, utilizing a form therefor provided by the Code Office and providing the requested information, including address, operator, level of occupancy, and emergency contact information. So long as a short-term rental complies with either provision A(1) or A(2) above and registers with the City, an STR permit shall not be required from the City until after October 31, 2016.

C. Permitting. Notwithstanding the foregoing registration requirement, the Code Office shall make applications to operate STR-1, STR-2, and STR-3 accommodations available as of the effective date of this ordinance.

Eff. Date: 05/11/16

Sec. 11-211 Motion Picture Houses; Theatres

No person shall operate a motion picture house or theater without first obtaining a license therefor. No such license shall be granted except on certification of the Police Chief, Fire Chief, Building Inspector, and Plumbing Inspector. The payment of a motion picture house or theater license fee shall be considered total payment for all licenses and permits required of the motion picture house or theater under this Section. Any other license and any permit required by the City under this Section must be applied for, but if granted shall be issued by the City Clerk without charge and without requiring any bond therefor.

State Law Reference: 8 M.R.S. §§ 651-658.

Ch. 11, Sec. 11-211

Sec. 11-212 Plumbers

No person, firm or corporation shall engage in or work at the business of plumbing in the City, without complying with State laws applicable thereto and obtaining a State license.

State Law Reference: 32 M.R.S. §§ 3301-3304, 3501-3507

Sec. 11-213 Public Automobiles (Commercial Type)

No person shall engage in the trade or business of operating any vehicle for the purpose of transporting or moving any property or goods, for hire or reward, whether by contract or otherwise, without first obtaining a license for each vehicle so operated. No such license shall be granted except upon certification of the Police Chief. In the case of a refuse or garbage collector, no license shall be granted except upon certification of the Police Chief, and such license shall be conditioned upon compliance with Section 14-113(4) of Chapter 14 of this Code.

All licenses for refuse and garbage collectors shall expire annually on April 1.

Subsequent to April 1, 1979 all refuse and garbage collectors' fees shall be one hundred dollars (\$100) annually.

Sec. 11-214 Roller-Skating Rinks

Every person who keeps a roller-skating rink or room shall obtain a license therefor. No such license shall be issued without the certification of the Police Chief, the Fire Chief the Building Inspector, and the Plumbing Inspector.

State Law Reference: 8 M.R.S. § 601.

Sec. 11-215 Second-Hand Merchants; Pawnbrokers

1. License Required. No person shall engage in the business or occupation of dealing in second-hand or used personal property, or in the business of a pawnbroker (collectively, a “second-hand dealer” as hereinafter defined), without first obtaining a license therefor.

2. Definitions. The following words and phrases shall have the assigned meaning(s) for the purposes of this section; words and phrases not herein or in applicable state law shall have their common and ordinary meanings.

A. Pawnbroker. “Pawnbroker” means a person who engages in pawn transactions.

B. Pawn transaction. “Pawn Transaction” means the lending of money on the security of pledged tangible personal property that is delivered to and/or held by a pawnbroker, including the purchase of tangible personal property on the condition that it may be repurchased by the seller for a fixed price within a fixed period of time.

C. Second-Hand Dealer. “Second-Hand Dealer” means and includes any person, partnership, firm, or corporation whose business includes buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning, or auctioning secondhand tangible personal property, but does not mean or include a coin dealer, participants at gun shows or events as defined in of Title 27, Code of Federal Regulations, Section 478.100, as amended who are not gun show traders, any person who performs the services of an auctioneer for a fee or salary.

D. Tangible personal property. “Tangible personal property” means personal property that may be seen, weighed, measured, felt, touched or in any other manner perceived by the senses, including computer software that is not a custom computer software program, and motor vehicles. “Tangible personal property” does not include checks, draughts, or similar financial instruments; rights and credits, insurance policies, bills of exchange, stocks and bonds and similar evidences of indebtedness or ownership; or real estate.

3. Application. Application for such license shall be made upon a form provided by the City Clerk which, among other information, shall elicit the applicant’s name, business and home address, phone numbers, e-mail address, and date of birth. Where the applicant is a business entity, the same information shall be required for each principal of said entity. The fee for such application shall be established by Order of the City Council, is due at the time of application, and may not be refunded if denied. If granted, such license shall expire one (1) year from the date of issuance.

4. Review. No license shall be granted by the City Clerk under this Section until and unless the Police Chief and Fire Chief shall have investigated the applicant in accordance with the requirements of State law. The Police Chief shall determine whether or not the applicant or principals of the applicant have any criminal record, and may condition or disapprove the grant of a license to such applicant on the basis of such investigation and the extent to which such prior criminal conduct included any theft, robbery, or receipt of stolen goods; endangered public safety; and/or involved dishonesty or other disregard for the truth.

5. Records of Sales. Pursuant to 30-A M.R.S. § 3971, every second-hand dealer, upon acquisition of any second-hand or used article either by purchase or exchange, shall complete a record of the transaction approved by the Police Chief, stating the full name and address of the seller, the month, date, and time the transaction took place, and a full and detailed description of each article(s) purchased or exchanged, and the price(s) paid therefor, and shall cause such record to be signed by the seller in person. Before recording this information, the secondhand dealer shall require reasonable written proof of the seller's identification in the form of a motor vehicle operator's license, military identification, adult liquor identification or similar item. The relevant information in the record shall be electronically or otherwise reported to the Police Chief or his/her designee within forty-eight (48) hours thereafter, unless earlier electronically reported to a duly authorized police officer upon request. The second-hand dealer shall retain the record in his or her possession for a period of not less than two (2) years, during which time the record may be inspected at any and all reasonable times by any police officer.

Ch. 11, Sec. 11-212

6. Hold Period. No second-hand or used article acquired by a second-hand dealer may be re-sold or otherwise disposed of, or changed or altered in its appearance or otherwise, within fifteen (15) days after its purchase, except with the prior, written consent of the Police Chief or his/her designee; provided, however, that this fifteen (15) day hold period shall not apply to bullion oriented gold, silver, platinum or palladium coins or bars. The Police Chief may impose reasonable conditions upon granting such consent.

7. Minors. No second-hand dealer may directly or indirectly purchase or receive by way of barter or exchange any goods or articles from any person such dealer knows or has reason to believe to be under the age of 18, unless the minor is accompanied by his or her parent or guardian.

8. Compliance With State Law. In addition to the requirements set forth in this Section, second-hand dealers and pawnbrokers shall fully comply with the requirements set forth in Title 30-A, Maine Revised Statutes, Section 3971, as may be amended.

State Law Reference: 30-A M.R.S. §§ 3901, 3961-3965.

Eff: 12/10/14

Sec. 11-216 Shooting Galleries

No person shall conduct, maintain or operate any shooting gallery which is open to the public without first obtaining a license. No such license shall be granted except upon certification of the Police Chief, the Fire Chief, the Building Inspector, and the Plumbing Inspector. Every person so licensed shall, at the time he receives his license, give bond to the City in the sum of five hundred dollars (\$500), conditioned as required by the Revised Statutes of Maine.

State Law Reference: 8 M.R.S. § 1 et seq.

Sec. 11-217 Victualers

No person shall engage in the business of selling at retail any food commonly consumed by persons without first obtaining a license therefor. No such license shall be granted except upon certification of the Building Inspector, Plumbing Inspector, Police Chief, and the Fire Chief. A licensee shall furnish surety bond in amount and form as required by the Revised Statutes of Maine. Every victualer has all rights and privileges and is subject to all the duties and obligations of an innkeeper, except furnishing lodging for travelers, as provided by the Revised Statutes of Maine.

State Law Reference: 30-A M.R.S. § 3811 et seq.

Sec. 11-218 Wharf, Fish Weir or Trap; Build or Extend

No person shall commence or proceed to build or extend any wharf, fish weir or trap in tide waters within the limits of the City without first obtaining a license therefor after public hearing as required by the Revised Statutes of Maine, as amended.

State Law Reference: 38 M.R.S. §§ 480 et seq., 1021-1027.

Sec. 11-219 Pin Ball Machines

The provisions of the State law relative to licensing pin ball machines are hereby incorporated into this section.

State Law Reference: 8 M.R.S. §§ 441-450.

Sec. 11-220 Going Out of Business Sales

The provisions of the State law relative to going out of business sales are hereby incorporated into this section.

State Law Reference: 30-A M.R.S. §§ 3781-3784.

Sec. 11-221 Cable Television

A. General Provisions. The Municipal Officers may contract on such terms and conditions Ch. 11, Sec. 11-216 of the municipality for the placing and maintenance of community antennae television ~~systems, other community~~ communications systems, and appurtenances or parts thereof, along public ways and including contracts with operators of such systems which receive the services of television transmission offered by any public utilities using public ways for such transmission. No public utility shall be required to contract with the Municipal Officers pursuant to this paragraph. Systems located in accordance with such ordinances and contracts are not defects in public ways.

B. Procedures for Public Comment Before Contracting for Cable Service. Before the Municipal Officers vote to grant or renew any cable television franchise, the following steps must be taken:

1. The Council shall, by order, institute a period of public comment to determine the needs and interest of the people of Rockland with respect to cable television service, said period to precede the vote to authorize issuing requests for proposals from cable television providers by at least ninety (90) days. During this time, the public shall be afforded an opportunity to comment about the quality of the present service provided, and to proffer suggestions on how new terms in a franchise agreement might improve that service. The Council may also authorize a survey of cable subscribers.

2. Franchise applications and related documents shall be filed with the City at least ninety (90) days before the vote on the grant of a franchise or renewal, and such documents shall be open to public inspection at City Hall during reasonable hours.

3. At least one week before the Council votes in first reading on the granting or renewal of a cable franchise, there shall be a public hearing devoted exclusively to the discussion of the proposed terms of the franchise agreement or agreements.

This hearing shall be in addition to the regular public hearing at the time of second reading on the vote to grant the franchise.

4. The Council may assess reasonable fees from applicants for a franchise agreement or renewal to defray the costs of public notice, advertising and other expenses incurred by the municipality in acting upon applications.

C. Required Terms In Any Franchise Agreement. Any Franchise Agreement must contain the following provisions:

1. The area to be served;
2. A line extension policy;
3. A provision for renewal, the terms of which may not exceed 15 years;
4. Procedures by which the cable company shall investigate and resolve complaints;
5. Any other terms and conditions that are in the best interests of the people of the City of Rockland.

D. Municipal Regulation of Cable Television Providers.

The Rockland City Council shall be the final municipal regulating authority with respect to Basic Service Tier Rates and charges for related equipment, installation and services. The Council shall do so in accordance with FCC Rate Regulations, giving reasonable opportunity for consideration of the views of interested parties. For the purposes of this Section, "reasonable opportunity for consideration of the views of interested parties" shall mean a public hearing before the City Council, advertised at least 7 days in advance, in which the cable provider and the public have the opportunity to make comments before any vote of the Council regulating Basic Tier Rates and other charges is taken. Eff: 1/10/94

Sec. 11-222 Medical Marijuana Production Facilities

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

a. Marijuana: As defined in State Administrative Rules (10-144 CMR Chapter 122), § 1.17, "marijuana."

b. Medical marijuana: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

c. Medical marijuana caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

d. Medical marijuana land uses: For the purposes of licensing under this section, land uses, defined below, that covers the full range of options for lawful cultivating, processing, storing and distributing medical marijuana.

i. Medical marijuana production facility: A facility used for cultivation, processing, storage, and/or distribution of medical marijuana at a location which is not the medical marijuana registered primary caregiver's primary residence, approved in accordance and in conformance with Section 19-313., the Maine Medical Use of Marijuana Act, and the Maine Medical Use of Marijuana State Administrative Rules. Marijuana Extraction incorporating the use of butane is prohibited.

A medical marijuana production facility shall be considered a commercial use.

2. **State authorization:** Before the City Council approves a license under this s

Ch. 11, Sec. 11-221

 demonstrate their authorization to cultivate, process and store medical marijuana pursuant to Marijuana Program is current.

3. **License Required.** No person, firm, corporation or other entity shall operate a medical marijuana production facility unless a license shall have first been obtained from the municipality, authorized by at least a majority of the City Council.

a. Applications. For all medical marijuana production facility licenses, application shall be made in writing to the City Council and shall, as a minimum, state the name of the applicant; his/her/their residence address; the name of the business to be conducted; his/her/their business address; the nature of his/her/their 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; such certifications as required by Sec. 11-106; and any additional information as may be needed by the City Council in determining whether to issue such license.

b. Compliance With Other Ordinances. No license shall be issued for any thing, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.

c. Fee. The fee for said license shall be set by Order of the City Council.

d. Public Hearing. The City Council shall, prior to granting a license and after reasonable notice to the municipality and the applicants, hold a public hearing, at which the testimony of the applicant and that of any interested members of the public shall be taken.

e. Decision to Grant. The City Council shall grant a license unless they find that issuance of the license will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles or bylaws.

f. Duration of License. A license shall be valid for one (1) year from the date of issuance.

4. Planning Board conditional use approval: Before applying for a license, an applicant must obtain a conditional use approval by the Planning Board in accordance with Section 19-313.

5. Licensing limitations: The following limitations apply to licenses granted under this section:

Each medical marijuana production facility shall be limited to one (1) state licensed medical marijuana caregiver.

Eff: 01/10/18

6. Inspection of Licensed Premises. During all business hours and other times of apparent activity, without prior notification, all licensed premises shall be subject to inspection by the Chief of Police or the Code Enforcement Officer, or the authorized representative of either of them, for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state or local law or regulation. Such inspection may include, but need not be limited to, the inspection of books, records and inventory.

Eff: 04/11/18

ARTICLE III Permits; When Required

Sec. 11-301 Building

1. Permit. Applications for the permit(s) required by Chapter 4 of the Code for building, enlarging, demolishing or altering a building shall be submitted to, and processed by the Code Enforcement Officer, who shall issue the same only if satisfied that the proposal complies with all applicable State laws and City ordinances, including but not limited to, the Maine Uniform Building and Energy Code ("MUBEC") and the City of Rockland Fire Prevention and Life Safety Codes and Zoning Ordinances. The Code Enforcement Officer shall collect and account for the required fee or fees, and promptly furnish a copy of all such permits to the City Assessor. No permit for the demolition of any historic building or structure listed on, or situated within a district listed on, the U.S. Department of the Interior's National Register of Historic Places shall be issued by the Code Enforcement Officer without prior approval by vote of the Rockland City Council. Eff: 8/5/94; amended 10/09/13.

Sec. 11-301.1 Moving Buildings, Cutting Wires, Removing Poles

The following provisions apply to permits for moving buildings, cutting wires and removing poles.

1. Permit Required. No person may move a building upon a public way, or cut, disconnect or remove the wires or poles of a telegraph, telephone or electric utility for any purpose, without a permit from the City. ~~Removal of poles, cutting and disconnection of wires, and moving of buildings on or over a public way requires a permit from the City.~~ Ch. 11, Sec. 11-301
requirement with respect to wires and poles does not apply to the utility which owns and/or maintains the wires or poles.

2. Hearings and Notices. For operations requiring permits from the City Council, applications must be in writing. Upon receipt of the application, the City Council shall fix a time and place for a hearing and give reasonable notice of the hearing, including actual notice to any utility whose service may be affected. Upon hearing, the City Council may grant a permit upon such terms and conditions and make such apportionment of expenses as it determines best, including, but not limited to sufficient bond and/or proof of liability coverage for the operation.

3. Damages from Moving of a Building. If a way or bridge is damaged by the moving of a building, the City Council shall determine what proportion of the damage the owner of the building shall pay, and this amount may be recovered by the City in a civil action against the owner of the building.

4. Civil Penalty. Whoever disconnects or removes wires or poles or moves a building on or over a public way without first obtaining a required permit therefore is subject to a fine of not less than \$100.00 nor more than \$2,500.00, payable to

the City, in addition to any penalties set forth in 35-A M.R.S. § 2516. Eff: 6/12/91
State Law Reference: 35-A M.R.S., § 2516.

Sec. 11-302 Explosives (Not Flammable Liquids)

The permit required by Chapter 7 of this Code, for any person to have, keep, use, store or transport any explosives shall be applied for to and issued in writing by the Fire Chief, who shall issue same only if satisfied of compliance with all applicable State laws and City ordinances, particularly but not limited to Chapter 7 of this Code. Such permit, however, shall not be valid until and unless countersigned by the City Clerk who shall collect and account for the required fee.

Sec. 11-303 Flammable Liquids

The permit required by Chapter 7 of this Code for storage or handling of flammable liquids shall be applied for to and issued in writing by the Fire Chief, who shall issue same only if satisfied of compliance with all applicable State laws and City ordinances, particularly but not limited to Chapter 7 of this Code. Such permit, however, shall not be valid unless and until countersigned by the City Clerk who shall collect and account for the required fee.

Sec. 11-304 Signs; Marquees

1. Permit Required. No person shall hereafter erect, place or install any sign, or replacement of an existing sign, or any marquee or replacement thereof, overhanging within the limits of any sidewalk or street, without first obtaining a permit. This permit shall not allow any part of the sign to be nearer than eight (8) feet of the surface of the sidewalk or street. This section does not apply to sign placed flat against any building, which do not overhang by more than six (6) inches within the limits of any sidewalk or street, nor to signs erected by the City.

2. Inspection Required. No such permit shall be issued without the written approval of the Building Inspector, who shall satisfy himself as to the safety of the proposed sign and fastenings thereof.

3. Liability. The application form for such permit shall contain an agreement over the signature of the applicant to the effect that the applicant will indemnify and held harmless the City of Rockland against all liability, judgements, costs and expenses which may in any manner accrue against the City because of any negligence or alleged negligence in connection with the installation, ownership, maintenance, existence or use of such sign or marquee.

Cross Reference: Chapter 19.

Sec. 11-305 Street Opening

No person shall dig or make an excavation in any public street without first obtaining a permit therefor as required by the Revised Statutes of Maine, and Chapter 15, Article IV of the Rockland Code.

Sec. 11-306 Curb Cuts

No person shall cut a curb without a permit from the City Clerk, with approval of the Director of Public Works countersigned thereon. Such curb cut shall be made at the expense of the applicant, and the work shall be performed to the satisfaction of the Director of Public Works. This section shall not apply to public work performed by or under the direction of the Director of Public Works.

Sec. 11-307 Fundraising Event Permit

Pursuant to Chapter 17, Article IV, Section 17-405, no person may conduct a toll booth or other Ch. 11, Sec. 11-301.1 City of Rockland that includes the solicitation, from or adjacent to any public way, of drivers to exit such way to donate or otherwise respond to such solicitation without first obtaining from the City Clerk a permit therefor.

The permit to be issued under this section shall authorize only the permit holder to conduct such fundraising event, is not transferable, and shall be valid only on the day(s) and at the time(s) set forth in the permit.

Upon application, the City Clerk shall grant, grant with conditions, or deny a fundraising event permit as follows:

1. Applicant shall have provided current and accurate identifying and contact information of the event organizer, sponsor, and responsible person(s) in charge of the event;
2. Applicant shall have clearly identified the location for the event, and shall have demonstrated that applicant has the permission of the property's owner or lessor, as applicable, to conduct the event;
3. Applicant shall have provided proof of insurance protecting participants, donors, and third parties;
4. Applicant shall have obtained the review and approval, or approval with conditions, of the Police Chief, including

review and approval of a written safety plan for properly directing traffic onto the site, demonstrating the site provides adequate and safe entrance(s) and exit(s), sight lines, and on-site circulation for both vehicles and pedestrians;

5. Applicant shall have scheduled and prepaid the estimated cost of police or other public safety coverage, if such coverage is required by the Police Chief as a condition of the permit;

Upon applicant's satisfaction of the requirements set forth in this section, the City Clerk shall issue to such applicant a permit that, without limitation, identifies the event organizer, sponsor, and responsible persons; states the date(s) and time(s) for which the permit is limited; and states that no person may solicit or stop vehicles within any City street. Such permit shall expire at the end date and time set forth in the permit. The Rockland Police Department retains the authority to stop the event and cease its operation if the event or its participants create a safety hazard for the participants or the motoring public. Eff: 09/10/12.

ARTICLE IV License and Permit Fees Required

Sec. 11-401 License Fee Schedule

The fees for licenses and permits shall be sent by Order of the City Council. Eff: 07/13/10

Sec. 11-402 Land Use Fee Schedule

Land use fees shall be set by order of the City Council. Eff: 01/13/10

ARTICLE V Taxicabs

Sec. 11-501 Definitions

Taxicab: Every motor vehicle regularly used or to be regularly used for the conveyance of persons for hire from place to place within the City and not operated on a fixed route, shall be deemed a taxicab within the meaning of this Article except a motor vehicle subject to regulation by the Public Utilities Commission of the State of Maine and motor vehicles collecting fares by tickets or coupons for interstate transportation.

Person: The term person as used herein shall mean and include every natural person and every firm, association, corporation and business organization of any kind, character or description.

State Law Reference: 29-A M.R.S. §552; 30-A M.R.S. §3009.

Sec. 11-502 Unlicensed Taxicabs Prohibited

It shall be unlawful for any person to operate or cause to be operated in the City of Rockland any taxicab without having first obtained a license as hereinafter provided.

Provided nevertheless that it shall not be deemed to be the operation of a taxicab or the causing of a taxicab to be operated within the meaning of this Article if,

1. a person, licensed to operate a taxicab in any city which grants the same rights as are granted herein to taxicabs licensed in the City of Rockland shall, upon previous call therefor, take a passenger or passengers from Rockland to the city in which taxicab is licensed, or

2. a person, licensed to operate a taxicab in any city which grants the same rights as are granted Ch. 11, Sec. 11-307 taxicabs licensed in the City of Rockland, shall, upon delivery in Rockland of a bona fide passenger from the city where the taxicab is licensed, take a passenger or passengers from the point of delivery in Rockland to the city where his taxicab is licensed without parking, standing or cruising in Rockland to obtain the passenger or passengers.

Sec. 11-503 License Required; Application

Applications for a taxi license shall be made on forms provided by the City, shall be submitted for approval to the Municipal Officers, and shall, among other things, set forth:

1. The name, address and telephone number of the applicant, and any other person or entity having an interest in the business;
2. Experience of the applicant in the transportation of passengers;
3. The number of taxicabs actually owned and the number of taxicabs actually operated in the City of

Rockland by such owner on the date of application, if any;

4. The number of taxicabs for which a license is desired;

5. The intended make, type, year of manufacture, vehicle identification number and passenger seating capacity of each taxicab for which application for a license is made;

6. Certificate of insurance covering the business entity and all vehicles to be licensed with a minimum of the following coverage: Bodily Injury Liability Limit at levels consistent with State requirements for any number of persons in the same accident; Property Damage Liability at levels consistent with State requirements. All renewal applications shall also be accompanied by the certificate of insurance as well. Failure to keep the required insurance in continuous effect during the license period shall be cause for suspension or revocation of the license.

7. A statement that the applicant, or any other person or entity having an interest in the business, has not been convicted, been on probation or parole, or served time on a sentence for any of the following:

Criminal Offenses: criminal homicide; rape; aggravated assault; child molestation; sale or distribution of narcotic drugs, barbituric acid derivatives, and/or central nervous system stimulants; criminal solicitation or criminal attempt to commit any of the above; or any felony in the commission of which a motor vehicle was used, during a period of five (5) years prior to the date of application;

Conviction, probation, parole of serving a sentence for any of the foregoing offenses, for the time periods listed, shall be grounds for denial of a license.

8. A list of all current taxicab drivers.

9. Signature of applicant under oath that the information contained in the application is true and correct to the best of the applicant's knowledge.

10. Such other information as the Municipal Officers in their discretion cause to be inserted in the application.

Sec. 11-504 Public Hearing and Approval of Taxi License

A. No such license shall be issued until the Municipal Officers have held a public hearing thereon and approved the issuance thereof.

B. No such license shall be granted under this Article unless and until the Police Chief shall certify, by his signature on the application, that the applicant has not been convicted of any of the offenses listed in Sec. 11-503 (7) above, and that the vehicles to be used as taxicabs are safe and in good working order, to be determined by a physical inspection of each taxicab pursuant to Sec. 11-508.

C. The burden of proof in establishing compliance with the standards set forth in this section shall be upon the applicant.

D. Taxi licenses issued under the provisions of this Article shall be issued for a period of one (1) year from the date of issuance. All renewals of such license shall follow the procedures set forth in this Article.

E. No taxicab license provided for in this Article shall be sold, assigned or transferred without the approval of the City Council, in the same manner as application for new or renewal of a license.

F. Once all of the conditions of this Article have been met, the City Clerk shall issue to the applicant a license to operate a taxi company in the City, and shall collect a fee of fifty dollars (\$50) annually for each taxicab.

G. Written record of any denial of a license shall be forwarded to any applicant so denied, and shall be filed in the City Clerk's office.

Sec. 11-505 Suspension and Revocation of License

A license issued under the provisions of this Article may be suspended or revoked by the Mayor or the City Council, Ch. 11, Sec. 11-503 City for any of the following reasons upon written notification of such violation from the Police Chief to the City Clerk:

1. The owner or any person or entity having an interest in the business, is convicted of one of the disqualifying offenses listed in Sec. 11-503 (7) above;

2. Violation of any of the provisions of this Article;

3. Discontinues operation of the business for more than sixty (60) days;

4. Has violated any ordinance of the City, laws of the State of Maine, or laws of the United States, the violation of which reflects unfavorably on the fitness of the holder to offer public transportation.

Prior to suspension or revocation, the holder of a license shall be given written notification of the pending action to be taken, a brief statement of the reason, and the time and place of hearing, ten (10) days prior to such hearing. At the hearing, any such holder may present evidence and witnesses in support of the holder's position. Any such holder whose license is so revoked shall be ineligible to apply for reinstatement of such license for a period of one (1) year from the date

of such revocation, except that suspension and revocation for conviction of any of the disqualifying offenses listed in Sec. 11-503(7) shall be for the periods of disqualification listed in those paragraphs. Written notice of such revocation shall be forwarded to such holder and shall be filed in the City Clerk's Office.

Application for re-instatement of a license revoked under the provisions of this section shall be in the same manner as application for new or renewal of a license.

Sec. 11-506 Notification After Sale of Taxicab

Whenever a licensee sells or otherwise disposes of a taxicab or taxicabs licensed under this Article, he shall so notify the City Clerk in writing within thirty (30) days of such sale or disposition. Prior to any new taxicab being placed into service, the licensee shall deliver it to the Police Chief for inspection pursuant to Sec. 11-508. A copy of the inspection report shall be filed with the City Clerk.

Sec. 11-507 Taxicab Markings

Every licensee shall have the name of the license holder and the word "Taxi" plainly printed on the main panel of each rear door of, or other conspicuous place on every taxicab operated by him, in letters not less than two (2) inches in height.

Sec. 11-508 Inspection of Taxicabs

Before a license is issued to the applicant, the applicant shall deliver such taxicab or taxicabs to the Chief of Police for inspection, and the Chief of Police or some person designated by him, shall inspect such taxicab or taxicabs and determine whether or not they are safe and suitable for taxicab service. In determining whether a taxicab is safe and suitable, the Chief shall consider the following factors: 1) whether the vehicle has a State inspection sticker; 2) whether the vehicle's doors are in good working order; 3) whether the vehicle is equipped with a taximeter which has been tested, approved and sealed by the State Sealer of Weights and Measures and which is placed so that the fare and mileage figures are in plain view of all passengers; 4) whether the vehicle is conspicuously marked as required in Section 11-507; 5) whether the vehicle is reasonably clean and in reasonably good repair inside and out; and 6) whether the vehicle is in compliance with the laws of Maine relating to passenger vehicles and the rules and regulations of the Commissioner of the Department of Transportation. No new taxicab added during the term of the license shall be placed into service until such taxicab is certified by the Police Chief as safe and suitable, and no such taxicab shall be placed into service until payment by the licensee of the appropriate license fee. A copy of the inspection report shall be filed with the City Clerk.

Every licensee shall present his taxicab or taxicabs to the Chief of Police, or designee, for inspection whenever he may require it. Any taxicab which is deemed, after such inspection, to be unsafe or unsuitable for taxicab service may be immediately ordered out of service by the Chief of Police until it shall be made to be safe or suitable for taxicab service.

Sec. 11-509 Taxicab Drivers Application and License Fee

1. Taxicab Driver's Application and License Fee. Applications for licenses to drive taxicabs shall be made on forms furnished by the City, and shall set forth under oath the following information:

- a. the full name, address, and age of the applicant;
- b. a complete record of the applicant with respect to any disqualifying criminal conviction as listed in subsection 3(b) below or a statement that no such conviction exists;
- c. a complete record of convictions of the applicant for reckless driving, driving to endanger, operating or attempting to operate under the influence during the three (3) years preceding the application, or a statement that no such conviction(s) exist;
- d. a statement of whether any driver's license held by the applicant is presently revoked, or suspended or has been revoked or suspended during the three (3) years preceding the application and the reason for such revocation(s) or suspension(s);
- e. the name and address of the taxi company for which the driver will be employed, or a statement that the driver will be an independent contractor;
- f. any other information which the municipal officers may require.

The application shall also contain an appropriate form of statement over the signature of the applicant giving all persons and governmental agencies having information relevant to the above items permission to release the same to the City Clerk or Chief of Police, or designee.

Such taxicab driver's licenses shall be issued by the City Clerk upon approval of the Chief of Police, or designee,

Ch. 11, Sec. 11-505

shall be numbered in the order granted, and, unless sooner suspended or revoked, shall continue in force for one (1) year. The fee for such license shall be set by Order of the City Council and shall be payable upon application. The license fee shall be refunded if the license is denied, however, the additional charge for the required background check shall be non-refundable. Eff: 07/13/10

No taxicab driver's license shall be granted to any person unless he shall present a valid driver's license issued to him by the State of Maine and evidence that he is eighteen (18) years of age or more. Whenever the office of the City Clerk is closed, the Police Chief, or designee, may issue a temporary license to anyone who qualifies hereunder, but such license shall be valid only until the City Clerk's office shall again be open for regular conduct of business.

2. Standards for Denial, Revocation, or Suspension of Taxicab Driver's License.

A taxicab driver's license shall be denied or revoked by the Police Chief, or designee, for any of the following reasons:

- a. The applicant has not attained the age of eighteen (18) years;
- b. The applicant or licensee has been convicted, been on probation or parole, or served time on a sentence during a period of five (5) years previous to the date of application or is convicted after a license has been issued, for any of the following criminal offenses: criminal homicide; rape; aggravated assault; child molestation; sale or distribution of narcotic drugs, barbituric acid derivatives, and/or central nervous system stimulants; criminal solicitation or criminal attempt to commit any of the above; or any felony in the commission of which a motor vehicle was used;
- c. The applicant or licensee has been convicted or is convicted for any of the following: reckless driving; driving to endanger; operating or attempting to operate under the influence; leaving the scene of an accident (with personal injury and/or property damage); taking a motor vehicle without consent; operating after suspension or revocation; loaning or altering license or permit; passing a stopped school bus; speeding in excess of 25 mile per hour over the posted limit; or eluding an officer; during the three (3) years preceding the application, or after a license is issued;
- d. The applicant fails to present a valid driver's license issued to him or her by the State of Maine.

A taxicab driver's license shall be revoked whenever the holder's State of Maine driver's license shall be suspended for conviction on any of the offenses listed in paragraph (c) above. Such licensee shall be ineligible for re-issuance of a taxi driver license for a period of three years from the date of such conviction.

The City Clerk shall make and keep a written record of every decision to deny an application for a taxicab driver's license or to revoke or suspend any such license in the manner required by Title 1 M.R.S. § 401 et seq.

Sec. 11-510 Driver's Identification

The City Clerk shall deliver to each licensed driver an identification card setting forth the number and term of the license, and the name, address, and brief physical description of the taxicab driver. This card shall at all times be displayed prominently in the cab driven by the taxicab driver along with a clear copy of the driver's State of Maine Driver's License.

Sec. 11-511 Rates of Fare Posted

All rates of fare shall be posted conspicuously within the taxicab and in the owner's office and made available upon request. The posted rates of fare shall include a statement of the rate to be charged for waiting time, additional passengers and any other extra charges.

Sec. 11-512 Penalty

Whoever violates a provision of this Article by operating a taxicab without a license shall be punished by a fine of Five Hundred Dollars (\$500) for the first offense and One Thousand Dollars (\$1000) for each subsequent offense to be recovered on complaint before the Maine Sixth District Court, to the use of the City. Each instance of operation of a taxicab without a license shall be considered a separate offense.

In the event of operation of a taxicab without a license, the City shall be authorized to seek an injunction from the Maine Sixth District Court to prohibit further operation of taxicabs without a license by a person who has unlawfully operated taxicabs in the City without a license.

Ch. 11, Sec. 11-510

Sec. 11-513 Separability

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

ARTICLE VI Licensing and Control of Rifle Ranges

Sec. 11-601 Establishment; Permit

Rifle ranges for target shooting may be established in any zone where such a use is permitted, provided that the City Council has granted a special license under the following regulations and conditions.

Sec. 11-602 Application

Application shall be made to the City Clerk upon a prescribed form stating the name of the organization, the names of its officers, the location of the proposed range and such other information as the Council may require. The application shall be accompanied by the fee required under Section 11-401.

Sec. 11-603 Applications to be Investigated

All such applications shall be referred to the City Manager, the Chief of the Fire Department, and the Chief of Police for investigation and report to the City Council.

Sec. 11-604 Public Hearing

The Council shall set a date for a public hearing and shall give notice thereof in the local paper and in any such other manner as it considers desirable.

Sec. 11-605 Council Decision

After such public hearing the Council may in its discretion issue or refuse to issue such a license.

Sec. 11-606 Manner of Operation

Any rifle range for which a permit has been issued shall be operated in a safe manner. Compliance with all applicable regulations of the National Rifle Association shall constitute prima facie evidence of safe operation.

Sec. 11-607 Expenses to be Borne by Applicant

All expense in connection with the publication of the public notice shall be borne by the applicant.

Sec. 11-608 Issuance by Council

The license issued by the Council shall expire after one (1) year and may be renewed by submitting a new application and license fee. The Council shall issue a license unless there are reasonable grounds to believe that the rifle range will not be operated safely or in compliance with applicable Zoning Ordinance and Building Code provisions. In making this determination, the Council may consider evidence bearing on the abilities and on the good moral character of the applicant, including but not limited to, the degree of experience and training of the applicant in the use of weapons, prior conviction(s) or arrest(s) involving weapons, prior revocation or suspension of a similar license issued in Rockland or any other community. A license, once issued, may be revoked by the City Council for cause after notice and hearing.

Sec. 11-609 Signed by Council

All such licenses must be signed by every member of the Council and no license shall be issued without such signatures.

Sec. 11-610 Use Restrictions

No licensed outdoor rifle range shall be used for shooting before 8:00 A.M., Standard or Daylight time whichever prevails, or after one-half hour after sunset, or on Sundays except from 2:00 to 5:00 P.M., and the Council may at any time further restrict the use of such range on any other days or hours.

Sec. 11-611 Restrictions of Minors

Shooting shall never be allowed by minors except when an adult approved by the organization is

Ch. 11, Sec. 11-513

Sec. 11-612 Exception to This Article

Section 12-601, Chapter 12, shall not apply to licenses under this Article.

ARTICLE VII Oil Burner and Heating Equipment

REPEALED 06/09/04

ARTICLE VIII Special Amusement Ordinance

Sec. 11-801 Title

This Article shall be known and may be cited as the Special Amusement Ordinance of the City of Rockland, Maine.

Sec. 11-802 Purpose

The purpose of this Article is to control the issuance of special permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor as required by 28-A M.R.S. § 1054 and any other establishment conducting business in the City of Rockland. Eff: 07/13/10; Amended 11/12/10

Sec. 11-803 Definitions

1. Entertainment. For the purpose of this Article, "entertainment" shall include any amusement, performance, exhibition or diversion for patrons or customers of the premises whether provided by professional entertainers or by full-time or part-time employees of the premises whose incidental duties include activities with an entertainment value.

2. Licensee. For purposes of this Article, "licensee" shall include the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, and any other establishment conducting business in the City of Rockland, or any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent, or employee of any such establishment. Eff: 07/13/10; Amended 11/12/10

Sec. 11-804 Permit Required

1. Entertainment Requiring Permit. No licensee 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 are situated a special amusement permit signed by at least a majority of the Municipal Officers. Eff: 07/13/10

2. Applications. For all special amusement permits shall be made in writing to the Municipal Officers and shall state the name of the applicant; his residence address; the name of the business to be conducted; his business address; the nature of his business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be needed by the Municipal Officers in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.

3. Compliance With Other Ordinances. No permit shall be issued for any thing, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.

4. Fee. The fee for a special amusement permit shall be set by Order of the City Council. Eff: 07/13/10

5. Public Hearing. The Municipal Officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicants, hold a public hearing within fifteen (15) days of the date the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

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

7. Duration of Permit. A permit shall be valid only for the license year of the applicant's existing liquor license.

Ch. 11, Sec. 11-611

Sec. 11-805 Suspension or Revocation of a Permit

The Municipal Officers may suspend or revoke a special amusement permit which was issued under this Article if the permit holder is in violation of any provision of this Article or has knowingly made an incorrect statement of a material

nature on the application for a permit. Determination of the severity of the violation and whether a suspension or revocation is warranted shall be made by the Municipal Officers after a public hearing preceded by notice to interested parties.

Sec. 11-806 Rules and Regulations

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

Such rules and regulations shall be additional to and consistent with all sections of this Article.

Sec. 11-807 Permit and Appeal Procedures

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

Sec. 11-808 Admission

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.

Sec. 11-809 Live Entertainment Regulation

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

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

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

For the purpose of this section, display or displaying and expose or exposing shall mean unclothed or uncostumed or not covered by a fully opaque material.

Sec. 11-810 Penalty

Whoever violates any of the provisions of this Article shall be punished by a fine of not more than five hundred dollars (\$500) for each offense. Each day that a violation occurs shall be considered a separate offense.

Sec. 11-811 Separability

The invalidity of any provision of this Article shall not invalidate any other part.

Sec. 11-812 Effective Date

The effective date of this Article shall be July 1, 1978.

ARTICLE IX Nudity in Licensed Businesses

Ch. 11, Sec. 11-805

Sec. 11-901 Purpose

The purpose of this Article is to regulate nudity as a form of commercial exploitation and to regulate dress as a form of conduct and not to impede the free exchange and expression of ideas. The conduct regulated is that which the community and City Council in public meetings have clearly found to be offensive to the general welfare, public safety, order and morals of the City of Rockland and its citizens.

Sec. 11-902 Definitions

1. Theater. As used in this Article, "theater" means (a) a building, playhouse, hall, or other place having a permanent stage upon which movable scenery and theatrical or vaudeville or similar performances are given and permanently affixed seats so arranged that a body of spectators can have an unobstructed view of the stage, or (b) a building, room, hall, or other place whose primary function is to present movies or motion pictures and which has a permanent movie screen and permanently affixed seats so arranged that a body of spectators can have an unobstructed view of the screen, or (c) an open-air or "drive-in" movie having a permanently affixed movie screen and permanently affixed devices for broadcasting the soundtracks of movies or motion pictures inside of the patrons' vehicles.

2. License Ordinance. "License Ordinance" means the Chapter authorizing the granting of municipal licenses for businesses within the City of Rockland as amended to the date on which the violation of this Article takes place.

3. Sales Person, Waiter, Waitress and Entertainer. A person shall be deemed a sales person, waiter, waitress or entertainer if such person acts in that capacity without regard to whether or not such person is paid any compensation by the management of the establishment in which the activity is performed.

4. Expose. "Expose" or "Exposed" means unclothed or uncostumed or not covered by a fully opaque material.

Sec. 11-903 Prohibited Conduct

1. Exposing. It shall be unlawful for a person who, while acting as a sales person, waiter, waitress, entertainer or in any other capacity as an owner, manager, or employee in a business subject to license under this Chapter: (a) to expose his or her genitals, pubic hair, buttocks, perineum, or anus; or (b) to expose any portion of the female breasts at or below the areola thereof.

2. Causing; Assisting. It shall be unlawful for a person to cause, permit, procure, counsel, or assist any person to expose himself or herself as prohibited by this Article.

3. Printed Matter. It shall be unlawful for a person operating a business subject to license under this Chapter to, at the place of business, display or cause or permit the display of photographs, covers of magazines, newspapers or other printed matter which expose or show genitals, pubic hair, buttocks, perineum, anus, or female breasts at or below the areola thereof, in such manner that such photographs, covers of magazines, newspapers, or other printed matter are visible to children or unwilling adults using the sidewalks, streets, or highways.

Sec. 11-904 Exceptions

Section 11-902 (1) and (2) of this Article do not apply to a theater or similar establishment which is primarily devoted to theatrical performances or the presentation of movies.

This Article does not apply to any act authorized or prohibited by any statute of the State of Maine.

Sec. 11-905 Penalty

Any act made unlawful by this Article and any violation of this Article shall be punishable by a fine of not more than five hundred dollars (\$500) for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.

In addition to any other penalty provided by the law, the commission of acts prohibited by this Article shall constitute a nuisance and may be abated by the City seeking an injunction to prohibit further and continued violation thereof.

Sec. 11-906 Severability

If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Article.

State Law Reference: 30-A M.R.S. §§ 2101-2109, 3001.

ARTICLE X Licensing of Bottle Clubs

Ch. 11, Sec. 11-901

Sec. 11-1001 License Required

No person, firm, or corporation shall keep, maintain, operate, lease, or otherwise furnish, either to its members and guests or the general public, any premises, building, apartment, or place for use as a bottle club, without first having obtained a license and paying the fee therefor.

Notwithstanding any other provisions of this Article, a bona fide non-profit, charitable, educational, political, civic, recreational, fraternal, patriotic or religious organization shall not be subject to the provisions of this Article.

Sec. 11-1002 Licensing Authority

Licenses shall be issued by the Municipal Officers, after notice and hearing on the licensee's application. Notices shall be given by the Municipal Officers, pursuant to the provisions of Section 11-1010 of this Article. The Municipal Officers shall grant a license when they find that the applicant is in strict compliance with the requirements of this Article and the other applicable codes and ordinances of the City of Rockland.

Sec. 11-1003 Definitions

Unless otherwise defined herein or in the text, all words used will have their common meaning. Words and phrases having a special meaning will be defined when they first appear in the Article, except for the following definitions:

- 1. Bottle Club. A "bottle club" means any person operating on a regular basis a premise for social activities in which members or guests provide their own alcoholic beverages, and where no alcoholic beverages are sold on the premises. A bottle club maintains suitable quarters for the use of members on a regular basis or charges an admission fee to members or to the general public. A bottle club is not a public place, as define in Title 17, M.R.S.A. § 2003.
- 2. Person. "Person" shall mean any individual, person, firm, corporation, association, partnership, or organization.
- 3. Officer. "Officer" shall mean any officer, director, stockholder, owner, manager or person who either has a financial interest of any nature in a bottle club or directs any policy of a bottle club.

Sec. 11-1004 Fees

Fees for a license for a bottle club shall be paid annually:
 Bottle Club \$1,700

Sec. 11-1005 Application and Information

Every applicant for a bottle club license shall:

- 1. complete and file an application on a form prescribed by the City Clerk;
- 2. deposit the prescribed license fee in advance with the City Clerk;
- 3. submit the completed application to the City Clerk, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation, or articles of association and bylaws if the applicant is an association, as well as a list of all officers of the bottle club;
- 4. file an affidavit which will identify all officers, and their places of residency at the present time and for the immediately preceding three (3) years. Submission of false information in an application for a license shall be a violation of this Article and such act shall be ground for the denial of the application.

Sec. 11-1006 Qualification of Officers

All officers of a bottle club shall meet the following qualifications: Never have been convicted of a Class A, B, or C crime nor of violating any of the gambling or prohibitive liquor laws either of the United States or of the State of Maine or any other state, within five (5) years immediately preceding the date of application. Each such officer shall file the release authorized by 16 M.R.S. § 620 (Criminal History Record Information Act) with the application. Failure to provide such a release shall be a ground for denial of the application.

Sec. 11-1007 Description of the Premises

Every applicant for a bottle club license shall include in the application a description of the premises for which a license is desired and shall set forth such other material information, description, or plan of that part of the premises where it is proposed to consume or keep liquor.

Sec. 11-1008 Articles and Bylaws

Applicants for bottle club licenses shall possess written articles of incorporation or association and bylaws. The articles or bylaws shall provide for regular election of officers or directors. Membership shall be regulated by articles or bylaws.

Sec. 11-1009 Investigation of Applicant

Upon receipt of each application for a bottle club license or notice of a change of officers:

1. Compliance with Ordinances. The Code Officer shall verify that the premises of the proposed bottle club comply with the applicable ordinances of the City of Rockland, including but not by way of limitation, the Building Code, Electrical Code, Plumbing Code, and Zoning Ordinance and shall report his findings in writing to the Municipal Officers.

2. City Clerk. The City Clerk shall review the application and other documents and determine whether such documents indicate that the requirements of the Article have been met and shall report his findings in writing to the Municipal Officers.

3. Inspection of Premises by Code Officer. The Code Officer shall cause inspection to be made of the proposed location of the bottle club for the purpose of determining whether the applicable ordinances relating to health and safety have been complied with. A report of his findings shall be made in writing to the Municipal Officers.

4. Inspection by Fire Chief. The Fire Chief shall cause an inspection to be made of the proposed location of the bottle club for the purpose of determining if City ordinances concerning fire and safety have been complied with. He shall submit a report of his findings in writing to the Municipal Officers.

5. Investigation by Police Chief. The Police Chief shall cause an investigation to be made of the officers of the bottle club and shall report his findings in writing to the Municipal Officers.

Sec. 11-1010 Notice of Hearing

After receipt of the written reports required by Section 11-1009, the City Clerk shall give notice of the public hearings on applications for bottle clubs in the form and manner and to the persons herein specified. The notice shall include the time and place of such hearing, the nature of the matter to be heard, the address or location of the property involved. Where notice by mail is required, it shall be mailed at least seven (7) days in advance of the hearing date by regular United States mail.

Notices shall be given to each of the following, as specified:

1. Residents To all residents of the City by publication in a newspaper of general circulation in the City at least once, not

more than thirty (30) nor less than five (5) days before the date of the hearing.

2. Abutters. To the owners of all the property within five hundred (500) feet of such parcel or tract by mail.

3. Property Owners Defined. For the purpose of this Section, the owners of property, shall be considered to be the parties listed by the Assessor's Department of the City of Rockland as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the Municipal Officers.

Sec. 11-1011 Licenses Not To Be Transferable

A separate license must be obtained for each branch or separate establishment of a bottle club. Each license shall authorize the operation of such an establishment only at the location described in such license and in conformity with all applicable ordinances and laws. No license shall be transferred to another person or to any other location, except that a licensed bottle club may change its name upon approval of the Municipal Officers, if its location remains the same.

Sec. 11-1012 Display of License

Every bottle club shall exhibit its license at all times in a conspicuous place on its premises.

Sec. 11-1013 Expiration

All licenses issued pursuant to this Article shall expire on the last day of June of each year.

Sec. 11-1014 Proximity to Schools and Churches

No new bottle club license shall be granted under this Article to premises situated within three hundred (300) feet of a public or private school, school dormitory, church, chapel or parish house, in existence as such at the time such new

license is applied for, except such premises as were in use as bottle clubs on the effective date of this Article. The three hundred (300) foot distance shall be measured from the main entrances of the school, school dormitory, church, chapel or parish house by ordinary course of travel.

Sec. 11-1015 Minors Not Permitted on Bottle Club Premises

No person under the age of twenty (20) years shall be permitted in or on that part of the premises subject to the control of any bottle club where persons are permitted to drink alcoholic beverages.

Sec. 11-1016 Entertainment License

No licensee shall permit on his licensed premises any music, except radio or other mechanical device or any dancing or entertainment of any sort, unless the licensee shall have first obtained a special amusement permit, pursuant to the requirements of Rockland Special Amusement Ordinance.

Sec. 11-1017 Hours of Bottle Club

The premises used as a bottle club shall be closed and vacated by members and guests each day from 1:15 A.M. to 6:00 A.M. except January 1; and 2:00 A.M. on January 1. During the hours that a bottle club must remain closed, no members, guests, or other persons, other than regular employees, may be on or remain therein, and the use by any one of the premises or facilities of the bottle club for the drinking of alcoholic beverages during such hours when a bottle club must remain closed is prohibited.

Sec. 11-1018 Entrance to be Marked

The entrance to every club shall be plainly marked "Bottle Club, Members and Guests Only."

Sec. 11-1019 Illegal Activities

No licensee shall knowingly permit any illegal activities to take place on the licensed premises. Such licensed premises shall be subject to inspection by State, county or municipal law enforcement officers at any time, at the request of the Municipal Officers.

Sec. 11-1020 Suspension or Revocation

A license to operate a bottle club, as provided for by this Article, may be denied, suspended, or revoked by the Municipal Officers for either violation of or failure to comply with any of the provisions of this Article. Determination of the severity of the violation and whether or not a denial, suspension, or revocation is warranted, shall be made by the Municipal Officers, after notice and hearing.

Sec. 11-1021 Appeals

An appeal from any final decision of the Municipal Officers shall be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

Sec. 11-1022 Penalty

In addition to any action which the Municipal Officers may take, violation of any provision of this Article shall be a civil violation and a fine not exceeding five hundred dollars (\$500) may be imposed. Each day that a violation continues will be treated as a separate offense.

State Law Reference: 30-A M.R.S. §§ 2101-2109, 3001; 28-A M.R.S. §§ 2, 4.

ARTICLE XI Licensing of Amusement Devices

Sec. 11-1101 License Required

No person, firm, corporation or association shall keep for public patronage or permit or allow the operation of any amusement device, as hereinafter defined, in or on any premises or location under his/her charge, control, or custody, without having a license for each location from the City of Rockland.

Sec. 11-1102 Licensing Authority

Licenses shall be issued by the Municipal Officers, after notice and hearing on the licensee's application. Notices shall be given by the Municipal Officers, pursuant to the provisions of Section 11-1108 of this Article. The Municipal Officers shall grant a license when they find that the applicant is in strict compliance with the requirements of this Article and the other applicable codes and ordinances of the City of Rockland.

Sec. 11-1103 Definitions

Unless otherwise defined herein, or in the text, all words will have their common meaning. Words not otherwise defined herein shall have the same meaning as defined in Ch. 11, Sec. 11-1103, unless a special meaning will be defined when they first appear in the Article, except for the following definition:

1. Amusement Device shall mean and include devices, mechanical, electrical, electronic, or otherwise, which upon payment of a fee or insertion of a coin, disc, or other insertion piece, whether or not also manipulated by the operator, may be used by the public generally as a game, amusement, or entertainment, whether or not registering a score and which do not dispense any form of pay-off, prize, or reward, other than an additional free use of the device itself.

Sec. 11-1104 Fees

Fees for an amusement device license shall be as established in Chapter 11, Section 11-401, License Fee Schedule.

Sec. 11-1105 Application and Information

Every applicant for an amusement device license shall:

1. Application. Complete and file an application on a form prescribed by the City Clerk.
2. Fee. Deposit the prescribed license fee in advance with the City Clerk.

Sec. 11-1106 Description of the Premises

Every applicant for a license shall include, in the application, a description of the premises for which a license is desired and shall set forth such other material information, description, or plan of that part of the premises where it is proposed to consume or keep liquor.

Sec. 11-1107 Investigation of Applicant

Upon receipt of each application for a license or notice of a change of officers:

1. Compliance with Ordinances. The Code Officer shall verify that the premises of the proposed location comply with the applicable ordinances of the City of Rockland, including, but not by way of limitation, the Building Code, Electrical Code, Plumbing Code, and Zoning Ordinance and shall report his findings in writing to the Municipal Officers.
2. Compliance with this Article. The City Clerk shall review the application and other documents and determine whether such documents indicate that the requirements of the Article have been met and shall report his findings in writing to the Municipal Officers.

Sec. 11-1108 Notice of Hearing

After receipt of the written reports required by Section 11-1107, the City Clerk shall give notice of the public hearing on an application for a license in the form and manner herein specified. The notice shall include the time and place of such hearing, the nature of the matter to be heard, the address or location of the property involved.

Sec. 11-1109 License Not To Be Transferable

A separate license must be obtained for each location. Each license shall authorize the operation of an amusement device(s) only at the location described in such license and in conformity with all applicable ordinances and laws. No license shall be transferred to another person or to any other location, except that a licensed location may change its name upon approval of the Municipal Officers, if its location remains the same.

Sec. 11-1110 Display of License

Every location shall exhibit its license at all times in a conspicuous place on its premises.

Sec. 11-1111 Expiration

All license issued pursuant to this Article shall expire one (1) year after issuance. All licenses issued pursuant to this

Article to establishments holding a valid State of Maine Liquor License shall expire on the same date as said State of Maine Liquor License. Eff: 06/09/99

Sec. 11-1112 Illegal Activities

No licensee shall knowingly permit any illegal activities to take place on the licensed premises. Such licensed premises shall be subject to inspection by state, county or municipal law enforcement officers at any time, at the request of the Municipal Officers.

Ch. 11, Sec. 11-1103

Sec. 11-1113 Suspension or Revocation

An amusement device license, as provided for by this Article, may be denied, suspended, or revoked by the Municipal Officers for either violation of, or failure to comply with, any of the provisions of this Article. Determination of the severity of the violation and whether or not a denial, suspension, or revocation is warranted, shall be made by the Municipal Officers, after notice and hearing.

Sec. 11-1114 Appeals

An appeal from any final decision of the Municipal Officers shall be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

Sec. 11-1115 Penalty

In addition to any action which the Municipal Officers may take, violation of any provision of this Article shall be a civil violation and a fine not exceeding five hundred dollars (\$500) may be imposed. Each day that a violation continues will be treated as a separate offense.

Sec. 11-1116 Construction

Severability is intended throughout and within the provisions of this Article. If any provision, including inter alia any exception, part, phrase, or term, or the application thereof to any person or circumstance is held invalid, the application of other persons or circumstances shall not be affected thereby and the validity of this Article in any and all other respects shall not be affected thereby.

State Law Reference: 8 M.R.S. § 502; 30-A M.R.S. § 2101-2109.

ARTICLE XII Licensing of Adult Amusement Stores

Eff: 10/01/14

Sec. 11-1201 Purpose

The purpose for licensing Adult Amusement Stores, as defined herein, is to establish reasonable and uniform regulations to prevent the deleterious secondary impacts of such establishments within the City of Rockland. It is not the purpose of this ordinance amendment to ban adult amusement stores, or to limit the content of, or access to, protected speech or expression.

Sec. 11-1202 License Required

No person, firm, or corporation shall keep, maintain, operate, lease, or otherwise furnish, whether for members or the general public, any premises, building, apartment, or place for use as an Adult Amusement Store without first having obtained an Adult Amusement Store license and paying the application and/or license fee(s) established therefor by Order of the City Council.

Sec. 11-1203 Licensing Authority

The City Clerk may issue an Adult Amusement Store license only upon its approval by the Municipal Officers, after notice and public hearing. Notice shall be given by the Clerk, pursuant to the provisions of Section 11-1210 of this Article. The Municipal Officers shall approve an Adult Amusement Store license when they find that the applicant is in strict compliance with the requirements of this Article and the other applicable codes and ordinances of the City of Rockland. In the event the City Council fails to hear and rule upon an Adult Business Store application within sixty (60) days of the date of the application, it shall be deemed to have been denied.

Sec. 11-1204 Definitions

For the purposes of this Article, certain words and phrases are defined as follows:

1. **Adult Amusement Store.** Any establishment having as a portion of its stock in trade, whether for sale, rental, or other use, or that derives any revenue from the sale, rental, or other use of, any “sexual device,” or any live or filmed, animated, printed, or digitized depiction or description of “specified sexual activity” or “specified anatomical area;” provided however that an establishment that sells any “sexual device” or sells or rents any filmed, animated, printed, or digitized depiction or description of any “specified sexual activity” or “specified anatomical area” and whose inventory for such purposes does not exceed 10% of total inventory wholesale value or generate in excess of 10% of the revenue of the establishment shall not constitute an “adult amusement store.” For the purposes of this definition, a “sexual device” shall mean a device or object the primary purpose of which is to provide direct sexual stimulation to the male genitalia or anus, but shall not include a device primarily intended for preventing pregnancy or sexually transmitted diseases; “specified sexual activity” shall mean any sexual act including intercourse or other sexual contact as defined under Maine law, masturbation, sodomy, fondling or touching of human genitalia, pubic region, breast, buttocks, or anus, or any depiction of human genitalia in a state of sexual stimulation or arousal; and “specified anatomical area” shall mean less than completely and opaquely covered human genitalia, pubic region, female breast below a point immediately above the top of the areola, buttocks, or anus not depicted for a legitimate medical, educational, or scientific purpose.
2. **Officer.** Any officer, director, stockholder, owner, manager or person who either has a financial interest of any nature in an Adult Amusement Store or directs any policy of an Adult Amusement Store.
3. **Person.** Any individual, person, firm, corporation, association, partnership, or organization.

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Sec. 11-1205 Fees

The City Council may establish a reasonable, non-refundable application fee for processing and giving notice of applications for Adult Amusement Store licenses and performing investigations and inspections therefor. The City Council may establish a reasonable, non-refundable license fee for inspecting and monitoring licensees’ compliance of Adult Amusement Store licensees.

Sec. 11-1206 Application and Information

Every applicant for an Adult Amusement Store license shall:

1. Complete and file an application on a form prescribed by the City Clerk;
2. Pay in advance the non-refundable application fee and/or license fee;
3. Provide to the City Clerk all information and materials requested in the application or by a responsible municipal official, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation, or articles of association and bylaws if the applicant is an association;
4. Submit, under oath, an affidavit in which the applicant identifies all officers, operators, and/or managers of the applicant, and of applicant’s employees to be employed at the licensed premises, and states their dates of birth, social security numbers, current addresses, and prior addresses during the immediately preceding three (3) years.

The submission of false information in an application for a license shall be a violation of this Article and of 17-A M.R.S. § 452, and such act shall be ground for the denial of the application.

Sec. 11-1207 Qualification of Officers

To be eligible for an Adult Amusement Store license, no officer, operator, or manager of the applicant shall have been convicted, at any time, of a Class A, B, or C crime or, irrespective of the classification of the crime, of any offense relating to prostitution, unlawful sexual conduct, or trafficking a controlled substance. Each such officer, operator, or manager of the applicant shall file the release authorized by 16 M.R.S. § 620 (Criminal History Record Information Act) with the application. Failure to provide such a release shall be a ground for denial of the application.

Sec. 11-1208 Administrative Denial of Application

The City Clerk shall deny an application for an Adult Amusement Store license upon the occurrence of one or more of the following:

1. Applicant, upon notice, fails to submit information required under Sec. 12-1206;
2. Applicant fails to pay the non-refundable application fee established by the Council pursuant to Sec. 11-

1205;

3. Applicant or an officer, manager, or operator of the applicant has been convicted of a crime that makes the applicant ineligible for a license pursuant to Sec. 11-1207.

Sec. 11-1209 Investigation of Applicant

Upon receipt of each application for an Adult Amusement Store license or notice of a change of operator(s) or manager(s):

1. Compliance with Ordinances. The Code Officer shall inspect and verify that the premises of the proposed Adult Amusement Store comply with the applicable ordinances of the City of Rockland, including but not by way of limitation, the Building Code, Electrical Code, Plumbing Code, and Zoning Ordinance and shall report his findings in writing to the Municipal Officers.

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2. City Clerk. The City Clerk shall review the application and other documents and determine whether such documents indicate that the requirements of the Article have been met and shall report his findings in writing to the Municipal Officers.

3. Inspection by Fire Chief. The Fire Chief shall cause an inspection to be made of the proposed location of the Adult Amusement Store for the purpose of determining if City ordinances concerning fire and safety have been complied with. He shall submit a report of his findings in writing to the Municipal Officers.

4. Investigation by Police Chief. The Police Chief shall cause an investigation to be made of the officer(s), operator(s), and manager(s) of the proposed Adult Amusement Store and shall report his findings in writing to the Municipal Officers.

Sec. 11-1210 Notice of Hearing

After receipt of the written reports required by Section 11-1210, the City Clerk shall give notice of the public hearings on applications for Adult Amusement Stores in the form and manner and to the persons herein specified. The notice shall include the time and place of such hearing, the nature of the matter to be heard, the address or location of the property involved. Where notice by mail is required, it shall be mailed at least seven (7) days in advance of the hearing date by regular United States mail.

Notices shall be given to each of the following, as specified:

1. Residents. To all residents of the City by publication in a newspaper of general circulation in the City at least once, not more than thirty (30) nor less than five (5) days before the date of the hearing.

2. Abutters. To the owners of all the property within five hundred (500) feet of such parcel or tract by mail.

3. Property Owners Defined. For the purpose of this Section, the owners of property, shall be considered to be the parties listed by the Assessor's Department of the City of Rockland as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the Municipal Officers.

Sec. 11-1211 City Council Review Criteria

The Council shall approve and the Clerk shall subsequently issue an Adult Amusement Store license unless the Council finds, after notice and hearing, that:

1. The applicant is a person who is a minor;
2. The applicant provided false information in its application;
3. The applicant previously held a license or other permission to operate an adult amusement store or similar establishment that, within two years prior to the date of his application in Rockland was either (A) revoked by a municipality, or (B) found to constitute a public nuisance;
4. The applicant has, within two years prior to the date of his application, failed timely to pay any tax, fee, fine, or penalty;
5. The applicant failed to obtain a sales tax certificate from the State of Maine; or
6. The proposed store is likely to endanger public safety, for specified reasons.

Sec. 11-1212 Operations

In addition to and notwithstanding any other applicable provisions in this Code of Ordinances, Adult Amusement Store licensees shall be subject to the following restrictions and requirements:

1. No merchandise or pictures of the products or entertainment offered on the premises may be displayed in window areas or any area where they can be viewed from the sidewalk or street in front of the building, or from another parcel;
2. Licensee shall remain in compliance with the provisions for Adult Amusement Store signage set forth in Sec. 19-315;
3. Licensee may not employ any minor at or in connection with the Adult Amusement Store;
4. Licensee may not employ any person who has ever been convicted of a Class A, B, or C crime or, irrespective of the classification of the crime, of any offense relating to prostitution, unlawful sexual conduct, or trafficking a controlled substance;
5. The Adult Amusement Store shall be closed and vacated by the public each day 6:00 A.M. During the hours that an Adult Amusement Store must remain closed, no members of the public or other persons, other than regular employees, may be on or remain therein; Ch. 11, Sec. 11-
6. No person may possess opened containers of or consume any alcoholic beverage on the licensed premises, at any time;
7. No licensee shall knowingly permit any illegal activities to take place on the licensed premises;
8. Every Adult Amusement Store shall include at least one interior Manager's Station, not to exceed thirty-two (32) sq. ft. in floor area. Licensee shall assure that at least one employee is on duty at all times and stationed at such Manager's Station. The interior of the premises shall be so configured as to ensure that the entire interior of the premises to which any patron is admitted for any purpose is within the unobstructed view of employees at one or more Manager's Stations;
9. The exterior of the licensed premises shall be surveilled by one or more security cameras that enable the employee at the Manager's Station to see view the conduct of patrons and other members of the public in areas not viewable from the street, parking areas, paths, and entrances, and areas adjacent to the other exterior walls of the premises. All areas subject to security surveillance pursuant to this subsection shall be adequately lit, in conformance with the lighting standards and conditional use approval by the Planning Board, so as to enable such surveillance. Digitized recordings of such surveillance shall be maintained for at least (sixty) 60 days;
10. Loitering shall not be tolerated, either outside or inside the premises ;
11. The exterior of an Adult Amusement Store may not be painted or otherwise arranged as to depict the human form or any part thereof, whether by photograph, painting, drawing, silhouette, or pictorial representation, nor exhibit any sexually-explicit or suggestive language;
12. The licensed premises shall be subject to inspection by State or municipal law enforcement and/or code enforcement officers at any time, at the request of the City Council or City Manager; and
13. Every Adult Amusement Store shall exhibit its license at all times in a conspicuous place on the licensed premises.

Sec. 11-1213 Licenses Not To Be Transferable

An Adult Amusement Store license is valid only for and at the premises identified therefor in the application. No Adult Amusement Store license may be transferred to another person or to any other location; provided, however, that a licensed Adult Amusement Store may change its name upon approval by the Municipal Officers, if its location remains the same.

Sec. 11-1214 Expiration

All licenses issued pursuant to this Article shall expire one year from the date of issue.

Sec. 11-1215 Proximity to Certain Establishments

No new Adult Amusement Store license shall be granted for premises situated within 300 feet from any residence, inn, bed and breakfast establishment, lodging house, assisted living facility, school, daycare, place of religious worship, recreational facility or park, playing field, or playground, or business holding a liquor, special amusement, or

entertainment license (measured as a line between the public entrance of the adult amusement store and the closest point on the property line of the incompatible use).

Sec. 11-1216 Entertainment License

No licensee shall permit on his licensed premises any music, except radio or other mechanical device, or any dancing or entertainment of any type or in any form.

Sec. 11-1217 Suspension or Revocation

A license to operate an Adult Amusement Store, as provided for by this Article, may be denied, suspended, or revoked by the Municipal Officers for either a violation of or failure to comply with any of the provisions of this Article. Determination of the severity of the violation and whether or not a denial, suspension, or revocation is warranted, shall be made by the Municipal Officers, after notice and hearing.

Sec. 11-1218 Appeals

An appeal from any final decision of the Municipal Officers by any party with standing shall be made to the Superior Court in accordance with the provisions of Maine Rule of Civil Procedure 80B.

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Sec. 11-1219 Penalty

In addition to any action which the Municipal Officers may take, violation of any provision of this Article shall be a civil violation and subject to a fine not exceeding five hundred dollars (\$500) per day. Each day that a violation continues is a separate offense.

**ARTICLE XIII
Local Food Sovereignty Ordinance**

Sec. 11-1301 Short Title

This ordinance shall be known and may be cited as the “Local Food Sovereignty Ordinance.”

Sec. 11-1302 Purpose

Rockland residents have the right to grow, produce, harvest, process, sell, purchase, and consume local foods, thus promoting self-reliance, the preservation of our local food economy, our family farms and our food traditions. We recognize that family farms, sustainable agricultural practices, and food processing by individuals, families and non-corporate entities offers stability by enhancing the economic, environmental and social wealth of our community. We support food that nourishes the individual and the community, and sustains producers, processors, consumers and the environment.

We hope to:

- a. Provide citizens with unimpeded access to local food,
- b. Enhance the local economy by promoting the production and purchase of local agricultural products,
- c. Protect access to farmer's markets, roadside stands, farm based sales, and direct producer to consumer sales,
- d. Support the economic viability of local food producers and processors,
- e. Support and promote small-scale, local and backyard farming,
- f. Preserve community social events where local foods are served or sold,
- g. Preserve local knowledge and traditional foodways.

Sec. 11-1303 Words and Phrases Defined

For the purposes of this article, certain words and phrases are defined as follows:

1. **Community Social Event:** An event for the benefit of those gathering or for the larger community. Including, but not limited to a church or religious social, a school event, a potluck, a neighborhood gathering, a library meeting, a fundraiser, a craft fair, a farmer's market or other public events.
2. **Consumer:** An individual who is the last person to purchase any food or food product directly from a producer or processor and who does not resell the food or food product.

3. **Direct producer-to-consumer transaction;** "Direct producer-to-consumer transaction" means a face-to-face transaction involving food or food products at the site of production of those food or food products.

4. **Home consumption:** The act of consuming or using a food or food product within a private home.

5. **Food or food products.** "Food or food products" means food or food products intended for human consumption, including, but not limited to, milk or milk products, meat or meat products, poultry or poultry products, fish or fish products, seafood or seafood products, fresh produce, cider or juice, acidified foods or canned fruits or vegetables.

6. **Local Foods:** Any food or food product that is grown, produced, harvested and processed by Rockland residents who sell directly to a consumer through farm or home-based sales, or buying clubs, farmer's markets, roadside stands located on the property of the producer/processor or other private property with permission from the property owner, fundraisers, or at a community social event.

7. **Processor:** Any individual who processes or prepares products of the soil or animals for food and drink.

8. **Producer:** Any farmer or gardener who grows any plant or animal for food or drink.

Sec. 11-1304 License and Inspection Exemptions

1. Producers or processors of local foods and food products in the City of Rockland intended for direct producer-to-consumer transactions shall be exempt from State licensure and inspection when the food is sold Ch. 11, Sec. 11-

This includes any producer or processor who sells their products at farmer's markets, or such roadside stands; sells them through farm or home-based sales directly to the consumer; or delivers them directly to the consumer.

2. Producers or processors of local foods and food products in the City of Rockland shall be exempt from State licensure and inspection provided that their products are prepared for, consumed or sold at a community social event.

3. Rockland citizens possess the right to save and exchange seed; grow, produce, process, sell, purchase, and consume local foods of their choosing without any further licenses or inspections.

4. Consumers purchasing food in a direct producer-to-consumer transaction may enter into private agreements with those producers or processors of local foods to waive any liability for the consumption of that food. Producers and processors of local foods shall be exempt from State licensure and inspection requirements for that food as long as those agreements are in place.

5. These exemptions do not apply to any meat or poultry products that are licensed and inspected by the State of Maine in compliance with applicable federal acts.

Sec. 11-1305 Authority

1. This ordinance is adopted and enacted pursuant to Maine Revised Statute Title 7, §281-§286, the "Maine Food Sovereignty Act."

2. To the extent that any provision of this ordinance is deemed invalid by a court of competent jurisdiction, such provision shall be removed from the ordinance and the balance of the ordinance shall remain valid.

Eff: 06/13/18

CHAPTER 12 MISCELLANEOUS OFFENSES

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CHAPTER 12 Miscellaneous Offenses

ARTICLE I Curfew Ordinance

Sec. 12-101 Short Title

This Article shall be known and may be cited as Curfew Ordinance.

Sec. 12-102 Purposes and Findings

This is an updating of the City of Rockland ordinance prescribing, in accordance with prevailing community standards, regulations for the conduct of minors on streets at night, effectively enforced, taught in the homes, internalized and adhered to for generations, all for the good of minors, for the furtherance of family responsibility, and for the public good, safety and welfare.

1. Effect on Juvenile Delinquency. Rockland City Council finds that the curfew meets a very real local need, has been over the years a significant factor in minimizing juvenile delinquency and should be updated and amplified in the light of the City of Rockland's local situation and facts including the following.

2. Proper Time for Outdoor Activities. This community sense of the proper time for cessation of outdoor activities by minors on the streets is reflected in the curfew hours declared by this Article which takes into consideration also the danger hours for nocturnal crime and for accumulations of minors with potential risks incident to immaturity.

3. No Commercial Recreational Facilities. Commercial, recreational facilities for juveniles are almost nonexistent and there is little or nothing for minors to do outdoors, but roam the streets, after the curfew hours which this Article declares.

4. Parental Responsibility. Parental responsibility for the whereabouts of children is the norm, legal sanctions to enforce such responsibility have had a demonstrated effectiveness over the years, as parental control increases likelihood of juvenile delinquency decreases and there is a continuing need for the nocturnal curfew for minors which has achieved and will continue to achieve under local conditions the purposes hereinbefore stated.

Sec. 12-103 Definitions

For the purposes of the Curfew Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the Plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

1. "City" is the City of Rockland, Knox County, Maine.

2. "Minor" is any person under the age of eighteen (18), or, in equivalent phrasing often herein employed, any person seventeen (17) or less years of age.

3. "Parent" is any person having legal custody of a minor (a) as a natural or adoptive parent, (b) as a legal guardian, (c) as a person who stands in loco parentis or (d) as a person to whom legal custody has been given by order of court.

4. "Remain" means to stay behind, to tarry and to stay unnecessarily upon the streets, including the congregating of groups (or of interacting minors) totaling four or more persons in which any minor involved would not be using the streets for ordinary or serious purposes such as mere passage or going home. To implement that thought with additional precision and precaution, numerous exceptions are expressly defined in section 12-105 so that this is not a mere prohibitory or presence type curfew ordinance. More and more exceptions become available with increasing years and advancing maturity as appropriate in the interest of reasonable regulation which is intended by use of the meaningful phrase "be or remain" as relating to a curfew ordinance of the "remaining" type.

5. "Street" is a way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term street includes the legal right of way, including but not limited to the cartway or traffic lanes, the curb, the sidewalks whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street. The term street applies irrespective of what it is called or formally named, whether alley, avenue, court, road or otherwise.

6. "Time of Night" referred to herein is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Saving Time, generally observed at that hour by the public in the City, prima facie the time then observed in the Rockland City Hall and police station.

7. "Year of Age" continues from one (1) birthday, such as the seventeenth (17th) to (but not including the day of) the next, such as the eighteenth (18th) birthday, making it clear that seventeen (17) or less years of age is herein treated as equivalent to the phrase "under eighteen (18) years of age," the latter phrase in practice, unfortunately, having confused a number of persons into the mistaken thought that eighteen (18) year olds might be involved. Similarly, for example, eleven (11) or less

years of age means "under twelve (12) years of age."

Sec. 12-104 Curfew for Minors

It shall be unlawful for any person seventeen (17) or less years of age [under eighteen (18)] to be or remain in or upon the streets within the City of Rockland at night during the period ending at 6:00 A.M. and beginning

1. at 10:30 P.M. for minors fourteen (14) or less years of age,
2. at 11:00 P.M. for minors fifteen (15) or more years of age. Eff: 4/8/87

Sec. 12-105 Exceptions

In the following exceptional cases a minor on a City street during the nocturnal hours for which Section 12-104 is intended to provide the maximum limits of regulation (and a clear general guide for minors, their parents and their fellow citizens) shall not, however, be considered in violation of the Curfew Ordinance:

1. Parent. When accompanied by a parent of such minor.
2. Authorized Adult. When accompanied by an adult authorized by a parent of such minor to take the parent's place in accompanying the minor for a designated period of time and purpose within a specified area.
3. First Amendment Rights. When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. Such minor shall evidence the bona fides of such exercise by first delivering, to communications center personnel, at the Public Safety Building on 118 Park Street, where and by whom high priority messages to the Police Chief are regularly received, a written communication, signed by such minor and countersigned if practicable by a parent of such minor with their home address and telephone number, addressed to the Police Chief, specifying when, where and in what manner the minor will be on the streets at night (during hours when the Curfew Ordinance is otherwise applicable to the minor) in the exercise of a First Amendment right specified in such communication.
4. Reasonable Necessity. In case of reasonable necessity but only after such minor's parent has communicated to the City police station personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose including points of origin and destination. A copy of such communication, or of the police record thereof, duly certified by the Chief of Police to be correct, with an appropriate notation of the time it was received and of the names and address of such parent and minor, shall be admissible evidence.
5. Sidewalk Near Residence. When the minor is on the sidewalk of the place where such minor resides, or on the sidewalk of either next door neighbor not communicating an objection to the police officer.
6. Returning Home. When returning home, by a direct route from (and within thirty (30) minutes of the termination of) a school activity, or an activity of a religious or other voluntary association, of which prior notice, indicating the place and probable time of termination, has been given in writing to, and duly filed for immediate reference by, the Chief of Police or the officer assigned by him on duty at the police station, thus encouraging (here as in other exceptional situations) conduct on the part of minors involved in such activities and striking a fair balance for any somewhat conflicting interests.
7. Special Permit; Police Chief. When authorized by special permit from the Police Chief, carried on the person of the minor thus authorized, as follows: when necessary nighttime activities of a minor may be inadequately provided for by other provisions of this Article, then recourse may be had to the Police Chief, either for a regulation as provided in subsection (8) or for a special permit as the circumstances warrant. Upon the Police Chief's finding of necessity for the use of the streets to the extent warranted by a written application signed by a minor and by a parent of such minor if feasible stating (a) the name, age and address of such minor, (b) the name, address and telephone number of a parent thereof, (c) the height, weight, sex, color of eyes and hair and other physical characteristics of such minor, (d) the necessity which requires such minor to remain upon the streets during the curfew hours otherwise applicable, and (e) the street or route and the beginning and ending of the period of time involved by date and hour, the Police Chief may grant a permit in writing for the use by such minor of such streets at such hours as may be necessary. In an emergency this may be handled by telephone, or other effective communication, with a corresponding record being made contemporaneously, either to the Police Chief or if unavailable to the police officer authorized by the Police Chief to act on his behalf in an emergency, at the police station.
8. By Regulation. When authorized, by regulation issued by the Police Chief, in other similar cases of reasonable necessity, similarly handled but adapted to normal or necessary nighttime activities of more minors than can readily be dealt with on an individual special permit basis. Normally such regulation by the Police Chief or permitting use of the streets should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies such as the schools, and shall define the activity, the scope of the use of the streets permitted, the period of time involved not to extend more than thirty (30) minutes beyond the time for termination of such activity, and the reason for finding that such regulation is reasonably necessary and is consistent with the public interest and the purposes of this Curfew Ordinance.
9. Employment. When the minor carries a certified card of employment, renewable each calendar month when the current facts

so warrant, dated or re-issued not more than forty-five (45) days previously, signed by the Chief of Police and briefly identifying the minor, the address of his home and of his place of employment, and his hours of employment.

10. In Motor Vehicle. When the minor is, with parental consent, in a motor vehicle. This contemplates normal travel. From excess of caution, this clearly exempts bona fide interstate movement through Rockland, particularly on normal routes such as Route 1, Park Street, Main Street, Camden Street, Broadway, Alternate Route 1 and Route 17. This also exempts interstate travel beginning or ending in Rockland.

11. Additional Exceptions. Each of the foregoing exceptions, and their several limitations such as provisions for notification, are severable, as hereinafter provided but here reemphasized; and additional, also severable, exceptions, broadening with the progress toward maturity of minors enrolled respectively in elementary, junior high and high schools, will be considered by Council as warranted by future experience illuminated by the views of student government associations, school personnel, citizens, associations, and neighborhood spokesmen, parents, officers and persons in authority concerned positively with minors as well as with juvenile delinquency.

Sec. 12-106 Parental Responsibility

It shall be unlawful for a parent having legal custody of a minor, fourteen (14) or less years of age, knowingly to permit, or by inefficient control to allow such minor to be or remain upon any City street under circumstances not constituting an exception to, or otherwise beyond the scope of the Curfew Ordinance. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall, a fortiori, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor. Eff: 4/8/87

Sec. 12-107 Police Procedures

1. General. A policeman of the City, upon finding or have attention called to any minor on the streets in prima facia violation of the Curfew Ordinance, normally shall take the minor to the City Police Station, where a parent shall immediately be notified to come for such minor, whereupon they shall be interrogated. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibility in the sergeant there and then on duty for accurate, effective, fair, impartial and uniform enforcement, and recording, thus making available experienced supervisory personnel, the best of facilities and access to information and records. In the absence of convincing evidence such as a birth certificate, a policeman on the street shall in the first instance use his best judgement in determining age.

2. Refinement. Police procedures shall constantly be refined in the light of experience and may provide, inter alia, that the policeman may deliver to a parent or guardian thereof a minor under appropriate circumstances, for example a minor of tender age near home whose identity and address may readily be ascertained or are known.

3. Written Report. In any event such policeman shall within twenty-four (24) hours file a written report with the Chief of Police, or his/her designee. Eff: 10/14/15

4. Release of Minor. When a parent or guardian, immediately called, has come to take charge of the minor, and the appropriate information has been recorded, the minor shall be released to the custody of such parent or guardian. If the parent or guardian cannot be located, or fails to take charge of the minor, then the minor shall be released to the juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the minor may temporarily be entrusted to a relative, neighbor or other person who will on behalf of the parent or guardian assume responsibility of caring for the minor pending the availability or arrival of a parent or guardian.

5. First Violation. In the case of a first violation by a minor the Chief of Police or his/her designee shall send by certified mail to, or cause in-hand service by any Police Officer on a parent or guardian, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the Curfew Ordinance, including enforcement of parental responsibility and of applicable penalties. Eff: 10/14/15

Sec. 12-108 Penalties

Standards reflected in the Curfew Ordinance are hereby undergirded with the following legal sanctions.

1. Parent. If, after the warning notice pursuant to Section 12-107 of a first violation a minor fourteen (14) or less years of age, a parent violates Section 12-106 (in conjunction with a second violation by the minor), this shall be treated as a first offense by the parent. The fine for the first such offense by a parent of a minor fourteen (14) years of age or younger shall be twenty-five dollars (\$25), and for each subsequent offense the fine shall be increased by an additional twenty-five dollars (\$25); e.g. fifty dollars (\$50) for the second offense, seventy-five dollars (\$75) for the third offense, up to a maximum of one hundred dollars (\$100) for the fourth and each subsequent offense by the parent pursuant to paragraph 1 of this section, payable to the City of Rockland.

2. Juvenile. Fifteen (15) or more years of age. If, after the sending of the warning notice pursuant to Section 12-107 of a first violation, the juvenile commits a second violation, the juvenile shall be fined twenty-five dollars (\$25) and for each subsequent offense the fine shall be increased by an additional twenty-five dollars (\$25); e.g. fifty dollars (\$50) for the second offense, seventy-five dollars (\$75) for the third offense, up to a maximum of one hundred dollars (\$100) for the fourth and each subsequent offense by the juvenile pursuant to paragraph 2 of this section, payable to the City of Rockland. The Court may suspend part or all of the fine provided for in this section, and require the juvenile to participate instead in a supervised work or service program if:

- (1) the juvenile is not deprived of the schooling which is appropriate to his age and needs; and
- (2) the supervised work or service program is appropriate to the age level and physical ability of the juvenile.

If the juvenile does not timely complete the work or service program as ordered by the Court, the suspended portion of the fine shall also be payable to the City. Eff: 12/8/93

Sec. 12-109 Construction

Severability is intended throughout and within the provisions of the Curfew Ordinance. If any provision, including inter alia any exception, part, phrase or term, or the application thereof to any person or circumstance is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of the Curfew Ordinance in any and all other respects shall not be affected thereby. From excess of caution, the Police Chief is authorized to give advisory opinions, in writing or immediately reduced to writing, which shall be binding, and shall be adhered to by the police, until the Article is amended in such respect, interpreting terms, phrases, parts or any provisions. Normally such advisory opinions shall be in response to good faith, signed letters addressed to him at the Public Safety Building, questioning as (1) ambiguous, (2) as having a potentially chilling effect on constitutional rights specifically invoked, or (3) as otherwise invalid, in all three (3) categories with respect to proposed conduct definitely described. This administrative remedy must be exhausted prior to presenting to any court a question in any of the three (3) categories. The City Council does not intend a result that is absurd, impossible of execution or unreasonable. It is intended that the Curfew Ordinance be held inapplicable in such cases, if any where its application would be unconstitutional. A constitutional construction is intended and shall be given. The City Council does not intend to violate the Constitution of the State of Maine or the Constitution of the United States of America.

Sec. 12-110 Continuing Evaluation

The City Council will continue its evaluation and updating of the Curfew Ordinance.

1. Reports to Council. Accordingly, there shall be compiled and informally reported to the City Council through effective channels (such as the normal monthly distribution by the City Manager and City Clerk, to each Councilman, the City Manager and the City Attorney, of noteworthy material) all exceptional cases hereunder of reasonable necessity, the notices of school and other activities, the Police Chief's special permits and the Police Chief's regulations hereinbefore authorized, and the Police Chief's advisory opinions, for consideration by the appropriate committee and by the City Council in further updating and continuing evaluation of the Curfew Ordinance.

2. Volunteer Programs. For the same reasons, as well as for the implementation beyond these legal aspects of the basic purposes hereof, the City Manager and relevant committees of the City Council through their respective chairmen in coordinated efforts shall work with existing, and may organize, voluntary groups, and shall stimulate volunteer leadership, in programs of research and of action dealing constructively on neighborhood and local bases, with juvenile delinquency, and the prevention, control or containment thereof, in all its ramifications and with practicable steps toward the good life, and a better life, for minors seventeen (17) or less years of age, and with the working of the Curfew Ordinance, community-wise and in individual cases, as one much needed legal tool toward that end as well as for continuing present protection of minors and of other persons, and of property and other interests, important to the welfare of the people of the City of Rockland.

State Law Reference: 30-A M.R.S. §§ 2101-2109, 3009.

ARTICLE II Loitering

Sec. 12-201 Definitions

1. "Begging" shall mean the solicitation of money or other valuable consideration without giving consideration in return.
2. "Loitering" shall mean remaining in essentially one location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; and to stand around.
3. "Public Place" shall mean any place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the

front or immediate area of any store, shop, restaurant, tavern or other place of business and also public streets, ways, grounds, areas or parks.

Sec. 12-202 Loitering Prohibited

It shall be unlawful for any person to loiter either along and/or in consort with others in a public place in such manner so as to:

1. Obstructing Traffic. Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.
2. Interference with Business or Property Use. Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress and egress, and regress therein, thereon, and thereto.

Sec. 12-203 Violation

When any person causes or commits any of the conditions enumerated in Section 12-202(1) and (2), a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disburse. Any person who fails or refuses to obey such orders shall be guilty of a violation of that section.

Sec. 12-204 Panhandling

1. Begging Prohibited. It shall be unlawful for any person to loiter either for the purpose of begging or to beg either alone and or in consort with others in a public place.
2. Exceptions. The provisions of this section shall not apply to any organization or society that is organized and operated exclusively for religious, educational, philanthropic, benevolent, fraternal, charitable, or reformatory purposes, not operated for pecuniary profit, where no part of the net earnings of which inures to the benefit of any person, private shareholder or individual and provided that any person conducting such solicitation is duly identified as being the authorized agent of such organization or society.

Sec. 12-205 Penalty

Any person found guilty of a violation of Sections 12-202 and 12-204 shall be subject to a penalty of not less than twenty dollars (\$20) and not more than one hundred dollars (\$100) for each and every offense, or by imprisonment for not more than five (5) days, or by both. The imposition of a penalty for violation shall not excuse the violation or permit it to continue; such violation shall be remedied within a reasonable time, or within such time limit as may be specified in any notice given to the owner or occupant of the premises by the City Manager, and each day such violation continues to exist following the expiration of the time limit specified in any such notice shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions, nor preclude the City Attorney from causing to be instituted an appropriate action to prevent, restrain, correct or abate any violation of those sections.

State Law Reference: 17-A M.R.S. §§ 501-A-505; 9 M.R.S. § 5001 et seq.

ARTICLE III False Public Alarm or Report

Sec. 12-301 False Alarm Prohibited

It shall be unlawful for any person to report the existence of a fire or other emergency to the police, fire department, or any other agency empowered to deal with an emergency when such person knows the report to be false. This Article shall include ambulance calls.

Sec. 12-302 Penalty

Any person, firm or corporation violating any provision of this Article shall be fined not less than five dollars (\$5) nor more than five hundred dollars (\$500) for each offense; and a separate offense shall be deemed committed on each day during or on which an offense occurs or continues.

State Law Reference: 17-A M.R.S. § 509.

ARTICLE IV Posting Restrictions

Sec. 12-401 Public Property

No person shall attach, place, paint, write, stamp, paste or otherwise affix any sign, advertisement or other matter upon any electric light or public utilities pole; tree or fire hydrant; or on any bridge, pavement, sidewalk or crosswalk, public building, or any property or thing belonging to the City or located in the public streets or other public places without first applying to the City Council and obtaining from it a resolution permitting such use of public property, which resolution shall permit such use for a period of time not to exceed thirty (30) days. This Section shall not be construed to prevent any public official affixing any sign or other matter to public property for any public purpose. Eff: 12/13/89

Sec. 12-402 Private Property

No person shall attach, place, paint, write, stamp, paste, or otherwise affix any sign, advertisement or other matter upon any house, wall, fence, gate, post or tree without first having obtained the written permission of the owner, agent or occupant of the premises.

Sec. 12-403 Penalty

The penalty for violation of any provision of this Article shall be not less than three dollars (\$3) and not more than twenty dollars (\$20).

State Law Reference: 17-A M.R.S. §§ 507, 805, 806.

ARTICLE V Handbills, Stickers, Dodgers, Samples, Etc.

Sec. 12-501 Public Property

No person shall distribute, throw, drop, or scatter in any street or public place any posters, handbills, cards, samples of medicines, drugs or pills or other samples, or other matter used for the purpose of advertising, in such a manner as to result in the littering of any street or public place.

Sec. 12-502 Private Property

No person shall distribute handbills, cards, samples of medicines, drugs, or pills or other samples, or other advertising matter on private property in such a manner as to cause the littering of any street or public place or any private property not his own.

Sec. 12-503 Motor Vehicles

No person shall attach any advertising material of any kind, such as handbills, cards or papers, to the door handle, windshield, windshield wiper, or any portion of any motor vehicle parked or standing in any street or public place, nor shall any person deposit any such material or samples of any kind, within or upon any such vehicle so parked or standing.

Sec. 12-504 Hours

No person shall go about the streets or other public places for the purpose of distributing any poster, handbills, cards, samples of any kind, or other matter used for the purpose of advertising after the time of sunset and before the time of the following sunrise.

Sec. 12-505 Penalty

The penalty for violation of any provision of this Article shall be not less than three dollars (\$3) and not more than twenty dollars (\$20).

State Law Reference: 17 M.R.S. § 2261 et seq.

ARTICLE VI Firearms

Sec. 12-601 Discharge of Firearms Within City Limits; Exceptions

No person, except a police officer in the performance of his duties shall without a permit from the Police Chief discharge any firearm within the City limits, except (1) at military exercises, funerals or reviews, (2) memorial events, (3) in proper defense of himself, his family and his property, (4) for the destruction of a dangerous animal, or (5) in areas in which the discharge of firearms is allowed as set forth in Ordinance Section 12-602, but only pursuant to, and in the seasons prescribed by, State fish and

game laws. Eff: 8/9/89

Sec. 12-602 Hunting

1. Discharge of Firearms allowed or permitted within the following area:

The area to the north and west of the following boundary lines: beginning at the intersection of the Thomaston town line and West Meadow Road, thence northerly along West Meadow Road to the intersection of West Meadow Road and Mountain Road, thence westerly along Mountain Road to the intersection of Mountain Road and Bog Road, thence northerly along the Bog Road to the Rockport town line.

2. Discharge of firearms restricted in all other areas.

3. Other Restrictions:

A. Achorn Cemetery: No discharge of firearms allowed.

B. Near Dwelling: No firearms will be discharged within Five Hundred (500) Yards of any dwelling.

C. State fish and game laws and safety regulations apply to persons discharging firearms in the permitted areas herein described. Eff: 8/9/89

Sec. 12-603 Penalty

Any person who violates Section 12-602(1), (2) and (3) of this Article shall be subject to a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100), or by imprisonment for not more than thirty (30) days, or by both.

Any person found guilty of a violation of Section 12-601 shall be subject to a penalty of not less than twenty dollars (\$20) and not more than one hundred dollars (\$100) for each and every offense, or by imprisonment for not more than five (5) days, or by both. The imposition of a penalty for violation of that section shall not excuse the violation or permit it to continue; such violation shall be remedied within a reasonable time, or within such time limit as may be specified in any notice given to the owner or occupant of the premises by the City Manager, and each day such violation continues to exist following the expiration of the time limit specified in any such notice shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions, nor preclude the City Attorney from causing to be instituted an appropriate action to prevent, restrain, correct or abate any violation of that section.

State Law Reference: 12 M.R.S. § 11201-11227; 25 M.R.S. §§ 2001-A-2006.

ARTICLE VII Disorderly Properties (Eff: 03/13/13)

Sec. 12-701 Purpose; Findings.

The purpose of this Disorderly Property Ordinance is to protect the health, safety, and welfare of the residents of the City of Rockland by reducing the recurrence of disorderly conduct in dwellings that disturbs the peace and tranquility of others. The City has a substantial and compelling interest in protecting neighborhoods affected by conduct that unlawfully disturbs the peace and/or constitutes a nuisance, because such conduct adversely affects the health, safety, and welfare of citizens, and diminishes the quality of life in neighborhoods where it occurs. Such disorderly conduct, and its impact, should be abated. This Disorderly Property Ordinance is required because other prohibitions and penalties under state law and the City's code of ordinances have not adequately eliminated or controlled chronic, disorderly or nuisance activity in the City. The enactment of this ordinance and its occasional amendment is intended to alleviate the deleterious impact of chronic, unlawful or nuisance activity in dwelling places and neighborhoods by authorizing early and constructive intervention by the City's Police Department.

Sec. 12-702 Definitions.

"Disorderly conduct" is any conduct that would have a tendency to disturb unreasonably the community, the neighborhood or an ordinary individual in the vicinity of said building, including, but not limited to: loud music; boisterous parties; sounds emanating from within the structure which are annoying outside the building; loud noise or fights within the building or in its vicinity involving tenants of the building or their invitees (excluding incidents involving domestic violence); tenants or invitees of tenants being intoxicated on public ways in the vicinity of the building; the arrest and conviction of tenants or their invitees for activities which constitute either a crime or civil infraction under either state or local law; other similar activities in the building or outside the building itself; or other conduct proscribed pursuant to 17-A M.R.S. § 501-A.

A "disorderly property" is any property on which there is located a building that houses one or more dwelling units, or any bed and breakfast establishment, hotel, motel, lodging or rooming house or other structure that provides residential accommodations, at which property the police have found to have occurred, on five (5) or more occasions in any sixty (60)

day period, or ten (10) or more occasions in the preceding year, that the owner, a tenant, or a tenants' co-habitees, guests or invitees, or other occupants have engaged in disorderly conduct.

Sec. 12-703 Disorderly Properties Prohibited.

1. No person who has engaged in conduct that, in whole or in part, resulted in the Police Chief's designation of a property as a disorderly property shall continue to occupy as owner-occupant, or be allowed by the owner to occupy, such disorderly property.

2. The Police Chief shall have sole discretion in determining whether conduct is disorderly for the purposes of this ordinance, and whether a building constitutes a disorderly property..

Sec. 12-704 Administration; Notice.

1. The Police Department shall document and monitor the recurrence of disorderly conduct at residential buildings in the City.

2. Whenever there have been three (3) or more occurrences of disorderly conduct at a residential property in any sixty (60) day period, or ten (10) or more occurrences of disorderly conduct in the preceding year, the police department, or any other agent designated by the City Manager (hereinafter referred to as the "City") may notify an owner of such property of the circumstances of the said disorderly conduct, and the identity(ies) of its perpetrators, if known.

3. Whenever the Police Chief has declared a building to be a disorderly property, the City shall cause an owner of the property to be notified, in writing, of such declaration and of the events which form the basis for that designation. The notice shall require the owner to meet with representatives of the City, including the Police Chief or his designee(s) within five (5) business days from the date of the written notification to identify ways in which the problems which have been identified will be eliminated.

4. The notice(s) authorized or required herein shall be effective and deemed delivered upon the date such notice(s) are either (A) placed in the U.S. Mail as registered mail, return receipt requested, or (B) served in hand by a Rockland police officer or other person authorized to effect service of process, in conformance with the procedures for personal service set forth in Maine Rule of Civil Procedure 4(d). Service of notice on one owner shall be deemed to constitute notice to all owners.

5. At the time of the disorderly property meeting required under Subsection 12-704(3), the owner shall be obligated to provide to the city the following documentation:

1. A copy of the names of all tenants or other persons authorized to reside or presently residing in the building(s) on the property and the units they occupy;
2. Copies of all leases with tenants residing in the building(s) on the property; and
3. Contracts with any property manager or other person responsible for the orderly operation of the property;

In addition, the owner will agree to take effective measures to address the disorderly property, which measures shall be memorialized in a written agreement at the conclusion of the meeting with the City and shall be implemented within one (1) week of said meeting unless another date is agreed upon. Failure to enter into such an agreement at the conclusion of the meeting will be deemed a violation of this code, and the City may file a complaint in the district court seeking all compensatory and equitable relief permitted by law.

If the same property should be classified as a disorderly property on a subsequent occasion, then the city is under no obligation to meet with the owner but may post the building(s) on the property or any units therein prohibiting occupancy, and/or proceed directly with a complaint to the district court seeking all compensatory and equitable relief permitted by law.

Sec. 12-705 Enforcement

If the owner (a) refuses to agree to take effective measures to address the disorderly property, (b) takes ineffective measures to address the disorderly property as determined by the City, (c) fails to implement the agreement reached with the City to address the disorderly property, or (d) if, in the discretion of the city, the disorderly property requires immediate posting, the City may post the building against occupancy, and/or may file a legal action against the owner seeking any and all damages and remedies to which it is entitled pursuant to state and local laws. The first violation of this ordinance will result in a \$100 fine being imposed against the owner. The second and all subsequent violations will result in a maximum fine of \$500.

Sec. 12-706 Cost of service for responses to disorderly properties

1. Whenever the police department is required to respond to a situation at a disorderly property, which constitutes the sixth (6th) or greater response in any one-hundred eighty (180) day period, the owner of the disorderly property shall pay the cost of service for each such response as follows: for each such response for service the owner shall pay seventy-five (\$75.00) dollars which shall be in addition to any penalty to which the owner may be subject. Charges which become payable hereunder shall be treated as liens on the property in question.

2. Failure to pay the cost of service within thirty (30) days after demand therefor shall subject the owner to a fine not less than seventy-five (\$75.00) dollars nor more than five hundred dollars (\$500.00) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

ARTICLE VIII All-Terrain Vehicles

Sec. 12-801 Definitions

For the purposes of this ordinance, the terms "ATV", "All-terrain vehicle," and "operate" shall be defined as in Title 12, M.R.S. § 13001.

Sec. 12-802 Operation

(1) Operation of any ATV within the City of Rockland shall be subject to the provisions of Title 12, M.R.S. §§ 13157-A and 13158-A.

(2) No person shall operate an ATV on any public or private property within that area of the City east of Old County Road without the permission of the property owner.

Sec. 12-803 Enforcement

The provisions of this ordinance shall be enforced by the Police Department:

- (a) Upon the complaint of the owner or occupant of any property where a violation is alleged to have occurred, or
- (b) Upon observation of a possible violation on any land posted with signs prohibiting ATVs and expressly authorizing the police to enter the property for the purpose of enforcing this ordinance.

Sec. 12-804 Penalty

Violation of this ordinance shall be punishable by a fine of not less than twenty-five (25) dollars nor more than one hundred (100) dollars for each and every offense. Eff: 7/10/85 alc.

ARTICLE IX Fireworks

Sec. 12-901 Purpose

The purpose of this Article is to protect the public health, safety, and welfare by prohibiting the use of dangerous consumer fireworks and other ignited devices that pose a risk of starting uncontrolled fires, injuring persons, and damaging property.

Sec. 12-902 Definitions

For the purposes of this Article, the following words and phrases shall mean:

1. Consumer Fireworks. "Consumer Fireworks" shall have the same meaning as is set forth in Title 27, Code of Federal Regulations, Section 555.11, as amended. Consumer Fireworks shall include only those products that have been tested and certified by a third-party testing laboratory that conforms with United States Consumer Product Safety Commission standards established therefor pursuant to Title 15, United States Code, Chapter 47. Consumer Fireworks shall not include, as defined under Title 8, Maine Revised Statutes, Subsection 221-A(1-A) and/or by the rule duly promulgated by the Maine State Fire Marshall:

- A. Missile-type rockets;
- B. Helicopters and aerial spinners; or
- C. Sky rockets and bottle rockets.

2. Sky Lanterns. Sky lanterns are miniature, unmanned hot air balloons with an open fuel source that may be used to heat air and lift the lantern into the air.

Sec. 12-903 Use or Sale Prohibited.

No person may use or sell Consumer Fireworks, and no person may use or sell Sky Lanterns, in the City of Rockland.

State Law Ref.: 8 M.R.S. § 323-A(2).

Sec. 12-904 Penalty

A person who violates Section 12-902 commits a civil violation for which a fine of not less than \$250 and not more than \$500 for a first offense, or not less than \$500 and not more than \$1,000 for a second or subsequent offense, plus court costs, may be adjudged.

Eff: 12/14/11

CHAPTER 13 Parks, Trees and Recreational Facilities

ARTICLE I Parks and Recreational Facilities

Sections

- 13-101 Purpose
- 13-102 Administration
- 13-103 City Forest
City Parks

ARTICLE II Public Shade Trees

- 13-201 Purpose
- 13-202 Public Shade Trees
- 13-203 Administration
- 13-204 Comparative Powers of Owners of Soil and Tree Wardens as to Removal of Trees
- 13-205 Penalty

ARTICLE III Lindsey Brook

- 13-201 Lindsey Brook
- 13-302 Private Work

ARTICLE IV Pesticide/Herbicide Usage on City-Owned Lands

- 13-401 Purpose
- 13-402 Definitions
- 13-403 Permitted and Prohibited Uses of Pesticides/Herbicides
- 13-404 Exemptions
- 13-405 Emergency Waiver
- 13-406 Enforcement and Permits
- 13-407 Conflict and Invalidity

CHAPTER 13
Parks, Trees and Recreational Facilities

ARTICLE I Parks and Recreational Facilities

Sec. 13-101 Purpose

The City of Rockland seeks to enhance the health, welfare, and quality of life for its residents and visitors by providing public parks and recreational facilities throughout the City. Such public parks and recreational facilities provide a natural, beautiful setting for leisure, recreation, and special events, and help to conserve the scenery and natural and historic objects for the enjoyment of the current and future generations. The City's stewardship of its considerable public parks and recreational assets is made possible with the help and guidance of dedicated staff and volunteers, public and private partnerships and funding, and wise investments of limited resources with an eye toward preservation and future needs. Eff: 11/09/18

Sec. 13-102 Administration

A. Authority. Pursuant to the Rockland Charter, Art. III, Sec. 304(7), the City Manager is hereby charged with the maintenance and operation of the City's parks.

B. Capital Improvements. The City Manager, in consultation with the Parks and Recreation Advisory Committee, shall establish capital improvement and maintenance and operation plans for City parks, recreational facilities and public shade trees. The capital improvement plan shall identify the current and long-term capital improvements and investments needed in the City's parks and recreational facilities to best fulfill their purpose and to enhance their use and enjoyment by the residents and visitors, and shall identify the estimated cost of and options for funding such improvements. The Capital Improvement Plan shall be reviewed by and is subject to the approval of the City Council. The City Council may establish *ad hoc* committees to assist, in consultation with the Parks and Recreation Advisory Committee, in planning for specific capital improvement projects.

C. Maintenance and Operations. The City Manager, in consultation with the Parks and Recreation Advisory Committee, the Public Services Director, and, as may be applicable, the Harbor Master and Harbor Management Commission, shall plan and provide for the beautification and maintenance of the City's parks, and gardens, paths, and other amenities therein.

D. Rules and Regulations. The City Manager is hereby empowered, subject to approval and adoption by the City Council, to make such rules and regulations pertaining to the conduct and use of parks as are necessary to administer the same or to protect public property or the safety, health, morals, or welfare of the public. Such rules and regulations shall be placed on file by the City Manager in the office of the City Clerk for public inspection. Violations of such rules and regulations shall subject the offender to such fines or other penalties as may be applicable under applicable law or established by the City Council.

E. Concessions. No person shall sell or rent, or attempt to sell or rent, any service, merchandise, or any object in any park without first entering into a contract with the City to operate a park concession.

F. Damage to Plantings And Trees Prohibited. No person shall willfully cut, dig up, break, injure, damage, destroy or interfere with any tree, shrub, flower, bush or other planting in any public park, street or other public place in the City.

G. The City Manager may, at the City Manager's discretion, consult with the Parks and Recreation Advisory Committee on matters pertaining to such capital improvements, maintenance and operations, rules and regulations, and any other matters pertaining to such City parks, recreational facilities and other public lands. Eff: 11/09/18

Sec. 13-103 City Forest

A City Forest is hereby established to consist of a 70.5 acre parcel designated lot number 91 -A-1, Registry of Deed Book 232, Page 279 which shall serve as an educational and recreational resource to promote sound woodland management while providing protection for the wildlife habitat and the state designated Rare Plant Station, in keeping with the critical Area Act. The woodland management and conservation policies and plans shall be developed and coordinated by the Parks Commission, in consultation with the Oyster River Bog Association.

CITY PARKS

CITY SQUARES	LOCATION	MAP/LOT	ACRES
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Ralph Ulmer Square .17	Corner of North Main and Main Streets	12-B-1	
Walter Butler Square .25	Corner of Broadway, North Main and Cedar Streets	40-A-1	
General Berry Square	Corner of Main and Water Streets	5-F-1	.05
Veterans Memorial Square .07	Corner of Park and Main Streets	1-H-7	
Winslow-Holbrook Square .07	Intersection of Park and Main Streets	1-H-7	

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RECREATIONAL/MEMORIAL PARKS

Johnson Memorial Park	Chickawaukie Lake	87-A-15-1	3.87
Jaycee Park 15.98	Old County Road	69-A-5	
Kenniston Field 15.98	Old County Road	69-A-5	
Kiwanis Park (Eff: 6/11/97)	Warren Street	25-E-6A	.40
Merritt Park	Northeast Corner of Limerock and White Streets (part of parcel 21-C-2) Named 12/13/85	21-C-2	
1.57			
Purchase Street Playground	Purchase Street	19-F-19	.61
Chapman Park .17	Southwesterly Corner of Park & Main (Named 07/14/99)	5-A-4	
Winslow-Holbrook Memorial Park .07	Northeast corner of Park & Main (Named 07/08/09)	1-H-7	
Fmr. MacDougal School Property 4.27	338 Broadway	42-B-6	
Eff: 06/07/17			

WATERFRONT PARKS

Rockland Public Landing 3	Public Landing (aka "Harbor Park")		5-B-5 & 5-B-
3.57 & 2.61			
Mildred B. Merrill Park .37	265 Main Street (Eff: 6/11/97)	5-B-6	
Harbor Park 2.61	Park Drive (Named 8/9/85 alc)	1-L-1	
Marie H. Reed Breakwater Park	End of Samoset Road (Named 08/07/91)		
	Right-of-way through Parcel	31-A-1	
Sandy Beach Park	Scott Street	6-A-11	1.12
Snow Marine Park	Mechanic Street (Named 7/21/95)	9-A-11	13.66

ARTICLE II Public Shade Trees

Sec. 13-201 Purpose

This Article shall constitute the City of Rockland's Tree Care Ordinance. The purpose of the Tree Care Ordinance is to establish and implement a public tree shade management plan for planting, pruning, preserving, and removing public shade trees in and on the various public ways, parks, and properties in the City of Rockland. Public shade trees beautify the City of Rockland, increase private property values, provide an important, natural form of storm water mitigation, and enhance and encourage the use of City streets and sidewalks by pedestrians for pleasure, exercise, shopping, and accessing services and places of employment in developed areas of the City.

Sec. 13-202 Public Shade Trees

All trees within or upon the limits of any public street or highway, all City parks, and on other City property, are public shade trees.

State Law Ref.: 30-A M.R.S. § 3281.

Sec. 13-203 Administration

The City Manager, in consultation with the Parks and Recreation Advisory Committee, shall have the care and control of all public shade trees, and shall seek compliance with all laws, regulations, ordinances, and industry standards relative to the preservation of the same. The City Manager shall prepare, for City Council adoption, and the City shall implement, a public shade tree management plan and budget, including procedures for inventorying, selecting, planting, pruning, removal, and replacement of public shade trees in the City of Rockland. The Tree Warden, appointed pursuant to Chapter 2, Section 2-1602, shall carefully examine and inventory, or cause to be examined and inventoried, all public shade trees controlled by the City. The City Manager may, at the City Manager's discretion, consult with the Parks and Recreation Advisory Committee on matters pertaining to public shade trees. Eff: 11/09/18

Sec. 13-204 Comparative Powers Of Owners Of Soil And Tree Wardens As To Removal Of Trees

Public shade trees may be trimmed, cut down or removed by the owner of the soil only with the prior consent of the Tree Warden. Public shade trees shall not be trimmed, cut down, or removed by the City without the prior consent of such owner, except in the event of an emergency or for the protection of the health, welfare, or safety of the public. No tree may be removed by either the owner or the City unless the tree constitutes a hazard, is diseased or is otherwise compromised; or has been ordered to be removed by proper authority to lay out, alter, or widen t

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 to lessen the danger of travel on highways, or to suppress tree pests or insects. All requests by or trim or remove any public shade tree shall be in writing, on an application form provided therefor by the City, and shall state specifically the location, species, approximate age, and condition of the tree, and whether, how, and when it is proposed that the tree be trimmed or removed and the reason(s) therefor. The Tree Warden, after conferring with the City Manager (or designee), when feasible, shall issue a written decision approving, disapproving, or conditionally approving the application within ten business days. Eff: 11/09/18

State Law Ref.: 30-A M.R.S. § 3283.

Sec. 13-205 Penalty

Whoever trims, cuts, or otherwise defaces or destroys a public shade tree, or injures, defaces, or destroys any City tree, shall be punished by a fine of \$100 or other penalty established under 30-A M.R.S. § 3252(5)(A), forfeiture and restitution pursuant to 17 M.R.S. § 2510; and/or shall be liable, in a civil action for all damages sustained.

State Law Reference: 30-A M.R.S. § 3252; 30-A M.R.S. §§ 3202-3203; 17 M.R.S. § 2510.

ARTICLE III Lindsey Brook

Sec. 13-301 Lindsey Brook

Protection of Flow. No person shall throw into or deposit any obstruction in the form of offal, dead animals, refuse, rubbish, or other matter of material, in any part of Lindsey Brook or its tributaries, under a penalty of not less than \$10 or more than \$100 for each offense, to be recovered by complaint before the Maine District Court.

Sec. 13-302 Private Work

1. Authority. Reaming and clearing sewer and drainage stoppage deemed private in nature, by the City Manager, or designated agent, and to be performed by the Public Works Department shall be authorized by the City Manager.

2. Expense. All expense incurred for such private services shall be defrayed by the applicant and paid to the City Treasurer. A minimum of five dollars (\$5.00) shall be charged. No work shall commence prior to securing a written payment agreement from the applicant.

3. Records. The City Treasurer shall keep a written record of all agreements along with a reasonable description of work performed by the City employees.

4. Appeals. Appeals from the decision of the City Manager, or his designated agent, shall be reviewed by the City Council. Final disposition of appeals shall be recorded by resolution indicating the reasons of the Council thereof, all of which shall be public record. Eff: 1/8/87

ARTICLE IV Pesticide / Herbicide Usage on City-Owned Lands

Sec. 13-401 Purpose

The purpose of this chapter is to safeguard the health and welfare of the residents of the City of Rockland and to conserve and protect the City's ground water, estuarine, marine and other natural resources, while ensuring preservation and enhancement of City-owned lands.

Sec. 13-402 Definitions

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

Natural, organic land care: An extension of the principles and practices of organic agriculture to the care of turf and landscape.

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency ("USEPA"). Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

Sludge: As defined in 38 M.R.S. § 1303-C (28-A), as amended from time to time.

Ch. 13, Sec. 13-205

City-Owned Land: All land owned or leased by the City of Rockland and/or managed by or on behalf of the City, including outdoor grounds such as municipal facilities and lawns, parks, playing fields, cemeteries, the City Forest, and conservation and open space.

Pest: Any undesirable insect, plant, fungi, bacteria, virus or micro-organism.

Sec. 13-403 Permitted and Prohibited Uses of Pesticides / Herbicides.

The following provisions shall be applicable to all turf and landscape for outdoor pest management activities on City-owned land.

A. Permitted Uses:

- (1) Use or application of natural, organic land care protocols;
- (2) All control products and soil amendments, including fertilizer and compost, used under the terms of this article shall be in keeping with, but not limited to, products that can be used on Maine Organic Farmers and Gardeners Association Certified Farms, and/or products permitted by the Organic Materials Review Institute or the USDA National Organic Program; and
- (3) Use or application of sludge or sludge-derived products to the extent permitted by the Maine Hazardous Waste, Septage and Solid Waste Management Act (38 M.R.S. §§ 1301, *et seq.*), the Protection of Natural Resources Act (38 M.R.S. §§ 480-A, *et seq.*), or the Site Location of Development Act (38 M.R.S. §§ 481, *et seq.*), and any rules related thereto, as amended from time to time.

B. Prohibited Uses:

- (1) Use or application of chemical pesticides, other than pesticides classified by the USEPA as exempt materials under 40 CFR 152.25, and those products permitted by the Organic Materials Review Institute; and
- (2) Use or application of sludge or sludge-derived products not listed as permitted above.

Sec. 13-404 Exemptions

The following processes are exempt:

1. Drinking water and wastewater treatment;
2. Indoor pesticide use;

3. Contained baits or traps for rodent control;
4. Use of pesticides classified by USEPA as exempt materials under 40 C.F.R. 152.25;
5. Pesticides permitted by the Organic Materials Review Institute;
6. Management of City-owned land not used or used infrequently by the public (roadway medians, for example);
7. Pesticide applications by owners or tenants of residential properties on landscaped areas within municipal rights-of-way;
8. Pesticide applications on City-owned land to control vermin or other infestations, which applications are, in the discretion of the City Manager, reasonably necessary to prevent the spread of such infestations or to protect the public health;
9. Control of poisonous or rapidly invasive plant species injurious to human health or the environment, using the least toxic product in accordance with USEPA protocols under 40 C.F.R. 152.5, the Maine Code of Regulations, Titles 7 and 22: "Use of Pesticides," and the *Best Management Practices for the Application of Turf Pesticides and Fertilizers* of the Maine Board of Pesticide Control.

Sec. 13-405 Emergency waiver

If the City Manager, applying the criteria set forth below, finds that there exists an emergency situation, the Code Enforcement Officer may, upon written request, grant a thirty (30) day temporary waiver authorizing of non-exempt pesticide(s). The waiver may be extended, but in no event shall the total waiver period exceed six (6) months. Waiver approval shall be subject to the use of the least toxic material available to address the given emergency. The presence of weeds or common fungal diseases in the usual course of turf maintenance shall not constitute an emergency.

The waiver determination shall be based on the following criteria:

Ch. 13, Sec. 13-403

A. The pest situation presents:

- (1) An immediate threat to human health or environmental quality; or
- (2) An immediate threat of substantial property damage or loss; and

B. Viable alternatives consistent with this article do not exist.

Sec. 13-406 Enforcement and permits

Except with respect to the conduct of City of Rockland employees, this Article shall be enforced by the Code Enforcement Officer, in accordance with the provisions governing the enforcement of the property maintenance code set forth in Chapter 4. The City Manager shall be responsible for assuring compliance by City of Rockland employees with the provisions of this Article.

Sec. 13-407 Conflict and invalidity

If a conflict or inconsistency is found between this Article and other sections of the City Charter or Code of Ordinances, the terms of the stricter provision(s) shall prevail. The invalidity of a provision of this Article shall not invalidate any other provision of this article.

State Law Ref.: 30-A M.R.S. § 3001; 22 M.R.S. § 1471-U; 38 M.R.S. § 1310-U.

CHAPTER 14 Sewers, Drains and Solid Waste

ARTICLE I Municipal Solid Waste Facility, Collection, and Recycling

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- 14-101 Title
- 14-102 Purpose; Applicability; Separation and Recycling
- 14-103 Definitions
- 14-104 Waste Disposal; Flow Control
- 14-105 Mandatory Refuse Separation
- 14-106 Ban on Use of Plastic Single-Use Carryout Shopping Bags
- 14-107 Ban on Use of Expanded Polystyrene Foam for All Takeout Food and Beverage Businesses
- 14-108 Salvage
- 14-109 Municipal Solid Waste Generated Outside the City
- 14-110 Hours of Operation
- 14-111 Disposal of Construction and Demolition Debris
- 14-112 Litter Control
- 14-113 Permits; Administration
- 14-114 Licensing of Commercial and Residential Refuse Collectors
- 14-115 Fees; Enforcement; Violations; Penalties
- 14-116 Miscellaneous
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- 14-201 Sewerage Facilities Required
- 14-202 Cleaning, Privies, Vaults, Cesspools, Septic Tanks
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- 14-204 Penalty--Further Violation

ARTICLE III Sewers; Construction and Assessment

- 14-301 Construction Authorized
- 14-302 Assessment
- 14-303 Notice and Hearing
- 14-304 Assessment May Be Determined By Arbitration
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ARTICLE IV

Use of Public and Private Sewers and Drains

Private Sewage Disposal, the Installation and Construction of Building Sewers, and the Discharge of Waters and Wastes into the Public Sewer System: and Penalties for Violation Thereof in the City of Rockland, Maine, County of Knox

- 14-401 Definitions
- 14-402 Unlawful Disposal of Sanitary or Solid Waste; Use of Public Sewers
- 14-403 Building Sewers and Connections
- 14-404 Private Sewage Disposal
- 14-405 Prohibited Discharge Standards
- 14-406 National Categorical Pretreatment Standards
- 14-407 State Pretreatment Standards
- 14-408 Local Discharge Restrictions
- 14-409 Right of Revision

- 14-410 Dilution
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- 14-414 Industrial Wastewater Discharge Permit
- 14-415 Industrial Wastewater Discharge Permit Issuance
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CHAPTER 14
Sewers, Drains and Solid Waste

ARTICLE I Municipal Solid Waste Facility, Collection, and Recycling

Sec. 14-101 Title

This Article shall be known, and may be cited, as the Rockland Solid Waste Facility and Municipal Solid Waste Collection and Recycling Ordinance of the City of Rockland.

Sec. 14-102 Purpose; Applicability; Separation & Recycling

1. Purpose. The purpose of this Article is to protect the health, safety, and welfare of the citizens of Rockland, enhance and maintain the quality of the environment, conserve natural resources, and prevent water and air pollution by establishing and regulating the use of the Rockland Solid Waste Facility, and waste collection, recycling, and disposal in the City of Rockland. The Rockland Solid Waste Facility is hereby designated the public disposal facility for the depositing and disposal of Acceptable Wastes, Recyclable Material, and Construction and Demolition Debris in and for the City of Rockland.

2. Applicability. This Ordinance applies to all waste generators who are served by the Rockland Solid Waste Facility, including residents of Rockland and owners and occupants of commercial, industrial and public facilities located in Rockland, and waste generators in all other municipalities which use the MSW facility through an Inter-Local agreement. It also applies to those who are authorized to dispose of construction and demolition debris generated outside the City of Rockland.

3. Separation & Recycling. Solid waste processing and disposal in the City of Rockland shall include source separation. The separation and recycling of materials reduces disposal costs, conserves materials, energy, and natural resources, and has a long term and desirable effect on the environment. To increase participation in recycling, and thereby make solid waste handling, processing, and disposal more effective and less costly, this Ordinance makes source separation mandatory. It is the waste generator's responsibility to separate refuse, use proper, on-site storage at the home, commercial, industrial or public generation site, deliver separated refuse to the Rockland Solid Waste Facility, and properly dispose of separated refuse at the Facility.

Sec. 14-103 Definitions

1. Acceptable Wastes. Wastes that the City of Rockland is authorized by applicable law, regulation, and/or permit to accept for disposal or transfer at the Rockland Solid Waste Facility.

2. Attendant. "Attendant" means an individual, generally an employee of the City of Rockland, who is authorized to supervise and direct the day-to-day disposal of wastes and recyclable material at the Rockland Solid Waste Facility.

3. Commercial Hauler. A commercial hauler is a person or entity engaged in transporting municipal solid waste, construction and demolition debris, recyclable material, and/or other acceptable wastes from any source to the Rockland Solid Waste Facility for a fee or other consideration.

4. Commercial Waste. "Commercial waste" means solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing, non-processing activities. Commercial waste does not include household, process, industrial, or special wastes.

5. Commercial or Residential Refuse/Recyclables Collector. "Commercial or Residential Refuse / Recyclables Collector" means a person or entity engaged in collecting for processing or disposal municipal solid waste, construction and demolition debris, recyclable material, and/or other acceptable wastes in the City of Rockland for a fee or other consideration.

6. Compost. "Compost" means a residual that has undergone a composting process. Eff: 11/04/14

7. Composting. "Composting" means the biological decomposition and stabilization of organic matter under controlled aerobic conditions of high temperature.

8. Construction and Demolition Debris. "Construction and Demolition Debris" is defined in 38 M.R.S. § 1303-C, and means debris resulting from the construction, remodeling, repair, and demolition of structures. It includes, but is not limited to, building materials, asphalt, wall board, pipe, metal conduits, mattresses, household furniture, fish nets, rope, hose, wire and cable, fencing, carpeting and underlay; it excludes asbestos and other special wastes.

9. Demolition Debris. *See* Construction and Demolition Debris.

10. DEP. The Maine Department of Environmental Protection, or other federal or state governmental department or agency having applicable regulatory authority.

11. Director. "Director" means the Director of the Rockland Solid Waste Facility, or his designee.

12. Disposal. "Disposal" is defined in 38 M.R.S. § 1303-C, and means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous or solid waste, sludge or septage into or on any land or water so that the hazardous or solid waste, sludge or septage or any constituent thereof may enter the environment or be emitted into the air, or discharged into any water, including ground waters.

13. Handle. "Handle" is defined in 38 M.R.S. § 1303-C, and means to store, transfer, Ch. 14, Sec. 14-103 ge, process, reduce, recover, incinerate, treat or dispose of.

14. Hazardous Waste. "Hazardous Waste" is defined in 38 M.R.S. § 1303-C, and means a waste substance or material, in any physical state, designated as hazardous by the Board of Environmental Protection under 38 M.R.S. § 1319-0. It does not include waste resulting from normal household or agricultural activities. The fact that a hazardous waste or a part or a constituent thereof may have value or other use or may be sold or exchanged does not exclude it from this definition.

15. Inert Fill. "Inert Fill" means clean soil material, rocks, bricks, and cured concrete, which are not mixed with other solid or liquid waste, and which are not derived from an ore mining activity.

16. Maine Solid Waste Laws. "Maine Solid Waste Laws" means all the laws of the State of Maine relating to the management of solid waste. It includes the "Maine Hazardous Waste, Septage and Solid Waste Management Act," Subchapters I and IA (38 M.R.S. §§ 1301, *et seq.*); 38 M.R.S. §§ 417 and 420; the Three Hundred Foot Law (38 M.R.S. § 421); the Waste Discharge Law (38 M.R.S. §§ 413, *et seq.*); and 38 M.R.S. § 591.

17. M.R.S. "M.R.S." means the Maine Revised Statutes.

18. Municipal Solid Waste. "Municipal Solid Waste" means solid waste emanating from domestic and normal commercial sources. Municipal solid waste does not include wastes removed from, or not introduced to, these waste streams and which are regulated as a "residual" under Chapter 567 of the Department of Environmental Protection's Regulations.

19. Non-Hazardous Waste. "Non-Hazardous Waste" means any solid waste, sludge or septage that is not a hazardous waste.

20. Person. Any individual, association, partnership, firm, corporation or other organization.

21. Processing Facility. "Processing Facility" means any structure, machine, device, system, or combination thereof, other than collection or transfer vehicles and incinerators, intended or operated to reduce the volume or change the chemical or physical characteristics of solid waste. Processing includes shredding, baling, mechanical or magnetic separation, composting or other techniques to reduce or otherwise change the nature of solid waste. Processing may also include recovering reusable or recyclable materials.

22. Recyclable Material. "Recyclable Material" means any raw or processed material that can be recovered from a waste stream for reuse.

23. Recycling. "Recycling" means the separating, collecting, and/or reprocessing of manufactured materials or residues for reuse either in the same form or as part of a different product.

24. Rockland Solid Waste Facility. "Rockland Solid Waste Facility" means the City of Rockland solid waste facility located at 400 Limerock Street (Tax Map 82-B-1), including any structure, container, or combination of land area, structures, or containers owned, leased, or used by the City, or operated by the City, and used for storing, salvaging, processing, reducing, composting, incinerating, and disposing of wastes.

25. Sludge. "Sludge" is defined in 38 M.R.S. § 1303-C, and means any non-hazardous solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply filtration or treatment plant, or wet process air pollution control facility, or any other waste having similar characteristics and effect, but does not include industrial discharges that are point sources subject to permitting under Section 402 of the Federal Water Pollution Control Act (the "Clean Water Act"), as amended (33 U.S.C. §§ 1251, *et seq.*).

26. Solid Waste. "Solid Waste" is defined in 38 M.R.S. § 1303-C, and means useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitation, rubbish, garbage, refuse derived fuel, scrap materials, junk, refuse, inert fill material, and landscape refuse, but does not include hazardous waste, biomedical waste, septic tank sludge, or agricultural wastes. The fact that a solid waste or constituent of the waste may have value or other use or may be sold or exchanged does not exclude it from this definition.

27. Solid Waste Facility. "Solid Waste Facility" means a waste facility used for the handling of solid waste. It includes any land area, structure, container, or combination of land area, structures, or containers used for storing, salvaging, processing, reducing, composting, incinerating, and disposing of wastes at or for such facility.

28. Solid Waste Disposal Facility. "Solid Waste Disposal Facility" is defined in 38 M.R.S. § 1303-C, and means any solid waste facility used for the incineration, landfilling, or other final placement of solid waste.

29. Special Waste. "Special Waste" as defined in 38 M.R.S. § 1303-C, and means any non-hazardous waste generated by sources other than domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination, thereof, which may disrupt or impair effective waste management or threaten the public health, human safety, or the environment and requires special handling:

- A. Oil, coal, wood and multifuel boiler and incinerator ash;
- B. Industrial and industrial process waste;
- C. Wastewater treatment plant sludge, paper mill sludge and other sludge waste;
- D. Debris and residuals from non-hazardous chemical spills and clean-up of those spills;
- E. Contaminated soils and dredge spoils;
- F. Asbestos and asbestos-containing waste;
- G. Sand blast grit and non-liquid paint waste;
- H. High and low pH waste;
- I. Spent filter media residue;
- J. Shredder residue; and
- K. Other waste designated a special waste by the Board of Environmental Protection.

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30. Storage. "Storage" means the placement or containment of solid waste on a temporary basis in such a manner as not to constitute disposal of such waste.

31. Transfer Station. "Transfer Station" means any waste facility constructed and managed for storage and/or processing and placement of municipal solid waste in large containers or vehicles for movement to another waste facility.

32. Unacceptable Wastes. Unacceptable Wastes include the following, unless and except as allowed by DEP permit:

- A. Liquid waste, sludge, or septage;
- B. Motor vehicles and other motorized equipment;
- C. Hazardous waste, including any waste with inherent properties that make it dangerous to manage by ordinary means including, but not limited to, chemicals, explosives, pathological wastes, radioactive wastes, toxic wastes, and other wastes defined as hazardous by the State of Maine, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6901, *et seq.*), as amended, or other federal, state, or local laws, regulations, orders, or other action promulgated or taken with respect thereto;
- D. Dead bodies or animals or portions thereof, or pathological wastes;
- E. Asbestos;
- F. Offensive substances, such as sewage, sludge and special wastes; and
- G. Special wastes.

33. Universal Wastes. "Universal Wastes" means any Cathode Ray Tubes ("CRTs") such as televisions, computer monitors, and other display devices; rechargeable batteries; fluorescent and HID (high intensity discharge) lamps or lamps containing hazardous materials; mercury-containing thermostats, mercury-containing thermometers, and mercury-containing devices such as manometers and switches; and totally enclosed, non-leaking lamp ballasts not bearing the label "NO PCBs."

34. Waste Facility. "Waste Facility" as defined in 38 M.R.S. § 1303-C, and means any land area, structure, location, equipment or combination of them, including dumps, used for handling hazardous, biomedical, or solid waste, sludge, or septage. A land area or structure shall not become a waste facility solely because:

- A. It is used by its owners for disposing of septage from his residence;
- B. It is used to store (for 90 days or less) hazardous waste generated on the same premises;
- C. It is used by individual homeowners or lessees to openly burn leaves, brush, deadwood and tree cuttings accrued from normal maintenance of their residential property, when such burning is permitted under 12 M.R.S. § 9321.
- D. It is used by its residential owner to burn highly combustible domestic household trash such as paper, cardboard cartons, or wood boxes, when such burning is permitted by statute or ordinance.

35. White Goods. "White Goods" means large appliances, including, but not limited to, stoves, refrigerators, freezers, washing machines, clothes dryers, dishwashers, and air conditioners.

36. Wood Wastes. "Wood Wastes" means brush, stumps, lumber, bark, woodchips, shavings, slabs, endings, slash, and sawdust, which are not mixed with other solid or liquid waste.

37. Yard Waste. "Yard Waste" means grass clippings, leaves, and other vegetal matter other than wood waste and land clearing debris. Eff: 11/4/14

Sec. 14-104 Waste Disposal; Flow Control

No person may dispose of Municipal Solid Waste, Construction and Demolition Debris, or other Acceptable Wastes in Rockland except at a licensed solid waste facility in conformance with applicable law. All municipal solid waste generated in Rockland must be disposed of at either (A) the Rockland Solid Waste Facility, or (B) the Penobscot Energy Recovery Company in Orrington, Maine (“PERC”), designated as a component of and credited to the City of Rockland’s disposals of municipal solid waste at that facility. No person may dispose of Unacceptable Wastes in Rockland except as may be permitted by the Maine Department of Environmental Protection.

Sec. 14-105 Mandatory Refuse Separation

The Director of the Rockland Solid Waste Facility, in consultation with the City Manager, shall develop a program for the acceptance, segregation, and sale or disposal of recyclable materials. No person shall place, at the Rockland Solid Waste Facility any item designated by the Director as a recyclable material unless such item is separated from such person’s waste(s) and placed in the area at the Facility designated for such recyclable material.

Ch. 14, Sec. 14-104

Sec. 14-106 Ban on the use of Plastic Single-Use Carryout Shopping Bags

1. Purpose

It is in the best interests of the City of Rockland to protect the environment and our natural resources by prohibiting the distribution and use of disposable, single-use, carryout plastic bags, by discouraging the distribution and use of disposable, single-use, carryout paper bags, and by encouraging the use of reusable shopping bags.

The purpose of this Section is to:

- a. Reduce litter arising from single-use shopping bags,
- b. Reduce taxpayer expense to clean-up or manage litter,
- c. Reduce the environmental impact of their manufacture, transportation and disposal,
- d. Create an informed citizenry about the impact of plastic in the environment,
- e. Encourage a culture of sustainability and discourage one of disposability.

2. Authority

This Section is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Article VIII, Part 2, Section 1, the provisions of Title 30-A M.R.S. Section 3001 et. seq, as well as the general powers of municipalities to enact other ordinances.

3. Words and Phrases Defined:

As used in this Section the following terms have the following meanings:

A. Plastic Single-Use Carryout Bag means a plastic bag other than a reusable bag, as defined below provided at the check stand, cash register, point of sale or other point of departure for purposes of transporting food, food related merchandise and all non-food related merchandise out of the Store. The term Plastic Single-Use Carryout Bag does not include reusable bags, produce bags or product bags.

B. Produce Bag or Product Bag means any bag without handles used exclusively to carry produce, meats, or other food items of merchandise to the point of sale inside a store or to prevent such items from coming in direct contact with other purchased items.

C. Single-use Carryout Paper Bag means a paper bag provided at the check stand, cash register, point of sale or other point of departure for purposes of transporting food, food related merchandise and all non-food related merchandise out of the Store.

D. Reusable bag means a bag that meets all of the following criteria:

- (a) Designed and manufactured to withstand 50 repeated uses over a period of time;
- (b) Is machine washable or, made from a material that can be cleaned and disinfected regularly;
- (c) Is at least four mils thick, if made from plastic; and
- (d) Has the capability of carrying a minimum of 18 pounds.

E. Store means all retail establishments, including but not limited to convenience stores, restaurants, sellers of merchandise and dry goods sold to the ultimate consumer for direct use or consumption and not for resale.

4. Restrictions on Single-Use Carryout Bags.

A. Except as provided below, no store as defined above shall provide a Plastic Single-Use Carryout Bag to a customer at a checkout stand, cash register, point-of-sale or other point of departure for the purpose of transporting any goods or merchandise out of the establishment.

B. Customers are encouraged to bring Reusable Bags to Stores, which may choose to provide a rebate for such.

5. Violations and Enforcement

The City Manager or designee(s) shall have the primary responsibility for the enforcement of this Section. If the City Manager or designee(s) determines that a violation of this Section has occurred, the City Manager or designee shall issue a written warning notice to the Store that the violation has occurred and request compliance with this Section. Subsequent violations of this Section shall be subject to the legal fees and penalties set forth in Sec. 14-115.

6. Permitted Bags

Nothing in this Article shall be construed to prohibit customers from using bags of any type that the customer brings into the Store for their own use or from carrying away the store goods that are not placed in the store.

Ch. 14, Sec. 14-105

(NOTE: The provisions of the preceding Section will go into effect January 1, 2019)

Eff: 04/11/18

Sec. 14-107 Ban on use of Expanded Polystyrene Foam for All Takeout Food and Beverage Businesses.

1. Purpose

It is in the best interests of the City of Rockland to protect the environment and our natural resources by discouraging the distribution and use of disposable, Expanded Polystyrene Foam cups, bowls, plates, and food containers and to encourage use of other biodegradable food containers associated with all take out foods. Expanded Polystyrene Foam packaging has harsh environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, and solid waste generation

The purpose of this Section is to:

- a. Reduce litter arising from Expanded Polystyrene Foam,
- b. Reduce taxpayer expense to clean-up or manage litter,
- c. Reduce the environmental impact of their manufacture, transportation and disposal,
- d. Create an informed citizenry about the impact of Expanded Polystyrene Foam in the environment,
- e. Encourage a culture of sustainability and discourage one of disposability.

2. Authority

This Section is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Article VIII, Part2, Section1, the provisions of Title 30-A M.R.S. Section 3001 et. Seq, as well as the general powers of municipalities to enact other ordinances.

3. Words and Phrases Defined:

As used in this Section the following terms have the following meanings:

a. Expanded Polystyrene Foam container means any container that is made of Expanded Polystyrene Foam and used to package either food or beverage for onsite or offsite consumption. It does not include Expanded Polystyrene Foam ~~meat trays~~ containers used to transport raw and/or uncured meats, poultry, ~~and~~ fish and seafood from all Stores.

b. Store means all retail establishments, including but not limited to convenience stores, restaurants, sellers of food merchandise sold to the ultimate consumer for direct use or consumption and not for resale.

4. Restrictions on Takeout Food and Beverage Containers.

No store as defined above shall sell, give or provide an Expanded Polystyrene Foam food container to a customer.

5. Violations and Enforcement

The City Manager or designee(s) shall have the primary responsibility for the enforcement of this Section. If the City Manager or designee(s) determines that a violation of this section has occurred, he/she shall issue a written warning Notice to the Store that the violation has occurred and request compliance with this Section within 7 days of the date of the

Notice. Subsequent violations of this Section after an initial warning Notice shall be subject to the penalties set forth in Sec. 14-115

6. Permitted Expanded Polystyrene Foam

Nothing in this Section shall be construed to prohibit customers from using containers of any type that the customer owns and brings into the Store for their own use in carrying away food or beverage from the Store.

7. Effective Date.

The provisions of this Ordinance shall become effective January 1, 2019.

Eff: 04/11/18

Sec. 14-108 Salvage

All material deposited at the Rockland Solid Waste Facility shall become the property of the City of Rockland. The salvage and removal of material from the Facility is prohibited except as otherwise provided in this Ordinance or applicable rule or regulation of the Facility.

1. Wood. Any person who has a valid Rockland Solid Waste Facility permit may salvage and remove wood and wood scrap during the regular hours of operation of the Facility, at the direction and discretion of the Director or his designee. Any person salvaging or removing wood or wood scrap shall not in any way hinder, in Ch. 14, Sec. 14-107 other persons disposing of their materials at the Facility. The Director's discretion hereunder shall include, without limitation, the authority to direct any person engaged in wood or wood scrap salvage to discontinue their activities, to resume their salvage activities at another time, and/or to leave the Facility.

2. Swap Shop. Any person may leave useable or reasonably repairable household items at the Rockland Solid Waste Facility Swap Shop, and any person holding a valid Resident, Recycling, or Seasonal Permit may remove items from the Swap Shop for personal reuse consistent with rules promulgated and posted by the Director for the Swap Shop. The Director or designee shall have sole discretion in determining whether an item or category of items is appropriate for disposal at the Swap Shop.

Sec. 14-109 Municipal Solid Waste Generated Outside the City

Except as otherwise provided herein, municipal solid waste generated outside the Rockland city limits shall not be disposed of at the Rockland Solid Waste Facility. The Rockland Solid Waste Facility may accept for disposal municipal solid waste, and other wastes, from municipalities that have contracted with the City of Rockland to use the Rockland Solid Waste Facility in a writing authorized by the City Council.

Sec. 14-110 Hours of Operation

General public access to and use of the Rockland Solid Waste Facility shall be permitted only during the hours of operation posted at the Facility and only as directed by the City Manager.

Sec. 14-111 Disposal of Construction and Demolition Debris

1. Construction and demolition debris generated in Rockland that complies with applicable DEP and Rockland Solid Waste Facility content limitations may be disposed of at the Rockland Solid Waste Facility only after recyclable material suitable for reuse is removed and segregated.

2. Outside Construction and Demolition Debris. Construction and demolition debris generated outside the City of Rockland may be accepted at the Rockland Solid Waste Facility for disposal if the debris complies with applicable DEP and Rockland Solid Waste Facility content limitations and either:

A. The City Manager has authorized the disposal of up to 500 tons of debris generated from a single, discrete construction or demolition project, or

B. The City Council has authorized the disposal of debris in excess of 500 tons from a person who has agreed to and complies with payment, volume, content, and/or other limitations or requirements approved by the Council.

3. No debris not acceptable under the City's DEP permit for disposal in the landfill may be accepted under this paragraph.

Sec. 14-112 Litter Control

1. Protection from Weather. No person shall place, or cause to be placed, at the Rockland Solid Waste Facility

any refuse which, as a result of normal winds or other weather conditions, may be carried or blown around or away from the Facility.

2. Loose Material. All paper, cardboard, plastic, and other loose, light weight materials shall be flattened, bound, boxed, or bagged securely prior to being deposited at the site.

3. Dusty Debris; Leaves. Items such as leaves, sawdust, plaster, and other potentially dusty debris shall be delivered to the Solid Waste Facility in covered containers or vehicles but are not required to be deposited in containers.

4. Spillage from Vehicle. No person shall operate a vehicle upon any street in such a manner that material, rubbish, refuse, junk or litter of any kind, drips, sifts, leaks, drops, or otherwise escapes therefrom or drops upon the surface of such highway, street, or alley.

Sec. 14-113 Permits; Administration

1. Permits. Admittance to and use of the Rockland Solid Waste Facility shall be limited to residents of and owners of property in Rockland; Rockland businesses; licensed commercial or residential refuse/recyclables collectors; authorized transporters of construction and demolition debris; and other users that qualify for a permit as set forth herein. The Director or his designee shall issue permits to authorized users, and shall be responsible for assuring users' compliance with the scope of such permits. Permit fees shall be established by Order of the City Council. As a means of user control, the Director may distribute vehicle stickers to authorized users, which shall be affixed to the user's vehicle. Permits shall be valid only for the vehicle the registration numbers of which are [Ch. 14, Sec. 14-109] vehicle stickers, where applicable. The Director may deny access to and use of the Rockland Solid Waste Facility to any person who fails to display a valid permit, sticker, or other pass to the Facility.

A. Resident Permits. Resident Permits shall be available to residents of Rockland and contracting communities. No person may use a Resident Permit to dispose of wastes or other materials not generated at the residential property associated with such Resident Permit.

B. Commercial Permits. Commercial Permits shall be available to the owners or managers of multi-family residential properties in Rockland, and to businesses and institutions located in Rockland, whether for-profit or non-profit.

C. Recycling Permits. Recycling Permits shall be available to Rockland residents and businesses who do not purchase a Resident or Commercial Permit but who wish to dispose of recyclable material, municipal solid waste on a pay-per-bag basis, and/or other acceptable wastes at the rates or fees for the same in the Rockland Solid Waste Facility Fee Order.

D. Seasonal Permits. Owners of seasonal, rental residential property in Rockland may obtain one Seasonal Permit per year for each dwelling, camp, cottage, or other rental dwelling unit situated on the property. Seasonal Permits are not available to inns, bed and breakfast establishments, motels, hotels, or other short term accommodations.

E. Commercial Hauler Permits. Commercial Hauler Permits shall be available to persons engaged in the collection of municipal solid waste and recyclables for a fee or other consideration, and who are licensed pursuant to Section 14-112. Only municipal solid waste collected from within Rockland, and/or from within communities that have entered into an Inter-Local Agreement with Rockland, shall be deposited at the Rockland Solid Waste Facility. Holders of Commercial Hauler Permits shall be allowed to enter the Facility during the hours that the Facility is open to the general public, and at such other times as the Director may allow, provided that they shall reimburse the City for any additional costs the City may incur for admitting the Commercial Hauler to the Facility outside normal operating hours.

F. Non-Resident Contractor Waste Disposal Permit. Non-Resident Contractor Waste Disposal Permits shall be available, upon application to the Director, to any person engaged in the business of general contractor, or any other type of building contractor, whose business is located outside the City of Rockland for the disposal of construction and demolition debris generated in the City of Rockland at the Rockland Solid Waste Facility.

G. Non-Resident Landscape Contractor Waste Disposal Permit. Non-Resident Landscape Contractor Waste Disposal Permits shall be available, upon application to the Director, to any person engaged in the business of Landscape Contractor whose business is located outside the City of Rockland for the disposal of lawn and landscaping debris (such as grass cuttings, brush, branches, limbs, and similar types of debris) generated in Rockland at the Rockland Solid Waste Facility. No person shall use a Non-Resident Landscape Contractor Waste Disposal Permit to dispose of any other type of waste, or landscaping debris from outside Rockland, at the Facility. Landscape Contractors who do not wish to purchase the annual permit may obtain a Temporary General Permit as provided herein to dispose of landscaping debris generated in Rockland as part of such permittee's landscaping business.

H. Temporary General Permit. The Director may issue, from time to time and upon application and payment of the appropriate fee and a deposit, a Temporary General Permit for admittance to the Rockland Waste Disposal Facility to

any person or business for the disposal of waste generated in Rockland. Such permits shall be of limited duration, not to exceed seven days, which limitation shall be stated upon the permit. Temporary General Permits must be returned to the Director at the Rockland Solid Waste Facility within seven (7) days of their expiration, or the permittee's deposit therefor shall be forfeited. Arrangements for an extension of a Temporary General Permit must be made with the Director or his designee prior to the permit's expiration; however, in no case shall a Temporary General Permit be extended for a time period exceeding a total of twenty-one (21) days.

2. Administration.

A. Validity. Permits shall be valid only during the period indicated thereon, or for such other period as the City Manager shall determine.

B. Suspension; Revocation. The City Manager shall give notice temporarily suspending or revoking a permit upon the occurrence of one or more of the following:

(1) The permittee violates any federal or state law or regulation, or any Rockland ordinance, order, rule, or regulation governing the collection, transportation, or disposal of waste; or

(2) The permittee violates any Rockland ordinance, order, rule, or regulation governing the Rockland Solid Waste Facility; or

(3) The permittee is issued a permit on the basis of his residency or conduct of business in Rockland and ceases to be a resident of Rockland or to own or operate the business in Rockland, as may be applicable; or

(4) Other good or sufficient cause.

Such notice of suspension or revocation shall state the bases for the suspension or revocation and, with respect to suspensions, the duration of the suspension.

C. Appeal. Any person may appeal the suspension or revocation of his permit to the City Council, as provided in Ch. 14, Sec. 14-113 filed with the City Clerk within thirty (30) days of the date of the notice suspending or revoking such person's permit. Upon public hearing, the City Council may affirm, reverse, or modify the suspension or revocation.

Sec. 14-114 Licensing of Commercial and Residential Refuse Collectors

1. No Commercial or Residential Refuse/Recyclables Collector shall collect, recycle, or haul municipal solid waste generated within the boundaries of Rockland without first obtaining an annual license therefor as provided herein. All licenses shall expire on June 30, unless previously revoked or suspended. Any person applying for a license shall provide satisfactory proof that such applicant has irrevocable liability insurance providing coverage of at least \$1,000,000/occurrence, and shall cause the City of Rockland to be named as an additional insured prior to disposing of any waste at the Rockland Solid Waste Facility pursuant to the license.

2. Any person seeking to obtain a Commercial or Residential Refuse/Recyclables Collector License shall present to the City Clerk a written application therefor on a form provided by the Director, accompanied by payment of a fee to be set by the Order of the City Council. If such person proposes to haul Rockland municipal solid waste directly to PERC, applicant shall present evidence of a waste hauling agreement between the applicant and PERC for the disposal of Rockland municipal solid waste collected or transported by the applicant for the period of the license sought. A Commercial or Residential Refuse/Recyclables Collector License shall be issued by the City Clerk only upon approval by the City Council. For the licensing year commencing on July 1, 2011, and for each subsequent year, a Commercial Refuse Collector license applicant must submit the application and all required supporting documentation, including but not limited to the valid existing contract with PERC, on or before April 1 immediately preceding the commencement of the license year.

3. An application for a Commercial or Residential Refuse/Recyclables Collector License shall contain the following information:

A. Applicant's name;

B. Applicant's residence;

C. Address of the applicant's place(s) of business;

D. If the applicant is a corporation, the names and addresses of each of its directors and officers;

E. A description of the vehicles and equipment to be used, including the make, model, year of manufacture and license plate number of said vehicles and equipment;

F. A statement indicating whether applicant will be collecting, recycling, or hauling Solid Waste generated by residents, commercial activities or uses, and/or by industrial activities or uses. If the applicant intends to collect, recycle, or haul municipal solid waste generated by commercial and/or industrial activities or uses, the applicant shall describe the location of any dumpster(s) or other container(s) used by the commercial or industrial activity used to store the solid waste, together with the serial number, if any, on such dumpster(s) or container(s). No later than the 15th day of each month, each licensed Commercial or

Residential Refuse/Recyclables Collector shall provide the Director with a list of changes in the application information required by this subsection, if any;

- G. A copy of the hauler's current license with DEP; and
- H. A copy of the applicant's current waste hauling agreement with PERC.

4. Upon issuance of a license hereunder, the Director also shall issue to the Commercial or Residential Refuse/Recyclables Collector for each vehicle to be used by it a Commercial Hauler Permit. All licensed Commercial or Residential Refuse/Recyclables Collectors shall comply with such rules and regulations as the City Manager may adopt from time to time; failure to comply with such rules and regulations shall be a violation of this Ordinance. The first violation of any provision or provisions of this Ordinance by a licensed Commercial or Residential Refuse/Recyclables Collector shall result in a written warning stating the violation(s) and ordering their correction within a specified time, as may be applicable.

5. All licensed Commercial or Residential Refuse/Recyclables Collectors shall pay a fee, applied by weight or volume, established by Order of the City Council, for the disposal of municipal solid waste at the Rockland Solid Waste Facility by Commercial or Residential Refuse/Recyclables Collectors. All licensed Commercial or Residential Refuse/Recyclables Collectors must pay all invoices for the same within fourteen (14) days, or may be charged interest on the unpaid portion of the invoiced amount pursuant to the City's cash collection policy. It shall be a violation of Licensee's license and of this Ordinance to fail to pay an invoice or any portion thereof within ninety (90) days of the invoice date, subjecting such Licensee to penalties established herein or at law, and license suspension or revocation.

6. License Revocation or Suspension.

A. The City Council may deny, suspend, or revoke any Commercial or Residential Refuse/Recyclables Collector License, upon hearing, as follows:

(1) A second violation of any provision or provisions of this Ordinance by a licensed Commercial or Residential Refuse/Recyclables Collector shall result, in addition to any penalty or other relief that the City may seek, in a thirty (30) day suspension of that Commercial or Residential Refuse/Recyclables Collector's License, or if on the date of such violation said license is to expire in fewer than thirty (30) days, the revocation of said license;

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(2) A third violation of any provision or provisions of this Ordinance by a licensed Commercial or Residential Refuse/Recyclables Collector shall result, in addition to any penalty or other relief the City may seek, in a six (6) month suspension of that Commercial Refuse/Recyclables Collector's license or, if on the date of such violation said license is to expire in fewer than six (6) months, the revocation of said license;

(3) A fourth violation, at any time, of any provision or provisions of this Ordinance by a licensed Commercial or Residential Refuse/Recyclables Collector of any provision or provisions of this Ordinance shall result, in addition to any penalty or other relief the City may seek, in the revocation of that Commercial or Residential Refuse/Recyclables Collector's license and in the denial of Commercial and Residential Refuse Collector's licenses for subsequent years unless and until the City Council shall determine that the Commercial or Residential Refuse/Recyclables Collector may be allowed to apply for and receive a license under this Ordinance as a result of changes in such Collector's circumstances since the time of the fourth violation; provided, however, that any further violation shall result in the permanent revocation of the Commercial or Residential Refuse/Recyclables Collector's license and his ineligibility for a license under this Ordinance in subsequent calendar years.

(4) No Commercial or Residential Refuse/Recyclables Collector's license may be suspended or revoked unless there first has been a public hearing before the City Council, following a minimum, seven (7) days' prior written notice thereof, by U.S. Mail or electronic mail, to the Commercial or Residential Refuse/Recyclables Collector.

7. Appeal. A decision of the City Council denying, suspending, or revoking a Commercial or Residential Refuse/Recyclables Collector's license may be appealed to the Board of Appeals within thirty (30) days of such decision. Such appeal shall not stay the City Council's decision or any denial, revocation, or suspension of a Commercial or Residential Refuse/Recyclables Collector's license ordered by the City Council. The Director shall inform PERC of any denial, suspension, or revocation of a Commercial or Residential Refuse/Recyclables Collector's License hereunder.

Sec. 14-115 Fees; Enforcement; Violations; Penalties

The City Council shall establish appropriate fees for disposals and other uses of the Rockland Solid Waste Facility, and penalties for violations of this Article.

Rockland Solid Waste Facility Attendants shall enforce the provisions of this Ordinance including, without limitation, by verifying each user's permission to use the Facility, inspecting materials received at the Facility and their placement at the proper location and/or in the proper receptacle, ensuring that applicable permit, disposal, and/or processing fees, if any, have been paid, and by directing the handling and placement of all materials.

There shall be a penalty for a person's failure to separate recyclable from wastes, which shall be imposed by the Director on the person or business that brought the unseparated waste to the Facility for disposal. Such violator may appeal the Director's finding of the violation and/or imposition of a penalty to City Manager, whose decision shall constitute the final administrative decision in the matter.

Whoever violates any other provision of this Article shall be subject to the suspension or revocation of his permit and/or right to use the Rockland Solid Waste Facility; fines, penalties, and other remedies under applicable law; and/or a fine of not more than one thousand (\$1,000) per violation to be recovered, on complaint, to the use of the City of Rockland.

Whoever violates the provisions of Sec. 14-106 or Sec. 14-107 specifically, shall be punishable by penalties and reimbursement of legal fees and costs as follows:

- (i) A penalty not exceeding \$100 for the first violation in a one year period;
- (ii) A penalty not exceeding \$250 for the second and each subsequent violation in a one year period; and

(iii) Reimbursement of the City's legal fees and costs for prosecution of each violation. (NOTE: The provisions of the preceding paragraph will become effective January 1, 2019) Eff: 04/11/18

The City Council may, from time to time, establish further administrative requirements by Order relating to the disposal of solid waste at the Rockland Solid Waste Facility

Sec. 14-116 Miscellaneous

1. Whenever any provision herein is found to be in conflict with any other Article, Code, or Statute, the more restrictive provision shall apply.

2. If any section, subsection, or other provision of this Article is for any reason held to be invalid or unconstitutional, such determination shall not affect the validity of the remaining provisions of this Article which shall remain in full force and effect.

Ch. 14, Sec. 14-115

Sec. 14-115 Authority; Incorporation by Reference

This Ordinance is adapted pursuant to Home Rule powers as granted in Article VIII-A of the Maine Constitution; Title 30-A, Maine Revised Statutes, Sections 3351, 3352, and 3007; and Title 38, Maine Revised Statutes, Section 1305. All other applicable laws, regulations, ordinances, resolves, and orders relating to the regulation of the disposal of wastes are incorporated into this Article by reference. Eff: 09/01/10

ARTICLE II Sewage Facilities; General

Eff: 09/13/17

Sec. 14-201 Sewerage Facilities Required

Where a building is required to have facilities for the sanitary disposal of human waste, that building shall have a house drainage system which, except as otherwise provided under this Chapter, shall be connected with a private or the public sewer by the owner or agent of the premises in the most direct manner possible, and, unless exempted by the Director of the Water Pollution Control Facility (the "Director"), with a separate connection for each house or building. All houses provided with a house drainage system shall have at least one (1) private water-closet connected with the house drainage system. In multi-family structures, there shall be provided for each dwelling unit at least one (1) private water-closet connected with the house drainage system. Privy vaults, septic tanks or cesspools shall not be installed on premises accessible to a public sewer; when not so accessible, they may be constructed only in accordance with the specifications of the Maine Department of Human Services and with the written permit of the local Plumbing Inspector.

Sec. 14-202 Cleaning, Privies, Vaults, Cesspools, Septic Tanks

Whenever any privy, vault, cesspool, or septic tank shall become offensive to safety, health, comfort or convenience of the public, the Health Officer, Plumbing Inspector, and City Council may take whatever action is appropriate and which they are authorized to take under the Maine State Plumbing Code, Title 17, Title 22, or Title 30-A of the Maine Revised Statutes.

Sec. 14-203 Penalty

Every person who shall be guilty of a violation of any provision of this Article to which a particular penalty is not

annexed under applicable law, shall forfeit and pay a sum of not more than five hundred dollars (\$500), to be recovered to the use of the City on complaint or by other appropriate action before the Sixth District Court.

Sec. 14-204 Penalty - Further Violation

The imposition of a penalty for violation of this Article shall not excuse the violation or permit it to continue; such violation shall be remedied within a reasonable time, or within such time limit given by the appropriate City official, and each day such violation continues to exist following the expiration of the time limit specified in any notice given to the owner of the premises by the appropriate City official for the abatement of such violation shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions, nor preclude the City Attorney from causing to be instituted an appropriate action to prevent, restrain, correct or abate a violation of this Article.

State Law Reference: 22 M.R.S. §§ 42, 454-A, 1561; 30-A M.R.S. § 3428; 17 M.R.S. § 2802.

ARTICLE III Public Sewers; Construction and Assessment

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Sec. 14-301 Construction Authorized

As provided by the Revised Statutes of Maine, the City Council may, at the expense of the City, construct public drains or sewers along or across any public way therein; and through any lands of persons or corporations, when the City Council deems it necessary for public convenience or health. Before the land of persons or corporations is so taken, notice shall be given, and damages assessed and paid therefore as is provided for the location of town ways.

Sec. 14-302 Assessment

As provided by the Revised Statutes of Maine, when the City has constructed and completed a public drain or sewer, the City Council shall determine what lots or parcels of land are benefited by such drain or sewer, and shall estimate and assess upon such lots and parcels of land, and against the owner thereof, or person in possession, or against whom taxes thereon shall be assessed, whether the person to whom the assessment is so made shall be the owner, tenant, or person in possession, and whether the same is occupied or not, such sum not exceeding such benefit as they may deem Ch. 14, Sec. 14-115 and defraying the expenses of constructing and completing such drain or sewer together with such sewage disposal units and appurtenances as may be necessary, and constructed after the effective date of this Article, the whole of such assessment not to exceed one-half the cost of such drain or sewer and sewage disposal units and such drain or sewer shall forever hereafter be maintained and kept in repair by the City. The cost to be assessed among the property owners pro-rata may reflect the ratio that the number of feet frontage along the sewer line of each property owner bears to the total frontage of all abutters along the sewer construction project. All assessments may be paid in full at the time of notice due or may be paid in three (3) equal installments over a three (3) year period following assessment by the City. The rate of interest charged on the unpaid balance and the date when it begins to accrue shall be determined pursuant to the provisions of Title 30-A, § 3444 of the Maine Revised Statutes Annotated.

Sec. 14-303 Notice and Hearing

As provided by the Revised Statutes of Maine, the City Council shall file with the City Clerk the location of such drain or sewer and sewage disposal unit with a profile description of the same, and statement of the amount assessed upon each lot or parcel of land so assessed, and the name of the owner of such lots or parcels of land or person against whom the assessment shall be made, and the City Clerk shall record the same in a book kept for the purpose, and within ten (10) days after filing such notice, each person so assessed shall be notified of such assessment by having an authentic copy of the assessment, with an order of notice signed by the City Clerk stating the time and place for a hearing upon the subject matter of the assessments, given to each person so assessed or left at his/her usual place of abode in the City, if he/she has no place of abode in the City, then such notice shall be given or left at the abode of his tenant or lessee if he has one in the City; if he has no such tenant or lessee in the City, then by posting the same notice in some conspicuous place in the vicinity of the lot or parcel of land so assessed, at least thirty (30) days before the hearing, or such notice may be given by publishing the same three (3) weeks successively in any newspaper published in the City, the first publication to be at least thirty (30) days before the hearing; a return made upon a copy of such notice by any constable in the City or the production of the paper containing such notice shall be conclusive evidence that the notice has been given, and upon such hearing the City Council shall have power to revise, increase, or diminish any of such assessments, and all such revisions, increase or diminution shall be in writing and recorded by the City Clerk.

Sec. 14-304 Assessment May Be Determined By Arbitration

As provided by the Revised Statutes of Maine, any person not satisfied with the amount for which he/she is assessed under the provisions of the preceding section may, within ten (10) days after such hearing, by request in writing given to the City Clerk, have the assessment upon his/her lot or parcel of land determined by arbitration. The City Council shall nominate six (6) persons who are residents of the City, two (2) of whom selected by the applicant with a third resident person selected by the two persons shall fix the sum to be paid by him, and the report of such referees made to the City Clerk and recorded by him shall be final and binding upon all parties. The reference shall be had and their report made to the City Clerk within thirty (30) days from the time of hearing before the City Council as provided in the previous section hereof.

Sec. 14-305 Collection of Assessments

All assessments and charges made under the provisions of the public laws including, without limitation, Articles II, III or IV of this Chapter, shall be certified by the Municipal Officers and filed with the Tax Collector for collection. If the person assessed, within thirty (30) days after written notice of the amount of such assessments and charges, fails, neglects or refuses to pay the municipality the expense thereby incurred, a special tax in the amount of such assessment and charges may be assessed by the Municipal Assessors upon each and every lot or parcel of land so assessed and buildings upon the same, and such assessment shall be included in the next annual warrant to the Tax Collector for collection, and shall be collected in the same manner as State, county, and municipal taxes are collected.

Sec. 14-306 Acceptance of Provisions

The City Council hereby accepts, on behalf of the City of Rockland, the provisions of the Revised Statutes of Maine pertaining to highways, drains and sewers, including but not limited to provisions relating to sewer assessments and fees.

Sec. 14-307 Willfully or Carelessly Injuring Public Drains

As provided by the Revised Statutes of Maine, whoever willfully or carelessly injures or obstructs such public drain or its outlet, or any street or highway culvert leading to it, is liable to the City in an action on the case for double the amount of injury and damages thereby caused, in addition to all other legal penalties therefor.

Ch. 14, Sec. 14-303

Sec. 14-308 No Street Acceptance With Private Drain

No new street within which there is a private drain or sewer shall be accepted so long as the drain or sewer remains private property.

State Law Reference: 30-A M.R.S. §§ 5403-5415, 4351-4456; 10 M.R.S. §§ 1061-1072.

Cross Reference: Chapter 14, Article IV.

ARTICLE IV

Use of Public and Private Sewers and Drains

Private Sewage Disposal, the Installation and Construction of Building Sewers, and the Discharge of Waters and Wastes into the Public Sewer System: and Penalties for Violation Thereof in the City of Rockland, Maine, County of Knox

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Sec. 14-401 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

1. "40 CFR 403" and subsections shall mean the US EPA's Title 40 of the Code of Federal Regulations, Part 403-General Pretreatment Regulations for Existing and New Sources of Pollution.
2. "Allowable Headworks Loading (AHL)" shall mean the estimated maximum loading of a pollutant that can be received at a POTW's headworks that should not cause a POTW to violate a particular treatment plant or environmental criterion. AHLs are developed to prevent interference or pass through.
3. "Approval Authority" shall mean the Maine Department of Environmental Protection.
4. "Available" means that the building is within two hundred (200) feet of a public sewer and that sewer

service can be obtained by gravity flow.

5. Authorized or Duly Authorized Representative of the User.

(1) If the User is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

4. "Baseline Monitoring Report (BMR)" shall mean a report submitted by categorical industrial users within 180 days after the effective date of a categorical standard which indicates the compliance status of the user with the applicable categorical standard (refer to 40 CFR 403.129[b])
5. "Best Available Technology (BAT)" shall mean the degree of effluent reduction attainable by the application of the best available [treatment] technology economically achievable. Ch. 14, Sec. 14-308
6. "Best Management Practices (BMP)" shall mean schedules of activities, prohibitions, or ~~practices, maintenance~~ procedures, and other management practices to implement the prohibitions listed in Chapter 528 Section 11 of the Department of Environmental Protection Regulations and to prevent or reduce pollution discharges. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spills, or leaks, sludge or waste disposal, or drainage from raw material storage.
7. "Best Professional Judgment" (BPJ) shall mean the highest quality technical opinion developed by a permit writer after consideration of all reasonable available and pertinent data or information that forms the basis for the terms and conditions of a permit.
8. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° C, expressed in milligrams per liter.
9. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system that receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
10. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.
11. "Categorical Pretreatment Standards" shall mean pollutant discharge limits promulgated by EPA in accordance with Section 307 of the Clean Water Act that apply to regulated process wastewaters as well as standards identified in Maine Department of Environmental Protection Rule Chapters 525 and 528. They are based on the capability of a specific wastewater treatment technology or series of technologies to reduce pollutant discharges equivalent to best available technology (BAT).
12. "Categorical Industrial User (CIU)" shall mean an industrial user subject to categorical pretreatment standards.
13. "Chain of Custody" shall mean a written record of sample possession for all persons who handle (i.e., collect, transport, analyze, and/or dispose of) a sample, including the names, dates, times, and procedures followed.

14. "Charges and Fees Order" shall mean a document to be approved by the Council of the City of Rockland. This Order shall contain the most recent fees, surcharges, interest charges on delinquent accounts, formulas, and other rates as defined this Sewer Use Ordinance that shall be applied to users of the City's Water Pollution Control Facility. The City Council shall establish this Order on at least an annual basis. This Order shall be separate from the Sewer Use Ordinance. The Director of the Pollution Control Facility shall have the authority to adjust fees, surcharges, interest charges on delinquent accounts, formulas, and other rates contained in this Order and re-submit the Order to the Council of the City of Rockland for approval as needed to ensure the operation of the Facility and compliance with its pretreatment programs. In the event an error in any fee, surcharge, or other assessment is discovered, the Director may correct the error for a period not exceeding up to one year, including billing the user for an additional amount owed, or remitting to the user an amount that was overpaid.
15. "City Engineer" shall mean the Engineer for the City of Rockland, or in the absence of a City Engineer, that person designated by the City Manager to perform those duties.
16. "Clean Water Act (CWA)" , also known as the Federal Water Pollution Control Act, enacted by Public law 92-500, October 18, 1972, 33 USC 1251 et seq; as amended by PL 95-217, December 28, 1977; PL 97-117 December 29, 1981; PL 97-440, January 8, 1983, and PL 100-04, February 4, 1987.
17. "Code of Federal Regulations (CFR)" shall mean the Code of Federal Regulations published in a U.S. government publication, the Federal Register. Title 40 of the CFR contains environmental regulations.
18. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.
19. "Composite Sample" shall mean a sample composed of two or more discreet samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.
20. "Control Authority", as defined in 40 CFR 403.3(f)(1), shall mean the Rockland Water Pollution Control Facility. The Control Authority is responsible for implementing the pretreatment program, including establishment of control mechanisms for compliance assessment and enforcement of national standards, categorical standards, and local limits.
21. "Conservative Pollutants" shall mean those pollutants that are presumed not to be destroyed, biodegraded, chemically transformed, or volatilized within the POTW. Conservative pollutants introduced to a POTW ultimately exit the POTW solely through the POTW's effluent and sludge. Most metals are considered to be conservative pollutants.
22. "Conventional pollutants" shall mean pollutants typical of municipal sewage, and for which secondary treatment plants are designed to treat. They are Biochemical Oxygen Demand, Total Suspended Solids, Total Phosphorus, bacteria, oil and grease and pH. Ch. 14, Sec. 14-401
23. "Director" shall mean the Director of the City of Rockland Water Pollution Control Facility, or his authorized deputy, agent or representative.
24. "Enforcement Response Plan" shall mean a plan that documents a well-defined, legally-defensible procedure to be followed when enforcing users who are not in compliance with the City of Rockland's pretreatment program and/or Sewer Use Ordinance. This formal enforcement document defines the consequences of one-time, repeated, continuing, or significant non-compliance, and ensures equitable treatment of all users of the City's Water Pollution Control Facility.
25. "Equivalent Use" shall mean that, if water usage data are not available, the cost for treatment of wastewater generated by a commercial or multi-family residential unit shall be calculated based on the estimated water use in specific processes or by specific users at that location. Equivalent Use units are a ratio of estimated water use at the location in question to water use from a single-family residence. The "Charges and Fees Order" defines Equivalent Use values for a wide variety of multi-family residential and commercial uses.
26. Existing Source. Any source of discharge that is not a "New Source."
27. "Flashpoint" shall mean the lowest temperature at which vapor combustion will propagate away from its source of ignition.
28. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.
29. "Headworks" shall mean the point at which wastewater enters a wastewater treatment plant. The headworks may consist of bar screens, comminuters, a wet well, or pumps.
30. "Hearing Board" shall mean that Board appointed according to provision of Section 14-521 (Board of Sewer Appeals).
31. "Indirect Discharge" or "Discharge" shall mean the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the Clean Water Act.

32. "Industrial User (IU)" shall mean a non-domestic source of pollutants into a POTW that is regulated under Section 307(b), (c), or (d) of the Clean Water Act.
33. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
34. "Industrial Waste Survey" shall mean the process of identifying and locating industrial users and characterizing their industrial discharges.
35. "Inflow and Infiltration (I&I)" shall mean the seepage of groundwater into a sewer system, including service connections. Seepage frequently occurs through defective or cracked pipes, pipe joints, connections, or manhole walls. Inflow is the water discharged into a sewer system and service connections from sources other than regular connections. This includes flow from yard drains, foundation drains, and around manhole covers. Inflow differs from infiltration in that it is a direct discharge into the sewer rather than a leak or seepage into the sewer itself.
36. "Inhibition" shall mean when pollutant levels in a POTW's wastewater or sludge cause operations problems for biological treatment processes involving secondary or tertiary wastewater treatment and alter the POTW's ability to adequately remove BOD, TSS, and other pollutants.
37. "Instantaneous Limit". The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
38. "Interference" shall mean when a discharge, alone or with discharges from other sources: inhibits or disrupts a POTW, its treatment processes and operations; inhibits or disrupts a POTW's sludge processes, use, or disposal, and therefore, causes a violation of the POTW's MEPDES permit; increases the magnitude or duration of such a violation; or prevents the proper use or disposal of sewage sludge in compliance with the Clean Water Act, Solid Waste Disposal Act, Toxic Substance Control Act, or the Marine Protection, Research and Sanctuaries Act.
39. "Local Limit". Specific discharge limits developed and enforced by {the City} upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Chapter 528 Section 6(a) and (b).
40. "Lower Explosive Limit (LEL)" shall mean the minimum concentration in air at which a gas or vapor will explode or burn in the presence of an ignition source.
41. "Maximum Contaminant Level (MCL)" shall mean the maximum permissible level of a contaminant in water delivered to any user of a public water system. An MCL is an enforceable standard.
42. "Maximum Allowable Headworks Loading (MAHL)" shall mean the estimated maximum loading of a pollutant that can be received at a POTW's headworks without causing pass through or interference (lowest) of the AHLs (see definition) estimated for a pollutant. Ch. 14, Sec. 14-401
43. "Maximum Allowable Industrial Loading (MAIL)" shall mean the estimated maximum loading of a pollutant that can be received at a POTW's headworks from all permitted industrial users and other controlled sources without causing pass through or interference. The MAIL is usually calculated by applying a safety factor to the MAHL and discounting for uncontrolled sources, hauled waste and growth allowance.
44. "MEPDES" shall mean the Maine Pollutant Discharge Elimination System. This program is the State's equivalent of the National Pollutant Discharge Elimination System, delegated to the State by the US EPA in October 2001 and administered by the Maine DEP.
45. "Method Detection Limit (MDL)" shall mean the minimum concentration of an analyte that can be measured and reported with 99 percent confidence that the analyte concentration is present as determined by a specific laboratory method in 40 CFR Part 136, Appendix B.
46. "Minimum charge or Base Facilities Charge" is the charge imposed by the City for each equivalent residential unit or amount of treatment capacity reserved or dedicated. The charge represents a portion of the cost to the City of having the system available to serve that equivalent residential unit without regard to volume used. This fee is based on a specified amount of capacity available to the customer or potential customer for the fixed cost related to the annual cost of operating the wastewater system including any debt service. Any residential, commercial, or industrial user (existing, proposed or potential) is required to pay the Minimum Charge as set forth in the City of Rockland's current Charges and Fees Order to compensate for the capacity maintained in the wastewater system for that user.
47. "Minimum Level of Quantitation (ML)" shall mean the lowest level at which the entire analytical system must give a recognizable signal and acceptable calibration point for the analyte. It is equivalent to the concentration of the lowest calibration standard, assuming that all method-specified sample weights, volumes, and cleanup

procedures have been employed. The ML is calculated by multiplying the MDL by 3.18 and rounding the result to the number nearest $(1, 2, \text{ or } 5) \times 10^n$ where n is an integer.

48. Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
49. Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
50. "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
51. "National Categorical Pretreatment Standards" shall mean pollutant discharge limits promulgated by EPA in accordance with Section 307 of the Clean Water Act that apply to regulated process wastewaters. They are based on the capability of a specific wastewater treatment technology or series of technologies to reduce pollutant discharges equivalent to best available technology (BAT).
52. "National Pollutant Discharge Elimination System (NPDES)" shall mean the permitting system established by the Clean Water Act, which regulates the discharge of pollutants into the waters of the United States. Such a discharge is prohibited unless a NPDES permit is issued by EPA or, where authorized, a State or a Native American tribal government.
53. "New Source:"

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

- (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
- (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
- (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general activity as the Existing Source, should be considered.

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(2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

- (a) Begun, or caused to begin, as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

54. "Non-conservative Pollutants" shall mean pollutants that are presumed to be destroyed, biodegraded, chemically transformed, or volatilized within the POTW to some degree.
55. "Noncontact Cooling Water". Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
56. "Notice of Violation" shall mean a written notification to a user of the City of Rockland's Pollution Control Facility that it has violated the conditions of its discharge permit or other permission to discharge to the Facility. The level of severity of the Notice of Violation shall be based on definitions included in the City's Enforcement Response Plan and in this Sewer Use Ordinance.
57. "Pass-through" shall mean A discharge that enters the waters of the United States from a POTW in quantities or concentrations that, alone or with discharges from other sources, either causes a violation of any requirement of the POTW's MEPDES permit, or increases the magnitude or duration of a violation of the POTW's MEPDES permit.
58. "Pollutant of Concern (POC)" shall mean any pollutant that might reasonably be expected to be discharged to the POTW in sufficient amounts to pass through or interfere with the works, contaminate its sludge, cause problems in its collection system, or jeopardize its workers.
59. "Pretreatment". The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.
60. "Pretreatment Requirement" shall mean any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.
61. "Pretreatment Standards or Standards". Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.
62. "Priority Pollutant" shall mean pollutants listed by the EPA Administrator under Clean Water Act Section 307 (a). The list of the current 126 Priority Pollutants can be found in 40 CFR Part 423, Appendix A.
63. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution
64. "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.
65. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
66. "POTW" shall mean a treatment works, as defined by Section 212 of the CWA, which is owned by the State or municipality. This definition includes any devices and systems used in the storage, ~~treatment, recycling and~~ reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes Ch. 14, Sec. 14-401 conveyances only if they convey wastewater to a POTW treatment plant [40 CFR 403.5]. Privately owned treatment works, Federally owned treatment works, and other treatment plants not owned by municipalities are not considered POTWs.
67. "Regulated Wastestream" shall mean an industrial wastestream regulated by a National Categorical Pretreatment Standard.
68. "Resource Conservation and Recovery Act (RCRA)" shall mean the 1976 Congressional act, amended in 1984 by the Hazardous and Solid Waste Amendments: Public Law 92-580, which established a "cradle to grave" program for management of hazardous wastes.
69. "Sanitary Sewer" shall mean a sewer that carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
70. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
71. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.
72. "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.
73. "Sewer" shall mean a pipe or conduit for carrying sewage.
74. "Sewer Use Ordinance (SUO)". A legal mechanism implemented by a local government entity that sets out, among others, requirements for the discharge of pollutants into a POTW and its wastewater collection/conveyance system.
75. "Shall" is mandatory; "May" is permissive.

76. "Short-Term Exposure Level (STEL)". Concentrations to which a worker should not be exposed for longer than 15 minutes and which should not be repeated more than four times per day, with at least one hour between exposures (commonly accepted exposure limits identified by the American Conference of Governmental Industrial Hygienists).
77. "Significant Noncompliance" shall mean that a user's violation meets one or more of the criteria defined in the most recent revision of 40 CFR 403.8(f)(2)(vii), or one or more of the criteria defined in the most recent version of the City of Rockland WPCF's *Enforcement Response Plan and Guide*.
78. "Significant Industrial User (SIU)" shall be understood to be as defined by EPA guidance, that is: A) all categorical industrial users, or B) any non-categorical industrial user that i) discharges 25,000 gallons per day or more of process wastewater ("process wastewater" excludes sanitary non-contact cooling water and boiler blowdown wastewaters) or ii) contributes a process wastestream that makes up five percent or more of the average dry weather hydraulic or organic (BOD, TSS, etc..) capacity of the treatment plant or iii) has a reasonable potential, in the opinion of the Control or Approval Authority to adversely affect the POTW treatment plant (inhibition, pass through of pollutants, sludge contamination, endangerment of POTW workers or for violating any pretreatment standard or requirement)
79. "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow that causes harm or potential harm to the treatment works or appurtenances.
80. "Slug Load or Slug Discharge". Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 14-505 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.
81. "Standard Industrial Classification" shall mean a classification scheme based on the type of industry or process at a facility.
82. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
83. "Spill Prevention and Control Plan" shall mean a plan prepared by an industrial user to minimize the likelihood of a spill and to expedite control and cleanup activities should a spill occur.
84. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
85. "Superintendent" shall mean the Superintendent (or Director) of Water Pollution Control of the City of Rockland, Maine, or his authorized deputy, agent, or representative.
86. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids, and which are removable by laboratory filtering.
87. "Time Proportional Composite Sample" shall mean a combination of individual samples v

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 at specific time intervals.
88. "Total Suspended Solids (TSS)" shall mean a measure of the suspended solids in wastewater, effluent, or water bodies, determined by tests for "total suspended non-filterable solids."
89. "Toxic Organic Management Plan (TOMP)" shall mean a written plan submitted by industrial users as an alternative to Total Toxic Organics (TTO) monitoring, which specifies the toxic organic compounds used, the method of disposal used and procedures for assuring that toxic organics do not routinely spill or leak into wastewater discharged at the POTW.
90. "Toxic Pollutant" shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provision of the Clean Water Act 307(a) or other Acts. These pollutants are pollutants that may cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, or physical deformations. Toxic pollutants include certain metals and organic chemicals.
91. "Treatability Manual" shall mean guidance prepared by the U.S. EPA that provides detailed descriptions of industrial processes, potential pollutants from each process, appropriate treatment technologies, and cost-estimating procedures.
92. "Un-regulated wastestream" shall mean a wastestream that is not regulated by a National Categorical Pretreatment Standard and is not considered a dilute wastestream
93. "User" shall mean any individual, firm, company, association, society, corporation, or group.
94. "Volatile Organic Compound (VOC)". As defined in 40 CFR 50.100, "volatile organic compounds" means any

compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

95. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.
96. "Whole Effluent Toxicity (WET) Tests" shall mean the aggregate toxic effect of an effluent measured directly by an aquatic toxicity test. Aquatic toxicity methods designed specifically for measuring WET have been codified in 40 CFR 136. WET test methods employ a suite of standardized freshwater, marine, and estuarine plants, invertebrates, and vertebrates to estimate acute and short-term chronic toxicity of effluents and receiving waters.
97. "WPCF" shall mean Water Pollution Control Facility.

Sec. 14-402 Unlawful Disposal of Sanitary or Solid Waste; Use of Public Sewers

1. *Depositing Waste in Unsanitary Manner.* It shall be unlawful for any user or person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Rockland, Maine, or in any area under the jurisdiction of the City of Rockland, any human or animal excrement, garbage, or other objectionable waste.
2. *Discharge to Natural Outlet.* It shall be unlawful to discharge to any natural outlet within the City of Rockland, or in any area under the jurisdiction of the City of Rockland, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.
3. *Privy; Cesspool; Septic Tank.* Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
4. *Connection to Public Sewer.* The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City of Rockland and abutting on any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer of the City of Rockland, is hereby required, at owner's expense, to install suitable toilet facilities therein. Such owner shall also connect such facilities directly with the proper available public sewer in accordance with the provisions of this Article, and pay the Reserve Capacity Charge established pursuant to Section 14-408(16) and set forth in the Charges and Fees Order of the Rockland City Council. The owners of structures with toilet facilities on properties abutting on any street, alley, or right-of-way in which a newly-constructed public sewer is located shall, within ninety (90) days after the date of official notice to do so, connect to such public sewer and pay the Reserve Capacity Charge, or apply to the Director for an extension of time to connect, in accordance with the following terms:

A. If the applicant's existing septic system is in working order, as determined by the City, the extension may be granted for a period of up to five years, or the date of the transfer of ownership of the property, whichever occurs first;

B. A second extension may be granted, for an additional period not to exceed five years or the transfer of ownership of the property, whichever occurs first, only upon approval by the Rockland City Council;

C. The owners situated in the City of Rockland who are not connected to an available public sewer, for any reason whatsoever, shall be assessed minimum sewer charges, as approved by the Rockland

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D. If connection is timely, and in accordance with the applicable requirements of this A the Reserve Capacity Charge established under Section 14-408 may be reduced by the amount of minimum sewer charges, if any, assessed on and paid by the property owner and owner's immediate predecessor in title prior to connecting to the public sewer.

A property owner may connect to and enter a common sewer that is not a public sewer but is connected to a public sewer only in the event such owner submits, in a form acceptable to the Director, an agreement documenting the owner's right to enter the common sewer, setting forth the respective rights and responsibilities of all property owners connected or to be connected to the common sewer with respect to its use, maintenance, and replacement, and granting the City of Rockland an acceptable means of enforcing such users' compliance with applicable permitting, sewerage disposal, and environmental laws, regulations, rules, and ordinances, including without limitation the authority to (1) repair or replace the common sewer, at its users' expense, and to (2) place a lien on users' real property as a mechanism for collecting sewer fees and charges authorized under this Chapter in like manner as is authorized under Title 30-A, Maine Revised Statutes, Section 3406, and Title 38, Section 1208. Users who discharge wastewater to a public sewer via a shared, private sewer or common sewer that is not the subject of such an user agreement are each jointly and severally liable for the full cost of maintaining, repairing, and/or replacing such shared sewer.

Sec. 14-403 Building Sewers and Connections

1. *Separate System for Every Building.* A separate and independent building sewer shall be provided for every building; provided, however, that the Director, in his/her sole discretion, may grant an exception from this requirement in the following circumstances:
 - A. where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer;
 - B. where the Director determines that the construction of a separate building sewer connection to a public sewer would necessitate a street opening that unreasonably or unnecessarily disrupts the street and where the property owner reaches agreement with an abutter in a form acceptable to the Director to connect to the public sewer via such abutter's existing or replacement sewer connection, so long as such connection is not located under any building or other structure or tree; and/or
 - C. where the two or more buildings to be served by one building sewer are located on the same lot, and the building sewer is designed and constructed in conformance with specifications for a public sewer of similar capacity. Before such lot may be subdivided, the property owner shall prepare, obtain the Director's approval of, and execute a common sewer agreement in conformance with subsection 14-402(4).
2. *Elevation.* Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means (e.g., pump station) and discharged to the building sewer. Where a structure has any facilities or open drains discharging wastewater to a public sewer that are situated below the elevation of the nearest manhole rim and/or street, and the discharge to the public sewer is by gravity flow, a back-flow prevention device shall be installed in the building sewer.
3. *Surface Runoff; Groundwater.* No new connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff, stormwater or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer shall be permitted.
4. *Old Sewers.* Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Director, to meet all requirements of this Ordinance.
5. *Permit Required.* No unauthorized user or person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written Sewer Connection Permit from the Director. An application for a sewer connection permit shall constitute a request that the City reserve capacity at the Water Pollution Control Facility sufficient to treat and lawfully discharge wastewater generated at the property that is the subject of the permit. Any user or person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system, shall notify the Director at least forty five (45) days prior to the proposed change or connection.
6. *Classes of Permits.* There shall be two (2) classes of sewer connection permits: (A) for residential and commercial service, and (B) for service to establishments producing industrial wastes. In either case, the application shall be on a special form furnished by the City of Rockland. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Director. A permit and inspection fee for a residential or commercial building sewer permit, as established by the Charges and Fees Order of the Rockland City Council and the cost of installation for an industrial building sewer permit, as established by the Charges and Fees Order of the Rockland City Council, shall be paid to the City of Rockland at the time the application is filed.
7. *Industrial Waste.* If, after receipt and review of an Industrial Use Connection Application, the Director determines that the proposed industrial discharge into the sewer system will not be harmful to the sewage works, cause the City to violate any of their Federal or State discharge permits, or to operate in conditions more severe than normal, the Director may issue an Industrial Wastewater Permit. The permit shall contain specific effluent limitations, plans and specifications for the industrial pretreatment facilities, and other terms and conditions as the Director may deem necessary. Violation of any term of the Industrial Wastewater Permit shall be subject to penalties as outlined in Section 14-419 (Enforcement and Penalties) and by the Charges and Fees Order of the Rockland City Council.
8. *Supervision of Connection by Water Pollution Control Director or designee.* The applicant for the building sewer permit shall notify the Director when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Water Pollution Control Director or designee.
9. *Building Sewer Construction and Connection.* The property owner shall be responsible for the construction of sewers

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erving building(s) on the property provided, however, that the City shall cause the construction of those portions of new and replacement building sewers that connect with a public sewer that are located between the property line and the public sewer, and for opening the street and effecting the connection of such building sewer with the public sewer. For that purpose, the City shall retain a Water Pollution Control Facility General Services Contractor or other contractor approved by the Director. The connection shall be made under the supervision and subject to the inspection and approval of the WPCF Director or designee. Upon the completion and approval by the City of such private sewer lateral, the property owner, heirs and assigns shall thereafter maintain the entire length of the building sewer, including that portion that is located in the right-of-way, in good repair and working order, free from obstructions, defects, and excess infiltration. In lieu of the City constructing the sewers between the property line and public sewer, a property owner may choose, at their own expense, to hire their own contractor to perform the work. Said contractor shall receive all necessary permits from the City and shall perform the work to the satisfaction of the City. In the event the repair of a building sewer requires that the street be opened, the City shall, itself or through a contractor acceptable to the Director, cause such street opening and repair, at the property owner's expense; provided, however, that if the Director, in his/her sole discretion, determines that the building sewer defect requiring repair (A) occurred within two years of the construction of the building sewer, (B) by the City's contractor, and (C) was necessitated by a failure of materials or workmanship in the construction of the building sewer by such contractor, the City or its contractor shall bear the expense of the repair. A property owner may choose, at their own expense, to hire their own contractor to perform the repair work. Said contractor shall receive all necessary permits from the City and shall perform the work to the satisfaction of the City.

10. *Costs Borne by Owner.* The Rockland City Council, in consultation with the Director, shall establish in its Charges and Fees Order a Building Sewer Construction Charge. Such Building Sewer Construction Charge shall reflect the average cost of the construction of a fifteen foot long, six (6) inch diameter building sewer and its connection to the public sanitary sewer, including the cost of opening and repaving the street and sidewalk. The property owner shall pay such Building Sewer Construction Charge as the owner's cost for constructing that portion of the owner's building sewer that is located within the right-of-way. The property owner shall pay the entire actual cost of the construction and connection of the owner's building sewer within the right-of-way if it exceeds 30 feet in length. In the event that a property owner connects to an existing drain outside a public right-of-way, the owner shall pay the full, actual cost of such connection. All costs and expense incident to the maintenance of the building sewer, both on private property and within the right-of-way, following its installation and connection shall be borne by the owner.

11. *Excavations.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City of Rockland.

12. *Construction Requirements.* The size, slope, alignment, materials or construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the City of Rockland. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and Water Environment Federation (WEF) Manual of Practice No. 9 shall apply.

13. *Connections; Requirements.* The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of Ch. 14, Sec. 14-403 the procedures set forth in appropriate specifications of the ASTM and WEF Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the Director and/or Public Works Director before installation.

14. *Compliance With Applicable Law.* Following the establishment of a connection of a private drain with a public sewer, the owner and/or other occupants of the property shall comply with all applicable laws, regulations, rules, and ordinances regulating the use and maintenance of public sewers, and discharge and pretreatment standards and restrictions for wastes discharged to such public sewer.

Sec. 14-404 Private Sewage Disposal

1. *Connection to Private System.* Where a public sanitary or combined sewer is not available, or immediate connection to such sewer is not required, under the provisions of Section 14-502(4) (Use of Public Sewers), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Section. No property owner whose property is once connected to the public sanitary or combined sewer shall disconnect said property and construct a private sewage disposal system.

2. *Permit Required.* Before commencement of construction of a private sewage disposal system, the owner shall first obtain

a written permit signed by the Local Plumbing Inspector. The application for such permit shall be made on a form furnished by the City of Rockland, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the local Local Plumbing Inspector. A permit and inspection fee as established by the Charges and Fees Order of the Rockland City Council shall be paid to the City of Rockland at the time the application is filed.

3. Inspections. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Local Plumbing Inspector. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Local Plumbing Inspector when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the Local Plumbing Inspector.
4. State Requirements. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of appropriate State of Maine agency. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than twenty thousand (20,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
5. Connection to Public Sewer. At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this Article and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.
6. Operation and Maintenance. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City of Rockland. As provided by the Revised Statutes of Maine, if a private drain becomes so obstructed or out of repair as to injure any street or highway, and the persons using it, after notice by the Director of Public Works, unreasonably neglects to repair such injury, it shall be repaired by the City and the expense thereof may be recovered to the City in an action on the case against any one or more of the persons using such drain.
State Law Ref.: 30-A M.R.S. § 3426.
7. Local Plumbing Inspector's Authority. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Local Plumbing Inspector.
8. Procedure After Connection to Public Sewer. When a connection is made to a public sewer from a property formerly served by a private sewage disposal system, the private sewage disposal system shall be cleaned of sludge and filled with clean bankrun gravel or dirt by the property owner within sixty (60) days of the connection to the public sewer.

Sec. 14-405 Prohibited Discharge Standards

Prohibited discharge standards are general, national standards that are applicable to all industrial users of the Rockland WPCF, regardless of whether or not the industrial user has been issued a permit or is a National Categorical Discharger. These standards, while not developed by the City of Rockland, protect the Rockland WPCF against pass through and interference, protect the Rockland WPCF collection system, and to promote worker safety and beneficial biosolids use. These standards are listed in 40 CFR 403.5, CMR Chapter 528 Section 6(a) and (b), and as follows:

- A) *General prohibition.* A User may not introduce into the Rockland WPCF any pollutant(s) that cause pass-through or interference. This applies whether or not the User is subject to National Pretreatment Standards or any national, State, or local pretreatment requirements.
- B) *Specific prohibitions.* In addition, the following pollutants shall not be introduced into the Rockland WPCF, as defined in 40 CFR 403.5(b):
 - a. Pollutants that create a fire or explosion hazard in the Rockland WPCF, including Ch. 14, Sec. 14-405 streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21;
 - b. Pollutants that will cause corrosive structural damage to the Rockland WPCF, but in no case discharges with pH lower than 5.5 or greater than 11.0 unless the works is specifically designed to accommodate such discharges;
 - c. Solid or viscous pollutants in amounts that will cause obstruction to the flow in the Rockland WPCF resulting in interference;
 - d. Any pollutant, including oxygen-demanding pollutants (BOD, etc..) released in a discharge at a flow rate and/or pollutant concentration that will cause interference with the Rockland WPCF;
 - e. Heat in amounts that will inhibit biological activity in the Rockland WPCF resulting in interference, but in no case heat in such quantities that the temperature entering the Rockland WPCF aeration basin exceeds 40°C (104°F). This requirement applies unless the approval authority, upon request of the Rockland WPCF, approves alternate temperature limits;

- f. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through;
 - g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the Rockland WPCF in a quantity that may cause acute worker health and safety problems;
 - h. Any trucked or hauled pollutants, except at discharge points designated by the Rockland WPCF.
- C) *When specific limits must be developed by the POTW.* The Rockland WPCF has integrated the prohibitions listed in (A) and (B) of this section and shall continue to develop these limits (as necessary) and shall effectively enforce such limits. The Rockland WPCF will continue to develop and enforce specific effluent limits for industrial users and all other users, where these limits and changes in the POTW facility or operation are necessary to ensure renewed and continued compliance with Rockland MEPDES permit or sludge use practices.
- D) *Local Limits.* Where specific prohibitions or limits on pollutants or parameters are developed in accordance with (C), such limits shall be deemed pretreatment standards for the purposes of 40 CFR 403.5 (c) and (d)
- E) *Enforcement Actions.* If the Rockland WPCF has not taken actions within 30 days after a notice of interference or pass-through, ME DEP and/or EPA may take appropriate enforcement action (under the authority provided in section 309(f) of the Clean Water Act) to correct the violation.
- F) *Under compliance deadlines.* The City of Rockland's compliance with these provisions was required beginning March 16, 1981.
- G) The Rockland WPCF may develop Best Management Practices (BMPs) to implement paragraphs C and D of this Section. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of Section 307(d) of the Clean Water Act.

Sec. 14-406 National Categorical Pretreatment Standards

As defined in 40 CFR 403.6, National Categorical Pretreatment Standards, which specify quantities or concentrations of pollutants or pollutant properties that may be discharged to the Rockland WPCF by existing or new industrial users in specific industrial subcategories, have been established as separate regulations under 40 CFR Chapter I, Subchapter N. These Federally-promulgated (i.e., not developed by the City of Rockland) standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in this Sewer Use Ordinance. The industrial categories presently defined in 40 CFR Chapter I, Subchapter N are as follows:

- 405 Dairy products processing point source category
- 406 Grain mills point source category
- 407 Canned and preserved fruits and vegetables processing point source category
- 408 Canned and preserved seafood processing point source category
- 409 Sugar processing point source category
- 410 Textile mills point source category
- 411 Cement manufacturing point source category
- 412 Concentrated animal feeding operations (CAFO) point source category
- 413 Electroplating point source category
- 414 Organic chemicals, plastics, and synthetic fibers
- 415 Inorganic chemicals manufacturing point source category
- 417 Soap and detergent manufacturing point source category
- 418 Fertilizer manufacturing point source category
- 419 Petroleum refining point source category
- 420 Iron and steel manufacturing point source category
- 421 Nonferrous metals manufacturing point source category
- 422 Phosphate manufacturing point source category
- 423 Steam electric power generating point source category
- 424 Ferroalloy manufacturing point source category
- 425 Leather tanning and finishing point source category
- 426 Glass manufacturing point source category
- 427 Asbestos manufacturing point source category
- 428 Rubber manufacturing point source category
- 429 Timber products processing point source category
- 430 The pulp, paper, and paperboard point source category

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- 431 Builder's paper and board mills point source category
- 432 Meat products point source category
- 433 Metal finishing point source category
- 434 Coal mining point source category BPT, BAT, BCT limitations and new source performance standards
- 435 Oil and gas extraction point source category
- 436 Mineral mining and processing point source category
- 437 The centralized waste treatment point source category
- 438 Metal products and machinery point source category
- 439 Pharmaceutical manufacturing point source category
- 440 Ore mining and dressing point source category
- 442 Transportation equipment cleaning point source category
- 443 Effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources for the paving and roofing materials (tars and asphalt) point source category
- 444 Hazardous Waste combustors point source category
- 445 Landfills point source category
- 446 Paint formulating point source category
- 447 Ink formulating point source category
- 451 Aquaculture, aquatic animals, and fish hatcheries
- 454 Gum and wood chemicals manufacturing point source category
- 455 Pesticide chemicals
- 457 Explosives manufacturing point source category
- 458 Carbon black manufacturing point source category
- 459 Photographic point source category
- 460 Hospital point source category
- 461 Battery manufacturing point source category
- 463 Plastics molding and forming point source category
- 464 Metal molding and casting (foundries) point source category
- 465 Coil coating point source category
- 466 Porcelain enameling point source category
- 467 Aluminum forming point source category
- 468 Copper forming point source category
- 469 Electrical and electronic components point source category
- 470 Nonferrous metals forming and metal powders point source category

Sec. 14-407 State Pretreatment Standards

Users must comply with State Pretreatment Standards codified in 06-096 CMR Chapter 528 Pretreatment Program.

Sec. 14-408 Local Discharge Restrictions

In addition to the Prohibited Discharge Standards identified in Section 14-505 (Prohibited Discharge Standards), the following limits and prohibitions apply to users discharging into the Rockland POTW. Users shall not discharge any waters or wastes with characteristics outside the ranges described in any paragraph of Ch. 14, Sec. 14-407 prior written approval from the Director to do so.

1. *Discharge of Certain Waters to Sanitary Sewer Prohibited.* No discharge of any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer shall be permitted.
2. *Stormwater Sewers.* Stormwater and all other unpolluted drainage shall be discharged to storm sewers, or to a natural outlet approved by the Director. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Director, to a storm sewer or natural outlet.
3. *Discharge of Flammable, Toxic, Corrosive, or Solid Substances.* No user shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
 - A. Flammable; Explosive. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

B. Toxic. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/L as CN in the wastes as discharged to the public sewer.

C. Corrosive. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

D. Solid; Viscous. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

4. *Other Types of Substances Prohibited.* No user shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Director that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his/her opinion as to the acceptability of these wastes, the Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

A. Temperature. Any liquid or vapor having a temperature higher than 130°F unless otherwise authorized by permit but in no case heat in such quantities that the temperature at the Rockland WPCF exceeds 40°C (104°F).

B. Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100 mg/L or containing substances which may solidify or become viscous at temperatures between 32° and 150°F (0° and 65°C).

C. Garbage. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Director.

D. Toxic. Any waters or wastes containing pollutants in concentration to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Director for such materials.

E. Taste; Odor. Any waters or wastes containing phenols, or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the Director as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters. .

F. Radioactive. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable State or Federal regulation.

G. pH. Any waters or wastes (outside the acceptable range according to section 4.H of this section).

H. Local Limits:

See separate Local Limits document.

I. Additional Limitations:

Unless specifically authorized by a wastewater permit, no discharge shall exceed the following maximum daily limits. All references to “slug load” shall be as per the definition of “slug load” as included in Section

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a. Dissolved Sulfates.....200 mg/L

b. Chlorine in such quantities as to constitute a slug load

c. Unusual volume of flow or concentration of wastes as to constitute a slug load

d. Excessive discoloration such as, but not limited to, dye waste, vegetable solutions and tanning solutions.

e. Untreatable. Waters of wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

J. The Superintendent may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirements of Section 14-505.

5. *Prohibited Substances; Director’s Options.* If any waters or wastes are discharged, or are proposed to be discharged to

the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection 4 of this Section, and which, in the judgment of the Director, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Director may:

- A. Reject. Reject the wastes.
- B. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers,
- C. Control. Require control over the quantities and rates of discharge, and/or
- D. Payment. Require payment to cover the added cost of handling and treating the waste. If the Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Director, and subject to the requirements of all applicable codes, ordinances, and laws.

6. *Interceptions.* Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director, and shall be located as to be readily and easily accessible for cleaning and inspection.

7. *Preliminary Treatment; Maintenance.* Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

8. *Manhole; Monitoring Reports.* When required by the Director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be constructed in accordance with plans approved by the Director. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by him as to be safe and accessible at all times.

All Industrial users shall submit their monthly monitoring report forms for the preceding month to the Water Pollution Control Facility's Environmental Compliance Officer at 40 Tillson Avenue, Rockland, Maine 04841, in accordance with the City's reporting requirement with the Maine DEP.

9. *Waste Analysis Standards.* All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article shall be determined in accordance with 40 CFR Part 136, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas the pH shall be determined from periodic grab samples.)

10. *Special Arrangements.* No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City of Rockland and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City of Rockland for treatment, subject to payment therefore, by the industrial concern, provided that such agreements do not contravene any requirements of existing Federal laws and are compatible with any User Charge.

If it is suspected that an industrial waste stream or constituent may be detrimental to the treatment works and its collection system or causing the City to violate any term or condition of the MEPDES or DEP Permit, the City will retain an independent consultant. If it is determined that the industrial waste stream is disrupting expense involved shall be directly borne by that industry. All detrimental constituents shall be lowered in order to eliminate the disruption associated with the waste.

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11. *Charges for Industrial Waste Treatment*

A. Charges for the treatment of industrial waste shall be based on operation and maintenance costs of the Water Pollution Control Facility. The monthly billing shall be computed according to the most recent formula and cost per unit as approved by the Charges and Fees Order of the Rockland City Council, including the minimum charge.

B. Surcharges. The user charges for discharge of industrial wastewater/pollutants shall be levied by the Director under a three-tiered system, in accordance with the most recent formula(s) and unit cost(s) as approved by the Charges and

Fees Order of the Rockland City Council.

- 1) The lowest tier user charges shall be in accordance with the terms of Section 14-507(11)(A) (Local Discharge Restrictions) above and shall be on the individual industrial user's discharge permit limit(s) established by the Director.
- 2) At the discretion of the Director, a second tier of user charges may be allocated to an individual industrial user as a surcharge over the specific discharge limit(s) stipulated in the individual's wastewater discharge permit. The ability to assess a surcharge shall be based on an analysis of the POTW's reserve capacity for treating the subject pollutant(s) as described in this Sewer Use Ordinance. The allocation of reserve capacity for the purpose of levying a pollutant surcharge shall be at the sole discretion of the Director, who shall also reserve the right to modify or revoke the surcharge allocation, as necessary.
- 3) The third tier of user charges shall be defined as penalties and/or violation costs, assessed in accordance with Section 14-517 (Enforcement and Penalties) and Section 14-518 (Recovery of Expenses and Costs) of this Sewer Use Ordinance, the latest revision of the City of Rockland Enforcement Response Plan, and/or approved by the Charges and Fees Order of the Rockland City Council. Penalties and/or violation cost recovery, as stipulated, shall be assessed for individual violations of discharge permit limits, or in the case where the Director has allocated an additional surcharge over permit limit(s), the penalty(ies) shall be assessed for pollutant(s) discharged above surcharge allocation(s).

12. *Charges for Commercial and Residential Users.*

A. Domestic Wastewater treatment/user charge shall be calculated as approved by the Charges and Fees Order of the Rockland City Council.

B. The operation and maintenance charges for commercial and residential units shall be calculated as approved by the Charges and Fees Order of the Rockland City Council

C. *Minimum Operation and Maintenance Charge.* Minimum operation and maintenance charges shall be in conjunction with the rates established as approved by the Charges and Fees Order of the Rockland City Council.

D. *Multi-Family; Commercial.* The charge for multiple family residential units and commercial establishments shall be calculated based on the definition of equivalent use as approved by the Charges and Fees Order of the Rockland City Council based on the actual water usage as recorded by the Consumers Maine Water Company. Multiple family residential units and commercial establishments not connected to a sewer or drain of the City of Rockland shall not be charged any user fees or readiness-to-serve charges only if it has been determined by the City that public sewers are not available to the property.

E. *Residential; Minimum Charge.* Minimum charge for residential units shall be calculated based on the definition of equivalent use as approved by the Charges and Fees Order of the Rockland City Council. Residential units not connected to a sewer or drain of the City of Rockland shall not be charged any user fees or readiness-to-serve charges only if it has been determined by the City that public sewers are not available to the property.

F. *Commercial; Minimum Charge.* Minimum charge for commercial establishments shall be calculated based on the definition of equivalent use as approved by the Charges and Fees Order of the Rockland City Council. Commercial establishments not connected to a sewer or drain of the City of Rockland shall not be charged any user fees or readiness-to-serve charges only if it has been determined by the City that public sewers are not available to the property.. Special rates for large volume users, such as laundry establishments, may be approved by the Rockland City Council.

G. *Septic Tank Waste.* Rates for the discharge of septic tank wastes (i.e., septage) into the Rockland Water Pollution Control Facility shall be established by the Charges and Fees Order on at least an annual basis by the Rockland City Council.

H. *Swimming Pool Water.* The Rockland Water Pollution Control Facility reserves the right to approve or reject, on a case-by-case basis, discharge to the Facility of water from a swimming pool, whether chlorinated or otherwise. This shall apply to both residential and commercial users.

I. *Stormwater.* The Rockland City Council may establish fees for the discharge of stormwater to the City's stormwater disposal system or sanitary sewer system.

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13. *Council Action on Rates and Charges.* The Rockland City Council shall establish by the Charges and Fees Order on at least an annual basis, rates for charges as defined in subsections 10, 11 and 12 of this Section and interest charges on delinquent accounts.

14. *Assessment.* Operation and maintenance charges will be assessed all persons, users, firms and corporations whether public, private or municipal on a quarterly basis for residential and non-profit sewer users and on a monthly basis for commercial and industrial sewer users.

15. *Inflow and Infiltration.* All additional flows by industry and/or commercial/domestic users of four (4) or more units either public or private, shall, prior to connection to the Rockland Water Pollution Control Facility or appurtenances, indemnify the City of Rockland for the cost to remove an amount of inflow or infiltration equal to twice the specified waste water flow from the proposed development. Any on-site improvements that reduce the flow runoff shall be deemed as removal credits. The Director or designated representative shall review and approve all requests based on current engineering documents and/or Department of Health flow standards. The one time development charge shall be as approved by the Charges and Fees Order of the Rockland City Council. These funds shall be reserved for direct sewer rehabilitation and separation and/or repairs to the Lindsey Brook groundwater drainage system.

16. *Reserve Capacity Charges.* Reserve capacity charges shall apply to any user that meets one of the following definitions:

- A. A user that has requested the Rockland WPCF to reserve treatment capacity for projected flow of a certain magnitude, including applicants for new sewer connection permits to connect to a public sewer;
- B. A user that has requested the Rockland WPCF to reserve treatment capacity for a future flow, the magnitude of which is not yet projected or estimated;
- C. A user that previously requested the Rockland WPCF to reserve treatment capacity of a certain magnitude but is discharging less than that magnitude to the WPCF.

The WPCF reserves the right to develop an initial Reserve Capacity Capital Charge and assess this Reserve Capacity Capital Charge to a user, in order for the WPCF to recover the costs of capital investments necessary to provide that user with treatment capacity. The WPCF shall also assess a monthly charge to maintain that reserve treatment capacity for that user. This monthly Reserve Capacity Maintenance Charge shall be at least equal to the Minimum Charge as defined in Section 14-507 (Enforcement and Penalties) Part 11 for industrial users and Part 12 E and F for residential and commercial users.

17. *Billing adjustments for water use.* Based on a customer's water usage, water may be metered but not discharged directly or indirectly to the City of Rockland's collection system. Upon completing a formal application with the WPCF, the customer may request an adjustment to the sewer bill based on water that was metered but did not directly or indirectly discharge to the collection system. The amount claimed must be in excess of 125% of the customer's normal average use in a like quarter. The method of measurement must be approved by the WPCF.

18. *Other Fee Adjustments.* In the event an error in any other fee, surcharge, or other assessment is discovered, the Director may correct the error for a period not exceed up to one year, including billing the user for an additional amount owed, or remitting to the user an amount that was overpaid.

Sec. 14-409 Right of Revision

The Rockland WPCF reserves the right to establish, by ordinance or in general or individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the WPCF consistent with the purpose of this ordinance.

Sec. 14-410 Dilution

As per 40 CFR §403.6(d), except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User of the Rockland WPCF shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Requirement. The Rockland WPCF imposes mass limitations on Industrial Users that are using dilution to meet applicable pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations is appropriate.

Sec. 14-411 Mass-Based Limitations

1. Pollutant discharge limits in Federal Categorical Pretreatment Standards and/or in Local Limits will be expressed either as concentration or mass limits. (Unless the Rockland WPCF determines a more stringent Ch. 14, Sec. 14-409, wherever possible, where concentration limits are specified in these standards, equivalent mass limits will be provided so that local, State or Federal authorities responsible for enforcement may use either concentration or mass limits.) Limits in National Categorical Pretreatment Standards shall apply to the effluent of the process regulated by the Standard, or as otherwise specified by the standard.

2. When the limits in a National Categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Rockland WPCF may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day of effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
3. The Rockland WPCF shall calculate equivalent mass-per-day limitations by dividing the limits in the Standard by the average rate of production. This average rate shall be based upon a reasonable measure of the Industrial User's actual long-term daily production, such as the average daily flow rate during a representative year.
4. When the limits in a categorical Pretreatment Standard are expressed only in terms of pollutant concentrations, an Industrial User may request that the Rockland WPCF convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Control Authority. The Rockland WPCF may establish equivalent mass limits only if the Industrial User meets *all* of the following conditions in paragraph (c)(5)(i)(A) through (c)(5)(i)(E) of this section.

(i) To be eligible for equivalent mass limits, the Industrial User shall:

- (A) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;
- (B) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
- (C) Provide sufficient information to establish the facility's actual average daily flow rate for all waste streams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
- (D) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass units are not appropriate to control the Discharge; and
- (E) Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

(ii) An Industrial User subject to equivalent mass limits shall:

- (A) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass units;
- (B) Continue to record the facility's flow rates through the use of a continuous effluent flow measurement device;
- (C) Continue to record the facility's production rates and notify the Rockland WPCF whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (c)(5)(i)(C) of this section. Upon notification of a revised production rate, the Rockland WPCF must reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
- (D) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs (c)(5)(i)(A) of this section so long as it discharges under an equivalent mass limit.

(iii) If the Rockland WPCF chooses to establish equivalent mass limits then the Control Authority:

- (A) Shall calculate the equivalent mass limits by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based daily maximum and monthly average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
- (B) Upon notification of a revised production rate, must reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility
- (C) May retain the same equivalent mass limit in subsequent control mechanism terms if the Industrial User's actual average daily flow rate was reduced solely as the result of the implementation of water

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conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to paragraph (d) of this section. The Industrial User shall also be in compliance with Section 17 (regarding the prohibition of bypass).

(iv) The Rockland WPCF may not express limits in terms of mass for pollutants such as pH temperature, radiation, or other pollutants that cannot appropriately be expressed as mass.

5. The Rockland WPCF may convert the mass limits of the categorical Pretreatment Standards at 40 CFR Parts 414 (Organic Chemicals, Plastics, and Synthetic Fibers), 419 (Petroleum Refining Point Source Category), and 455 (Pesticide Chemicals) to concentration limits for purposes of calculating limitations applicable to individual Industrial Users under the following conditions. When converting such limits to concentration limits, the Rockland WPCF must use the concentration listed in the applicable subparts of 40 CFR Parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by paragraph (d) of this section.
6. Equivalent limitations calculated in accordance with paragraphs 3,4,5 and 6 of this section shall be deemed Pretreatment Standards for the purposes of section 307(d) of the Clean Water Act and 40 CFR 40(c)(1). The Rockland WPCF will document how the equivalent limits were derived and make this information publicly available. Once incorporated into its control mechanism, the Industrial User shall comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.
7. Many Categorical Pretreatment Standards and/or Industrial Wastewater Discharge Permits specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or 4-day average, limitations. Where such Standards are being applied, the same production of flow value shall be used in calculating both the average and the maximum equivalent limitation.
8. Any Industrial User operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the Rockland WPCF within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Rockland WPCF of such anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long term average production rate.

Sec. 14-412 Protection From Damage

No unauthorized person or user shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the sewage works.

Sec. 14-413 Pretreatment Facilities and Pretreatment Requirements

1. *Legal Authority.* The Rockland WPCF shall operate pursuant to legal authority enforceable in Federal, State or local courts, which authorizes or enables the Rockland WPCF to apply and to enforce the requirements of Sections 307 (b) and (c), and 402(b)(8) of the Clean Water Act and any regulations implementing those sections. Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements which the Rockland WPCF is authorized to enact, enter into or implement, and which are authorized by State law. At a minimum, this legal authority shall enable the Rockland WPCF to:

- (A) Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the Rockland WPCF by Industrial Users where such contributions do not meet applicable federal Pretreatment Standards and Requirements and/or Local Limits, or where exceedance of federal Pretreatment Standards and Requirements and/or Local Limits would cause the Rockland WPCF to violate its MEPDES permit;
- (B) Require compliance with applicable federal Pretreatment Standards and Requirements and/or Local Limits by Industrial Users;
- (C) Control through permit, Order, or similar means, the contribution to the Rockland WPCF by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements. In the Ch. 14, Sec. 14-412 identified as significant under 40 CFR 403.3(t), this control shall be achieved through individual permits or equivalent individual control mechanisms issued to each such user. Such control mechanisms must be enforceable and contain, at a minimum, the following conditions:
 - i. Statement of duration (in no case more than five years);

- ii. Statement of non-transferability without, at a minimum, prior notification to the Director and provision of a copy of the existing control mechanism to the new owner or operator;
- iii. Effluent limits, including Best Management Practices based on applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and State and local law;
- iv. Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 12(e)(2), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and State and local law;
- v. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.
- vi. Requirements to control slug discharges, if determined by the POTW to be necessary.

(D) Require

- i. The development of a compliance schedule by each Industrial User for the installation of technology required to meet applicable federal Pretreatment Standards and Requirements (including 40 CFR 403.12[b][7]) and/or Local Limits, and
- ii. The submission of all notices and reports (including but not limited to self-monitoring reports) from Industrial Users as are necessary to assess and assure compliance by Industrial Users with federal Pretreatment Standards and Requirements and/or Local Limits, including but not limited to the reports required in 40 CFR 403.12.

- (E) Carry out all inspection, surveillance and monitoring procedures necessary to determine independent of information supplied by Industrial Users- compliance or noncompliance with applicable federal Pretreatment Standards and Requirements and/or Local Limits by Industrial Users. Representatives of the Rockland WPCF shall be authorized to enter any premises of any Industrial User in which a Discharge source or treatment system is located or in which records are required to be kept under 40 CFR 403.12(o) to assure compliance with Pretreatment Standards. Such authority shall be at least as extensive as the authority provided under section 308 of the Clean Water Act;

- (F) (i) Obtain remedies for noncompliance by any Industrial User with any federal Pretreatment Standard and Requirements and/or Local Limits. The Rockland WPCF shall be able to seek injunctive relief for noncompliance by Industrial Users with Pretreatment Standards and Requirements. The Rockland WPCF shall also have authority to seek or assess civil or criminal penalties as approved by the Charges and Fees Order of the Rockland City Council for each violation by Industrial Users of federal Pretreatment Standards and Requirements and/or Local Limits and penalties and fees as allowed in the City of Rockland Enforcement Response Plan and/or as approved by the Charges and Fees Order of the Rockland City Council for violation of Local Limits.

- ii) Pretreatment requirements that will be enforced through the remedies set forth will include but not be limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the Rockland WPCF; any requirements set forth in individual control mechanisms issued by the Rockland WPCF; or any reporting requirements imposed by the Rockland WPCF or these regulations. The Rockland WPCF shall have authority and procedures immediately and effectively to halt or prevent any discharge of pollutants to the Rockland WPCF which reasonably appears to present an eminent endangerment to the health or welfare of persons. The Rockland WPCF shall also have authority and procedures (which shall include notice to the affected industrial users and an opportunity to respond) to halt or prevent any discharge to the Rockland WPCF which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the Rockland WPCF. The Approval Authority shall have authority to seek judicial relief and may also use administrative penalty authority when the Rockland WPCF has sought a monetary penalty that the Approval Authority believes to be insufficient.

- (G) Comply with the confidentiality requirements set forth in 40 CFR 403.14.

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2. *Procedures.* The Rockland WPCF has developed and implemented procedures to ensure compliance with the requirements of a Pretreatment Program. These procedures have enabled the Rockland WPCF to:

- A. Identify and locate all possible Industrial Users which are subject to the Rockland WPCF Pretreatment Program.

The compilation, index or inventory of Industrial Users made under this paragraph shall be made available to the Approval Authority upon request;

B. Identify the character and volume of pollutants contributed to the Rockland WPCF by the Industrial Users identified. This information shall be made available to the Approval Authority upon request;

C. Notify Industrial Users that they have industrial discharges that have been identified as applicable to Pretreatment Standards and any applicable requirements under Sections 204(b) and 405 of the Clean Water Act and subtitles C and D of the Resource Conservation and Recovery Act. Within 30 days of approval pursuant to 40 CFR 403.8(f)(6), of a list of Significant Industrial Users, notify each significant industrial user of its status as such and of all requirements applicable to it as a result of such status.

D. Receive and analyze self-monitoring reports and other notices submitted by Industrial Users in accordance with the self-monitoring requirements in 40 CFR 403.12;

E. Randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. Inspect and sample the effluent from each Significant Industrial User at least once a year. Evaluate whether each such Significant User needs a plan or other action to control slug discharges. For Industrial Users identified as significant prior to November 14, 2005 this evaluation must have been conducted at least once by October 14, 2006; additional Significant Industrial Users must be evaluated within one year of being designated a Significant Industrial User. For purposes of this subsection, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge that has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, local limits, or Permit conditions. The results of such activities shall be available to the Approval Authority upon request. Significant Industrial Users are required to notify the POTW immediately of any changes at their facilities affecting the potential for a slug discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- (i). Description of discharge practices, including non-routine batch discharges;
- (ii). Description of stored chemicals;
- (iii). Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under Section 6(b), with procedures for follow-up written notification within five days;
- (iv). If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;

F. Investigate instances of noncompliance with federal Pretreatment Standards and Requirements and/or Local Limits, as indicated in the reports and notices required under 40 CFR 403.12, or indicated by analysis, inspection, and surveillance activities. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and

G. Comply with the public participation requirements of 40 CFR 25 in the enforcement of National Pretreatment Standards. These procedures shall include provision for at least annual public notification, in a newspaper, of general circulation that provides meaningful public notice within the jurisdiction(s) served by the Rockland WPCF, of industrial users that, at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment requirements. For the purposes of this provision, a Significant Industrial User (or any Industrial User which violates (C), (D), or (H)) is in significant noncompliance if its violation meets one or more of the following criteria as defined in 403.8(f)(2)(viii) and defined in the most recent version of the City of Rockland WPCF's Enforcement Response Plan and Guide.

- (i) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a 6 month period exceed (by ~~any magnitude~~ a numeric Pretreatment Standard or Requirement, including instantaneous limits, as Ch. 14, Sec. 14-413 § Section(4)(j);
- (ii) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a 6 month period equal or

exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by Chapter 528 Section(4)(j), multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH.

- (iii) Any other violation of a Pretreatment Standard or Requirement, as defined by Chapter 528 Section(4)(j) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);
- (iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge;
- (v) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (vi) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (vii) Failure to accurately report noncompliance;
- (viii) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

(3) *Local Limits.* The City of Rockland has developed Local Limits as required in 40 CFR 403.5(c)(1). These Local Limits have been developed using protocol established by the United States EPA as published in the latest (July 2004) version of "Local Limits Development Guidance Manual". The City of Rockland reserves the right to revise Local Limits for existing parameters and to develop Local Limits for additional parameters at some time in the future as needed to protect its Water Pollution Control Facility, collection system, or workers.

(4) *Enforcement Response Plan.* The Rockland WPCF shall continue to implement the most recent version of its Enforcement Response Plan (and supporting Enforcement Response Guide), as approved by the Maine Department of Environmental Protection. This Plan contains detailed procedures indicating how the Director or his representative will investigate and respond to instances of industrial user noncompliance. The approved Plan defines the following:

- (i) How the Rockland WPCF will investigate instances of noncompliance;
- (ii) Timelines for responses;
- (iii) Relevant factors determining appropriate enforcement action;
- (iv) Minimum and maximum fines per day per violation;
- (v) Types of forms and guidelines used by the Rockland WPCF for documenting compliance data;
- (vi) Methods for investigating instances of noncompliance;
- (vii) Supplemental enforcement responses; and
- (viii) Sampling procedures to regain compliance status

The Rockland WPCF will update, revise, or otherwise modify its Enforcement Response Plan as needed.

(5) *Documentation of Industrial Users.* The Rockland WPCF shall prepare and maintain a list of its industrial users meeting the criteria in 40 CFR § 403.3(u)(1). The list shall identify the criteria in 40 CFR § 403.3(u)(1) applicable to each industrial user and, for industrial users meeting the criteria in 40 CFR § 403.3(u)(ii), shall also indicate whether the Rockland WPCF has made a determination pursuant to 40 CFR § 403.3(u)(2) that such industrial user should not be considered a significant industrial user. The initial list shall be submitted to the Approval Authority pursuant to 40 CFR § 403.9 as a non-substantial modification pursuant to 40 CFR § 403.18(d). Modifications to the list shall be submitted to the Approval Authority pursuant to 40 CFR § 403.12(i)(1).

(6) *Additional Pretreatment Measures.* The Rockland WPCF reserves the right to require any user, significant industrial or other, to modify its pretreatment processes if it determines, based on sampling results, history of slug load discharges, modifications to existing processes, expansion of processing capabilities, increased (or decreased) average daily flow, documented material spill, or other reason, that the user's existing pretreatment program is insufficient to prevent negatively impacting the WPCF's operation, sludge management options, and/or wastewater discharge. Ch. 14, Sec. 14-413

(7) *Accidental Discharge/Slug Discharge Control Plans.* Based on the results of samples of industrial wastewater, and/or an evaluation completed at least once every two years, the Director may require an industrial user to develop a plan to control slug discharges. For the purpose of determining compliance with the need for an Accidental Discharge and/or

Slug Discharge Control Plan, the definition of ‘slug’ shall be as included in Section 14-501 (Definitions). The results of such activities shall be available to the Approval Authority upon request. If the Director decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- A. Description of discharge practices, including non-routine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Rockland WPCF of slug discharges, including any discharge that would violate a prohibition under 40 CFR403.5(b), with procedures for follow-up written notification within five days;
- D. Procedures for immediately notifying the Rockland WPCF of changes affecting the potential for a slug discharge;
- E. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;

(8). *Pollution Prevention Plans.* The Director reserves the right to require any user, significant industrial or other, to develop a Pollution Prevention Plan if it determines, based on chemicals involved in processes, volume of materials stored on site, history of slug load discharges, modifications to existing processes, expansion of processing capabilities, documented material spill, or other reason, that the user has the potential to significantly impact the function of the Rockland WPCF.

Sec. 14-414 Industrial Wastewater Discharge Permit

1. *Wastewater Characterization.* Any industrial user of the Rockland WPCF, when requested by the Director, shall submit an Industrial Wastewater Discharge Permit Application to the Rockland WPCF. Section F of the Industrial Wastewater Discharge Permit Application is titled “Characteristics of Discharge”. The applicant shall submit, as required in Section F of the Industrial Wastewater Discharge Permit Application or as requested by the Director, monitoring data on all pollutants that are regulated specific to that applicant’s industrial category.

A. *General Parameters.*

Each user must submit, at a minimum, the results of at least one analysis for 5-day BOD, COD, TSS, Total Organic Carbon, temperature, pH, and ammonia nitrogen. If a result of the analysis for any of these pollutants or parameters is non-detect, the applicant shall include the analytical method detection limit for that pollutant or parameter.

B. *Process-Specific Parameters.*

The applicant must also submit the results of at least one analysis for other pollutants that are known or believed to be present in the wastewater discharge of the applicant’s wastestream. These pollutants include metals and other inorganics, nutrients, color compounds, radioactive compounds, surfactants, dioxin/furans, volatile organic compounds, semi-volatile organic compounds, total residual chlorine, oil and grease, pesticides, and/or polychlorinated biphenyls (PCBs).

2. *Industrial Discharge Permit Requirement*

A. *Requirements.* The Rockland WPCF requires that any Significant Industrial User of the Rockland WPCF shall submit an Industrial Wastewater Discharge Permit Application to the Rockland WPCF. In addition, the Rockland WPCF requires that each industrial user (i.e., any non-domestic source of pollutants to the Rockland WPCF) submit an Industrial Wastewater Discharge Permit Application to the Rockland WPCF. The Rockland WPCF reserves the right to issue any industrial user a Permit, including wastewater discharge limits and requirements and monitoring and reporting requirements, and enforce those requirements

B. *Application Contents.* The Industrial Wastewater Discharge Permit Application consists of the following sections:

- 1. “General Information”. This section defines facility contacts responsible for information contained within the application, identifies all environmental permits that apply to the facility, describes storage of chemicals at the facilities, and provides other information related to physical and environmental considerations at the facility. The application is signed by an Authorized Representative of the Applicant.
- 2. “Product or Service Information”. This section includes information related to specific industrial processes employed by the Applicant and is used to determine if the facility is subject to any National Categorical Pretreatment Standards.
- 3. “Plant Operational Characteristics”. In this section, the applicant is required to provide information related to: quantities of products or services generated by the processes; flow diagrams for all processes from which wastewater is generated; a building layout diagram showing all chemical storage areas and points of discharge to the Rockland WPCF; potential or planned expansions of the facility; and the number of employee-hours w

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week.

4. "Water Usage and Discharge". This section details the volume of water used by each process of the Applicant's facility, the volume of wastewater generated by these processes, the point of discharge of each type of wastewater, and any water recycling or pollution prevention practices used by the facility.
5. "Wastewater Treatment/Waste Management". This section describes devices or processes used for treating wastewater and/or sludge prior to discharging to the Rockland WPCF and provides additional information related to pretreatment operations at the facility.
6. "Characteristics of Discharge". The Application requires submission of analytical data for all pollutants that are known or believed to be present in the wastewater discharge, as well as certain parameters or pollutants that are found in all or most discharges. Any users that are Categorical Industrial Users are required to submit analytical data for pollutants they are required to monitor and report as part of National Categorical Pretreatment requirements.
7. "Identification of Raw Materials and/or Pollutants Present". Information about raw materials and chemicals used in all processes is reported by the Applicant in this section.
8. "Non-Discharged Wastes". Information related to waste liquids and sludge that are not discharged to the Rockland WPCF is gathered in this section. This includes hauled wastes.
9. "Compliance Certification". The Applicant is required to discuss any incidents of non-compliance with all applicable Federal, State, or local pretreatment standards. The Applicant is then required to describe all actions, programs, and operational modifications that are being employed to prevent re-occurrence of those incidents and to discuss any schedules that have been developed for bringing the facility into compliance.

3. Industrial Discharge Permitting Process

- A. Existing Users. The Rockland WPCF requires that all Significant Industrial Users and industrial users of the Rockland WPCF submit an Industrial Wastewater Discharge Permit Application to the Rockland WPCF and renew Permits prior to the expiration date. Existing users shall be subject to the requirements and enforcement actions defined in all sections of this Ordinance and shall be required to renew issued Permits every five years or as determined by the Director. A fee shall be assessed for review and renewal of an existing user's Permit as approved by the Charges and Fees Order of the Rockland City Council.
- B. New Connections. The Rockland WPCF requires all new potential Significant Industrial Users and industrial users of the Rockland WPCF submit an Industrial Wastewater Discharge Permit Application to the Rockland WPCF, prior to granting approval to that potential user to discharge to the Rockland WPCF. New users of the Rockland WPCF shall be subject to the requirements and enforcement actions defined in all sections of this Ordinance, including but not limited to the reporting requirements under 40 CFR 403.12. A fee shall be assessed for review of a Permit application as approved by the Charges and Fees Order of the Rockland City Council.
- C. Categorical Standards. Industrial users that intend to discharge into the Rockland WPCF that utilize any processes that fall into any National Categorical Pretreatment Standard, as identified in Section 14-506 and in 40 CFR 403, shall be required to meet the minimum requirements of the applicable treatment standard(s). The promulgated treatment standard(s) technical values shall be incorporated into that user's Industrial Wastewater Discharge Permit. Users considered Categorical Industrial Uses of the Rockland WPCF shall be subject to the requirements and enforcement actions defined in all sections of this Ordinance, including but not limited to the reporting requirements under 40 CFR 403.12.
- C. Inspections. The City may impose a fee, as approved by the Charges and Fees Order of the Rockland City Council, for inspection of an industrial user's property as part of the permitting or renewal process if it feels that this inspection is merited by that process.
4. The Rockland WPCF reserves the right to require a signed Statement of Certification from an Authorized Representative of an Industrial User on any documentation relating to that User's Industrial Wastewater Discharge Permit. This may include, but is not limited to: the application for an Industrial Wastewater Discharge Permit; Inspection Reports; compliance monitoring analytical reports; reporting requirements related to the Industrial Wastewater Discharge Permit; and/or information related to process or discharge modifications that require modification of Industrial Wastewater Discharge Permit

When the Authorized Representative changes, the Rockland WPCF shall be notified in writing.

The following certification statement must be signed by an Authorized Representative as defined in Section 14-501:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified persons

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evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Sec. 14-415 Industrial Wastewater Discharge Permit Issuance

1. *Decisions.* The Rockland WPCF shall review all Industrial Wastewater Discharge Permit Applications and Permit renewals submitted by industrial users of the Rockland WPCF. The Rockland WPCF reserves the right to request additional analytical data, to review historical discharges, to complete an inspection of the Applicant's facility, and to conduct other activities as defined in this Ordinance in order to gather all information required to develop a Industrial Wastewater Discharge Permit for that user and to establish the discharge limits and set monitoring and reporting requirements in that Industrial Wastewater Discharge Permit.
2. *Renewal.* The Rockland WPCF reserves the right to not renew an existing Industrial Wastewater Discharge Permit to an Applicant if that Applicant does not provide all analytical results and other materials required and/or has a history of chronic violations of their discharge permit limits. Additional actions may be taken against the Applicant as defined in Section 14-517 (Enforcement and Penalties) of this Ordinance.
3. *Modification.* The Rockland WPCF reserves the right to modify an existing Permit based on analytical results and other information/data submitted by that applicant. These modifications may result in more stringent mass limitations or parameter controls, more frequent sampling and/or monitoring requirements, more frequent reporting requirements, or other requirements (including, but not limited to, implementation of pretreatment).
4. *Duration.* Industrial Wastewater Discharge Permits issued by the Rockland WPCF shall be valid for a maximum of five (5) years from the date of issuance unless otherwise specified. However, as noted in Part 3 of this Section, the Rockland WPCF reserves the right to modify any existing Permit.
5. *Recovery of Costs.* Recovery of the City's costs for review, renew, modify or negotiate Industrial Wastewater Discharge Permits (as described in Items 1 through 3 above) shall be as defined in this section, in Section 14-518 (Recovery of Expenses and Costs) and as approved by the Charges and Fees Order of the Rockland City Council.

Sec. 14-416 Reporting and Monitoring Requirements

1. *General.* Monitoring requirements shall be established by the Rockland WPCF in each Industrial Wastewater Discharge Permit that is granted or renewed. The monitoring and/or reporting requirements shall include: a listing of each pollutant or parameter for which monitoring is required; the sampling and/or monitoring frequency for that each pollutant or parameter; the type of sample (i.e., composite, grab, recorder, or totalizer data [in the case of flow rate]) for that pollutant or parameter; the frequency at which the results of this sampling and/or monitoring shall be reported to the Rockland WPCF; the manner in which reporting shall be completed; and penalties for not complying with these monitoring and/or reporting requirements. The Rockland WPCF may choose to assign a "Monitor Only" requirement to a user for a particular parameter or pollutant, based on the typical wastewater characteristics of that user.
The Rockland WPCF reserves the right to modify monitoring and/or reporting requirements of a particular user at any time if and when it becomes aware of any changes to the user's wastewater discharge stream, modifications to the user's processes, significant increases or decreases in flow discharged by that user, and/or other changes that have the potential to impact the user's contribution to the Rockland WPCF.
2. *Reporting requirements for industrial users upon effective date of Categorical Pretreatment Standard--Baseline Report.* Within 180 days after the effective date of a Categorical Pretreatment Standard, or 180 days after the final administrative decision made upon a category determination submission under Sec. 403.6(a)(4), whichever is later, existing Industrial Users subject to such Categorical Pretreatment Standards and currently discharging to (or scheduled to discharge to) the Rockland WPCF shall be required to submit to the Rockland WPCF a report which contains the information listed in paragraphs (b)(1)-(7) of 40 CFR 403.12. At least 90 days prior to commencement of discharge, New Sources, and sources that become Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall be required to submit to the Rockland WPCF a report which contains the information listed in paragraphs (b)(1)-(5) of 40 CFR 403.12. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in paragraphs (b) (4) and (5) of 40 CFR 403.12:

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- (a) Identifying information. The User shall submit the name and address of the facility including the name of the operator and owners;
- (b) Permits. The User shall submit a list of any environmental control permits held by or for the facility;
- (c) Description of operations. The User shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification (SIC) or classification under the North American Industry Classification System (NAICS) of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram which indicates points of Discharge to the Rockland WPCF from the regulated processes.
- (d) Flow measurement. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the Rockland WPCF from each of the following:
 - (i) Regulated process streams; and
 - (ii) Other streams as necessary to allow use of the combined wastestream formula of Sec. 403.6(e). (See paragraph (b)(5)(v) of 40 CFR 403.12) The Rockland WPCF may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.
- (e) Measurement of pollutants.
 - (i) The user shall identify the Pretreatment Standards applicable to each regulated process;
 - (ii) In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or Rockland WPCF) of regulated pollutants in the Discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Rockland WPCF or the applicable Standards to determine compliance with the Standard;
 - (iii) A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The Rockland WPCF may waive flow-proportional composite sampling for any Industrial User that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the User demonstrates that this will provide a representative sample of the effluent being discharged.
 - (iv) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - (v) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of Sec. 403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with Sec. 403.6(e) this adjusted limit along with supporting data shall be submitted to the Rockland WPCF;
 - (vi) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Rockland WPCF or other parties, approved by the Administrator;
 - (vii) The Rockland WPCF may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
 - (viii) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the Rockland WPCF ;
- (f) Certification. A statement, reviewed by an authorized representative of the Industrial User (as defined in 40 CFR 403.12 and Chapter 528, Section 12) and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements; and

- (g) Compliance schedule. If additional pretreatment and/or O & M will be required to meet the Pretreatment Standards; the shortest schedule by which the Industrial User will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.
- (i) Where the Industrial User's Categorical Pretreatment Standard has been modified by a removal allowance (Sec. 403.7), the combined wastestream formula (Sec. 403.6(e)), and/or a Fundamentally Different Factors variance (Sec. 403.13) at the time the User submits the report required by paragraph (b) of 40 CFR 403.12, the information required by paragraphs (b)(6) and (7) of 40 CFR 403.12 shall pertain to the modified limits.
 - (ii) If the Categorical Pretreatment Standard is modified by a removal allowance (Sec. 403.7), the combined wastestream formula (Sec. 403.6(e)), and/or a Fundamentally Different Factors variance (Sec. 403.13) after the User submits the report required by paragraph (b) of 40 CFR 403.12, any necessary amendments to the information requested by paragraphs (b)(6) and (7) of 40 CFR 403.12 shall be submitted by the User to the Rockland WPCF within 60 days after the modified limit is approved.
3. *Compliance schedule for meeting Categorical Pretreatment Standards.* The following conditions shall apply to the schedule required by paragraph (b)(7) of 40 CFR 403.12:
- (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable Categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - (b) No increment referred to in paragraph (c)(1) of 40 CFR 403.12 shall exceed 9 months.
 - (c) Not later than 14 days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Rockland WPCF including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Rockland WPCF.
4. *Report on compliance with Categorical Pretreatment Standard deadline.* Within 90 days following the date for final compliance with applicable Categorical Pretreatment Standards or in the case of a New Source following commencement of the introduction of wastewater into the Rockland WPCF, any Industrial User subject to Pretreatment Standards and Requirements shall submit to the Control Authority a report containing the information described in paragraphs (b) (4)-(6) of 40 CFR 403.12. For Industrial Users subject to equivalent mass or concentration limits established by the Rockland WPCF in accordance with the procedures in Sec. 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Industrial Users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.
5. *Periodic reports on continued compliance.*
- (a) Any Industrial User subject to a Categorical Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the Rockland WPCF, shall submit to the Rockland WPCF during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Rockland WPCF or the Approval Authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such Categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the Discharge reported in paragraph (b)(4) of 40 CFR 403.12 except that the Rockland WPCF may require more detailed reporting of flows. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the Rockland WPCF or the Pretreatment Standard necessary to determine compliance status of the User. At the discretion of the Rockland WPCF and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Rockland WPCF may agree to alter the months during which the above reports are to be submitted.
 - (b) The Control Authority may authorize the Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the

Discharge, or is present only at background levels from intake water and without any increase in pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

- (i) The Control Authority may authorize a waiver where the pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
- (ii) The monitoring waiver is valid only for the duration of the effective period of the Permit or other other equivalent individual control mechanism, but in no case longer than 5 years. The User shall submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.
- (iii) In making a demonstration that a pollutant is not present, the Industrial User shall provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with paragraph (1) of this Section, and include the certification statement in Section 7(a)(2)(ii). Non-detectable sampling results may be used as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
- (iv) Any grant of the monitoring waiver by the Control Authority must be included as a condition of the User's control mechanism. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Control Authority for 3 years after the expiration of the waiver.
- (v) Upon approval of the monitoring waiver and revision of the User's control mechanism by the Control Authority, the Industrial User must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User:
Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 12(e)(1).
- (vi) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of paragraph (e)(1) of this section or other more frequent monitoring requirements imposed by the Control Authority, and notify the Control Authority.
- (vii) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

(c) Where the Rockland WPCF has imposed mass limitations on Industrial Users as provided for by Sec. 403.6(d), the report required by paragraph (e)(1) of 40 CFR 403.12 shall indicate the mass of pollutants regulated by Pretreatment Standards in the Discharge from the Industrial User.

(d) For Industrial Users subject to equivalent mass or concentration limits established by the Rockland WPCF in accordance with the procedures in Sec. 403.6(c), the report required by paragraph (e)(1) shall contain a reasonable measure of the User's long-term production rate. For all other Industrial Users subject to Categorical Pretreatment Standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by paragraph (e)(1) shall include the User's actual average production rate for the reporting period.

6. *Notice of potential problems, including slug loading.* All categorical and non-categorical Industrial Users shall notify the Rockland WPCF immediately of all discharges that could cause problems to the Rockland WPCF, including any slug loadings, as defined by Sec. 403.5(b), by the Industrial User. Significant Industrial Users are required to notify the Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

7. *Monitoring and analysis to demonstrate continued compliance.*

(a) The reports required in paragraphs (b), (d), (e), and (h) of 40 CFR 403.12 shall contain the results of sampling and analysis of the Discharge, including the flow and the nature and concentration, or production and mass where requested by the Rockland WPCF, of pollutants contained therein which are limited by the applicable Pretreatment Standards. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim

that sample results are unrepresentative of its discharge. This sampling and analysis may be performed by the Rockland WPCF in lieu of the Industrial User. Where the Rockland WPCF performs the required sampling and analysis in lieu of the Industrial User, the User will not be required to submit the compliance certification required under Sections 403.12(b) (6) and 403.12(d). In addition, where the Rockland WPCF itself collects all the information required for the report, including flow data, the Industrial User will not be required to submit the report.

(b) If sampling performed by an Industrial User indicates a violation, the user shall notify the Rockland WPCF within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Rockland WPCF within 30 days after becoming aware of the violation. Where the Rockland WPCF has performed the sampling and analysis in lieu of the Industrial User, the Rockland WPCF must perform the repeat sampling and analysis unless it notified the User of the violation and requires the User to perform the repeat analysis. Re-sampling is not required if:

(i) The Rockland WPCF performs sampling at the Industrial User at a frequency of at least once per month, or

(ii) The Rockland WPCF performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Rockland WPCF receives the results of this sampling.

(c) The reports required in paragraphs (b), (d), (e), and (h) of 40 CFR 403.12 must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The Rockland WPCF shall require that frequency of monitoring necessary to assess and assure compliance by Industrial Users with applicable Pretreatment Standards and Requirements. Grab samples must be used for pH, cyanide, temperature, total phenols, oil and grease, sulfide, and volatile organic compounds (VOCs). For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Rockland WPCF. Where time-proportional composite sampling or grab sampling is authorized by the Rockland WPCF, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate ME DEP and EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field' for VOCs and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Rockland WPCF, as appropriate.

(d) For sampling required in support of baseline monitoring and 90-day compliance reports required in paragraphs (b) and (d) of 40 CFR 403.12, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfides, and VOCs for facilities for which historical sampling data do not exist. For facilities for which historical sampling data *are* available, the Rockland WPCF may authorize a lower minimum number of samples. For the reports required by paragraphs (e) and (h) of 40 CFR 403.12, the Rockland WPCF shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements.

(e) All analyses shall be performed in accordance with procedures established by the Administrator pursuant to section 304(h) of the Act and contained in 40 CFR part 136 and amendments thereto or with any other test procedures approved by the Administrator. (See, Secs. 136.4 and 136.5.) Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the Rockland WPCF or other parties, approved by the Administrator.

(f) If an Industrial User subject to the reporting requirement in paragraph (e) or (h) of 40 CFR 403.12 monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Rockland WPCF, using the procedures prescribed in paragraph (g)(5) of 40 CFR 403.12, the results of this monitoring shall be included in the report.

Regulation of Waste Received from Other Jurisdictions

A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the WPCF shall enter into an intermunicipal agreement with the contributing municipality.

B. Prior to entering into an agreement required by paragraph A, above, the WPCF shall request the following information from the contributing municipality:

- (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
- (2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and
- (3) Such other information as the WPCF Superintendent may deem necessary.

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C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:

- (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to Rockland's Ordinance or Local Limits;
- (2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;
- (3) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the WPCF; and which of these activities will be conducted jointly by the contributing municipality and the WPCF;
- (4) A requirement for the contributing municipality to provide the WPCF with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- (6) Requirements for monitoring the contributing municipality's discharge;
- (7) A provision ensuring the WPCF access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the WPCF; and
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

8. *Reporting requirements for Industrial Users not subject to Categorical Pretreatment Standards.* The Rockland WPCF shall require appropriate reporting from those Industrial Users with discharges that are not subject to Categorical Pretreatment Standards. Significant Noncategorical Industrial Users shall submit to the Rockland WPCF at least once every six months (on dates specified by the Rockland WPCF) a description of the nature, concentration, and flow of the pollutants required to be reported by the Rockland WPCF. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Rockland WPCF to determine the compliance status of the User. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR part 136 and amendments thereto. This sampling and analysis may be performed by the Rockland WPCF in lieu of the significant noncategorical industrial user.

9. *Record-keeping requirements.*

(a) The Rockland WPCF and any Industrial User subject to the reporting requirements established in 40 CFR 403.12 shall maintain records of all information resulting from any monitoring activities required by 40 CFR 403.12, including documentation associated with Best Management Practices. Such records shall include for all samples:

- (i) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (ii) The dates analyses were performed;
- (iii) Who performed the analyses;
- (iv) The analytical techniques/methods used;
- (v) The results of such analyses.

(b) The Rockland WPCF and any Industrial User subject to the reporting requirements established in 40 CFR 403.12 shall be required to retain for a minimum of 3 years any records of monitoring activities and results (whether or not

such monitoring activities are required by 40 CFR 403.12) and shall make such records available for inspection and copying by the Director and the Regional Administrator (and POTW in the case of an Industrial User). This period of retention shall be extended during the course of any unresolved litigation regarding the Industrial User or Rockland WPCF or when requested by the Director or the Regional Administrator.

(c) The Rockland WPCF shall retain reports that are submitted by an Industrial User for a minimum of 3 years and shall make such reports available for inspection and copying by the Director and the Regional Administrator. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Industrial User or the operation of the Rockland WPCF Pretreatment Program or when requested by the Director or the Regional Administrator.

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10. *Annual POTW reports.* The Rockland WPCF shall provide the Approval Authority with a report on the Rockland WPCF's pretreatment program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this section shall be submitted no later than one year after approval of the Rockland WPCF's Pretreatment Program, and at least annually thereafter, and shall include, at a minimum, the following:

(a) An updated list of the Rockland WPCF's Industrial Users, including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The Rockland WPCF shall provide a brief explanation of each deletion. This list shall identify which Industrial Users are subject to Categorical Pretreatment Standards and specify which Standards are applicable to each Industrial User. The list shall indicate which Industrial Users are subject to local standards that are more stringent than the Categorical Pretreatment Standards. The Rockland WPCF shall also list the Industrial Users that are subject only to local Requirements.

(b) A summary of the status of Industrial User compliance over the reporting period;

(c) A summary of compliance and enforcement activities (including inspections) conducted by the Rockland WPCF during the reporting period;

(d) A summary of changes to the Rockland WPCF's pretreatment program that have not been previously reported to the Approval Authority; and

(e) Any other relevant information requested by the Approval Authority.

11. *Notification of changed discharge.* All Industrial Users shall promptly notify the Rockland WPCF in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the Industrial User has submitted initial notification under 40 CFR 403.12(p).

12. *Notification of Hazardous Waste Discharge.*

(a) The Industrial User shall notify the Rockland WPCF, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the Rockland WPCF, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place within 180 days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12 (j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12 (b), (d), and (e).

(b) Dischargers are exempt from the requirements of paragraph (p)(1) of this section during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the Rockland WPCF, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge

of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under paragraph (p) of this section, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

13. *Upset provision.*

(a) Definition. For the purposes of this section, "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or improper operation. Ch. 14, Sec. 14-416

(b) Effect of an upset. An Upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (c) are met.

(c) Conditions necessary for a demonstration of upset. An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An Upset occurred and the Industrial User can identify the cause(s) of the Upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
- (3) The Industrial User has submitted the following information to the Rockland WPCF within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five days):
 - (i) A description of the Indirect Discharge and cause of noncompliance;
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - (iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(d) Burden of proof. In any enforcement proceeding, the Industrial User seeking to establish the occurrence of an Upset shall have the burden of proof.

(e) Reviewability of agency consideration of claims of upset. In the usual exercise of prosecutorial discretion, Agency enforcement personnel should review any claims that non-compliance was caused by an Upset. No determinations made in the course of the review constitute final Agency action subject to judicial review. Industrial Users will have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

(f) User responsibility in case of upset. The Industrial User shall control production or all Discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

14. *Bypass Notifications.*

(a) Definitions.

(1) Bypass means the intentional diversion of wastestreams from any portion of an Industrial User's treatment facility.

(2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not violating applicable Pretreatment Standards or Requirements. An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this section.

(c) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Rockland WPCF, if possible, at least ten days before the date of the bypass. An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Rockland WPCF within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass

and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Rockland WPCF may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) Prohibition of bypass.

(1) Bypass is prohibited, and the Rockland WPCF may take enforcement action against an Industrial User for a bypass, unless;

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in accordance with reasonable engineering judgment to prevent a bypass which occurred during normal operation, equipment downtime or preventative maintenance; and

(iii) The Industrial User submitted notices as required under paragraph (c) of this section.

(2) The Rockland WPCF may approve an anticipated bypass, after considering its adverse effects, if the Rockland WPCF determines that it will meet the three conditions listed in paragraph (d)(1) of this section.

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15. *Confidentiality.*

(a) *Regulatory authorities.* In accordance with 40 CFR Part 2 (Public Information), any information submitted to ME DEP (and/or EPA) pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time submission in the manner prescribed on the application form or instructions, or- in the case of other submissions- by stamping the words "Confidential Business Information" on each page containing such information. If no claim is made at the time of submission, ME DEP (and/or EPA) may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2.

(b) *Effluent data.* Information and data provided to the Rockland WPCF pursuant to this part which is effluent data shall be available to the public without restriction.

(c) *Rockland WPCF.* All other information which is submitted to the Rockland WPCF shall be available to the public at least to the extent provided by 40 CFR 2.302.

Sec. 14-417 Powers and Authority of Inspectors

1. *Inspection; Right of Entry.* The Director, and other duly authorized employee of the City of Rockland bearing proper credentials and identification, shall be permitted at reasonable times to enter all properties for the purposes of inspection, observation, compliance monitoring, measurement, independent sampling, copying of records, evaluation, requirement of monitoring equipment, and/or testing in accordance with the provisions of this Article. The Director, or his representative, shall have no authority to inquire into an processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
2. *Safety Rules; Indemnification by City.* While performing the necessary work on private properties referred to in subsection 1, above, the Director or duly authorized employees of the City of Rockland shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City of Rockland employees and the City of Rockland shall indemnify the company against loss or damage to its property by the City of Rockland employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.
3. *Property Subject to City Easement.* The Director, and other duly authorized employees of the City of Rockland bearing proper credentials and identification, shall be permitted to enter all private properties through which the City of Rockland holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, compliance monitoring, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Sec. 14-418 Enforcement and Penalties

1. *Notice of Violation.* Any person, user or permit holder violating any provision of this Article, except Section 14-506 (National Categorical Pretreatment Standards), shall be provided a written notice stating the nature of the violations, a reasonable time limit for corrective action, and compliance schedule for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice and order for corrective action, cease all violations.
2. *Responsible party.* The property owner of record and permit holder will be responsible, jointly and severally, for complying with all orders of corrective action, compliance schedules, and time limits as well as all penalties and all bills charged to occupants of properties. In accordance with Title 30-A §§ 3424, 3442-3445, Maine Revised Statutes, liens will be attached to properties with delinquent sewer payment and fines.
3. *Damages to Rockland Property.* Any person, user and permit holder violating any of the provisions of this Article shall become liable, jointly and severally, to the City of Rockland for any expense, loss, or damage occurring to the City of Rockland by reason of such violation.
4. *Penalties for Violations.* Any user who shall continue any violation beyond the time provided for Ch. 14, Sec. 14-417 Subsection 1 shall be fined in the amount stipulated in the latest revision of the City of Rockland Enforcement Response Plan or as approved by the Charges and Fees Order of the Rockland City Council. Penalties for violations of Industrial Wastewater Permits shall be as are provided for in Subsection 5. Each day in which any violation shall continue beyond the time provided for in an order pursuant to Subsection 1 shall be deemed a separate offense. All fines shall become the property of the City of Rockland.
5. *Industrial Wastewater Penalties.*
 - A. *Inadequate Pretreatment.* In the event that any Industrial Wastewater Permit holder or any user that discharges industrial wastewater into the sewer system without adequate pretreatment, which results in permit violations by the City, of its state and federal permits, such users shall indemnify the City of Rockland for any fines, penalties and/or damages which it may be required to pay as a result of such violation as well as the City of Rockland's cost of defense, including, but not limited to, its reasonable attorney fees and costs. The Director may also choose to require the user to develop a compliance schedule.
 - B. *Significant Excess Discharge.* Whenever an effluent limitation established in an Industrial Wastewater Discharge Permit is exceeded by more than double, there shall be a doubling of the treatment charges as approved by the Charges and Fees Order of the Rockland City Council or in the latest revision of the City of Rockland Enforcement Response Plan.
 - C. *Violations of Effluent Limitations Contained in Permit.*

Fees and/or penalties for violations of effluent limits contained in users' Industrial Wastewater Discharge Permits shall be as stipulated in the latest version of the City of Rockland's Enforcement Response Plan or as approved by the Charges and Fees Order of the Rockland City Council.
 - D. *Failure to Monitor and Sample.* Whenever there is a failure to monitor and/or sample, required by this Ordinance or by a permit, a Permittee shall be subject to fees and/or penalties as stipulated in the latest version of the City of Rockland's Enforcement Response Plan or as approved by the Charges and Fees Order of the Rockland City Council. The Director may also choose to require the user to develop a compliance schedule.
 - E. *Failure to Report.* Whenever a report required by this Ordinance or by a permit is not made on time or whenever a noncompliance report and/or written response required by this Ordinance or by a permit is not made on time, a Permittee shall be subject to fees and/or penalties as stipulated in the latest version of the City of Rockland's Enforcement Response Plan or as approved by the Charges and Fees Order of the Rockland City Council. The Director may also choose to require the user to develop a compliance schedule.
 - F. *Failure to Meet Schedule.*

Whenever there is a failure to meet a schedule for submission of plans of a compliance schedule, required by this Ordinance or by a permit, a Permittee shall be subject to fees and/or penalties as stipulated in the latest version of the City of Rockland's Enforcement Response Plan or as approved by the Charges and Fees Order of the Rockland City Council.
 - G. *Additional Methods of Enforcement:* The Director reserves the right to take any or all of the following actions against users in significant noncompliance, as defined in the City of Rockland's Enforcement Response Plan:
 - Publish names of Users in Significant Noncompliance
 - File Show Cause Orders
 - File Cease and Desist Orders
 - Terminate the User's Industrial Discharge Permit
 - Terminate User's Discharge

- Suspend User’s Discharge on an Emergency Basis

SECTION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WPCF, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits, as defined by Section 2; Ch. 14, Sec. 14-418
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by Sections 14-505, -506, or -507 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Superintendent determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent’s exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit [or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance];
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include a violation of Best Management Practices, which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 14-419 Recovery of Expenses and Costs

- A. Whenever the Director determines that there is or has been a violation of the Ordinance and/or an Industrial Wastewater Permit, the user and/or permit holder shall be liable for all costs reasonably incurred by the City to investigate, abate and stop all violation or to operate in conditions more severe than normal. This cost shall include a personnel charge for each hour, or portion of an hour, plus all other expenses reasonably incurred by the City's employees or agents spent on the investigation and/or abatement of the violation, including the cost of data analysis, sample taking and laboratory testing at the rates established in the latest revision of the City of Rockland’s Enforcement Response Plan or the Charges and Fees Order of the Rockland City Council.
- B. Payment of Penalties and Charges.

1. All penalties, and charges unless otherwise provided for by a permit shall be paid within 30 days of the invoice date. There shall be interest added at a rate the same as imposed by the City for municipal taxes set pursuant to 36 M.R.S. § 505 and 38 M.R.S. § 1202 for all penalties or portions of penalties not paid within 30 days of the date due.
2. All penalties are in addition to all user fees and all other charges.
3. All fines and penalties shall benefit and become the property of the City of Rockland
4. Court Enforcement Actions. Notwithstanding any of the foregoing provisions, the Director may institute any appropriate action including injunction or other proceedings to prevent or abate, violations of the provisions of this Ordinance and permit issued pursuant to this Ordinance.
5. Any user fined because of a violation, owing any bill for sewer use or penalties under this Article, or found liable for any expenses, loss, or damage to the City of Rockland pursuant to this Article or is ordered by a Court to abate or cease violations shall also be liable for and shall pay the City of Rockland the City of Rockland's attorney's fees, witness expenses and costs and court costs reasonably incurred in such enforcement of this Ordinance and in the collection of such bills, fines, penalties, expenses, losses or damage.

Sec. 14-420 Validity

1. *Repeal of Conflicting Ordinances.* All ordinances, or parts of ordinances, in conflict herewith Ch. 14, Sec. 14-419 Severability. The invalidity of any section, clause, sentence, or provision of this Article shall not other part of this Article that can be given effect without such invalid part or parts.

Sec. 14-421 Director’s Authority

1. The Director shall have the authority to adopt from time to time procedures for the billing, construction, inflow and infiltration and other policies necessary to carry out the intent of this ordinance.
2. The Director shall and is hereby authorized to adopt from time to time rules and regulations, consistent with the existing Sewer Ordinance, pertaining to the maintenance and operation of the sewage facility.

Sec. 14-422 Ordinance in Force

This Article shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law. Passed and adopted by the City Council of the City of Rockland, Maine, on the 13th day of June, 2007.

Sec. 14-423 Board of Sewer Appeals

1. *Creation and Appointment.* A Board of Sewer Appeals is hereby established. The members of the Board shall be appointed by the Mayor and confirmed by the City Council and be the same board as hears zoning appeals. They shall be domiciled residents of the City and shall serve without compensation.
2. *Jurisdiction.* The Board of Sewer Appeals shall have the following powers and duties to be exercised only upon written appeal by a user aggrieved by a decision of the Director or the Local Plumbing Inspector insofar as each decision arises from requirements of this Sewer Use Ordinance:
 - A *Review Decisions and Ordinance Interpretation.* To determine whether the decisions of the officers are in conformity with the provisions of Article IV, and to interpret the meaning of Article IV in cases of uncertainty.
 - B. *Variations.* To grant variances from the terms of Article IV where necessary to avoid undue hardship provided there is no substantial departure from the intent of Article IV.
 - C. *Exceptions.* To permit an exception to Article IV only when the terms of the exception have been specifically set forth in Article IV.
3. *Hearings.* The Board of Sewer Appeals shall annually determine a regular monthly meeting date. All appeals or other matters to come before the Board requiring a notice as prescribed herein shall be filed with the City Clerk. The Clerk shall cause to be advertised in a newspaper of general circulation in the City a notice of such appeal identifying the property involved, the nature of the appeal and stating the time and place of a public hearing of such appeal which shall not be earlier than ten (10) days after the date of such publication. Owners of properties within three hundred (300) feet of the property for which the appeal is made shall be notified by certified mail. Failure of any such owner to receive this notice shall not invalidate the proceedings herein prescribed.
 The Director shall attend all hearings pertaining to the public sewerage system. The Local Plumbing Inspector shall attend such hearings as he may be involved in. The officer concerned shall present to the Board of Sewer Appeals all

plans, photographs or other factual material that is appropriate to an understanding of the appeal. The Board of Sewer Appeals shall not continue hearings on an appeal to a future date except for good cause. Written notice of the decision of the Board shall be sent to the appellant and to the officer concerned, forthwith. Failure of the Board to issue such notice within thirty (30) days of the date of the hearing shall constitute a denial of the appeal.

4. *Appeal Procedure.*

A. *Appealable Decisions.* Any user and any municipal department aggrieved by the decision of the Director, or the Local Plumbing Inspector, which decisions arise from provisions of Article IV may appeal such decision to the Board of Sewer Appeals.

B. *Appeal Deadline.* Within thirty (30) days of the date of the decision of the Director or Local Plumbing Inspector, the appeal shall be entered at the Code Enforcement Office upon forms to be approved by the Board of Appeals. The appellant shall set forth in the form the grounds of his appeal and shall refer to the specific provisions of Article IV involved. Eff: 02/11/15

Following the receipt of any appeal, the Code Enforcement Officer shall notify forthwith the officer concerned and the Chairperson of the Board of Sewer Appeals. The appellant shall pay to the Code Enforcement Officer a fee as established by the Order of the Rockland City Council. Eff: 02/11/15

C. *Appeal to Superior Court.* An aggrieved user may appeal from the decision of the Board of Sewer Appeals to the Superior Court as provided by the laws of the State of Maine.

5. *Successive Appeals.* After a decision has been made by the Board of Sewer Appeals, a new appeal

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 not be entertained by the Board until one (1) year shall have elapsed from the date of the decision, except that the Board may entertain a new appeal if it finds that, owing to a mistake of law or misunderstanding of fact, an injustice was done, or if it believes that a change has taken place in some essential aspect of the appeal.

State Law Reference: 30-A M.R.S. §§ 3401-3407; 38 M.R.S. §§ 411-452.

Eff: 10/14/09

Amended: 01/13/10

CHAPTER 15 Streets
ARTICLE I Use of Streets

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CHAPTER 15
Streets
ARTICLE I Use of Streets

Sec. 15-101 Statement of Purpose

The provisions in this Chapter are intended to assure the public's safe and unhindered use of and passage through the City's streets, and to preserve the same from unauthorized encroachment, or damage or destruction.

Sec. 15-102 Definitions

For the purposes of this Chapter, certain words and phrases shall have the following meanings.

1. Emergency. "Emergency" shall mean any event which may threaten public health or safety including, without limitation, damaged or leaking water or gas conduit systems; damaged, plugged, or leaking sanitary or storm sewers; damaged underground electrical or communications facilities; or downed or seriously damaged utility poles.

2. Person. The term "person" shall refer to, in addition to any human being, any corporation, limited liability company, sole proprietorship, partnership, trust, association, organization, or other entity or combination of human beings other than the State of Maine or the City of Rockland or any department, division, or agency of the same.

3. Public Place. "Public Place," as used in this Chapter, shall include any State- or City-owned or controlled parking area, park, recreational area, playground, or public landing, including those parks established in Chapter 13, Article I.

4. Street. The words "street" or "streets" as used in this Chapter shall mean the entire right-of-way of any highway, road, ways, avenues, courts, lanes, alleys, sidewalk, bridge, parks, squares, other Public Places, and any non-public property owned or controlled by the City.

5. Undefined Words and Phrases. Words and phrases not herein defined shall have the meaning assigned to them in Chapters 17 or 19, as may be applicable or, in the absence of such definitions, their common and ordinary meanings.

Sec. 15-103 Abandonment

No person shall abandon any vehicle or other property on any street or upon the property of another person without consent of such person.

Sec. 15-104 Assemblage

No person or persons shall hold or address any public meeting or assemblage of people in any street without a permit to do so granted by the City Clerk and approved by the City Manager. In approving or denying a permit, the City Manager shall consider the following factors and may attach reasonable conditions of approval which relate to those factors: 1) volume of traffic normally using the street involved, 2) time of day and year and day of the week when the meeting will be held, 3) number of people expected to attend, 4) availability of parking in the area, 5) nature of the area where the street is located, and 6) volume of sound to be produced if amplification devices will be used.

Sec. 15-105 Auction

No person shall offer for sale or sell any goods, merchandise or other things at public auction in any part of any street, or from a building to any person on any street, without first obtaining a license therefor from the City Clerk.

Cross Reference: Chapter 11, § 11-201.

Sec. 15-106 Awnings

No owner of a building shall allow any part of an awning or other projection from the building over a public right-of-way authorized pursuant to Section 15-137 to be nearer than seven (7) feet to the surface of the right-of-way, and the fixtures thereof shall be securely fastened and supported in such a manner as not to interfere with pedestrians. No such awning or projection shall extend further than one (1) foot from the nearest edge of the area of a public right-of-way carrying vehicular traffic, or require the removal, displacement, or alteration of any traffic control device or City-owned or constructed amenity. No person shall hang up or expose for sale any goods, wares or other merchandise upon any awning in such a manner as to endanger or inconvenience the public travel. Eff: 03/08/10

Sec. 15-107 Begging

No person shall beg in any street or public place.

Cross Reference: Chapter 12, Article II.

Sec. 15-108 Blasting

No person shall blast rock or any other substance without complying with the provisions of Title 25 and Title 17 of the Maine Revised Statutes Annotated and regulations promulgated by the Department of Public Safety.

State Law Reference: 17 M.R.S. § 2791; 25 M.R.S. § 2441 et seq.

Sec. 15-109 Business in Streets

No person shall in any part of a street, public parking lot or other public property, except as specifically allowed by Ordinance, Order of the City Council, or permit issued by the Harbor Management Commission for waterfront parks under its jurisdiction, expose or display for sale, or sell any food, beverages, goods or wares. Food vendor vehicles may conduct business on city streets or other public property, however, such vendor may not remain on the same block for more than 10 minutes to conduct such business. This section shall not apply to vehicles delivering merchandise that has been previously ordered.

State Law Reference: 17-A M.R.S. § 505.

Cross Reference: Chapter 15, § 15-117 & 15-117A, Chapter 2 § 2-703. Chapter 9, §§ 9-106 & 9-121. Eff: 10/12/11

Sec. 15-110 City Clerk

Unless otherwise ordered or provided, the City Clerk is hereby appointed to serve all notices and to issue all licenses and permits as required and provided under this or any other ordinance of the City, or as may be required by State law or otherwise.

Cross Reference: Chapter 11.

Sec. 15-111 Cleaning Sidewalks

No person in removing dust, dirt, debris, snow, ice or mud from any sidewalk or crosswalk of the City, shall project or cause to be deposited any such material upon the person or apparel of any person nearby or passing, but in all cases such material shall be removed in a careful manner, and the person so engaged in removing the same shall if necessary discontinue such operation until the person passing or nearby shall have reached a safe distance.

State Law Reference: 30-A M.R.S. § 3001; 23 M.R.S. § 3658.

Sec. 15-112 Doors; Swinging to Sidewalk

No person shall allow any gate or door belonging to the premises under his control and adjoining any public street, to swing on, over or into any street or on, over or into any sidewalk.

Sec. 15-113 Drain and Sewer Operations

Every person who shall have obtained a permit to open or make or repair a drain in any street or other public place shall keep a good and sufficient fence or railing around the same during the whole time of making or repairing thereof, except when the laborers are actually at work.

State Law Reference: 23 M.R.S. §§ 3351-3360-A.

Sec. 15-114 Encroachment; By Structures; Duty of Council

Whenever the City Council shall ascertain that any structure encroaches upon the limits of any street, it shall issue a notice to the owner of the structure that such structure be removed within a reasonable time as specified by the Council. If the owner fails to comply voluntarily with the Council's request, the Council shall seek a court order for the removal of the structure.

State Law Reference: 17 M.R.S. § 2802; 17-A M.R.S. § 505; 23 M.R.S. § 2952.

Sec. 15-115 Encumbrances; Permits

No person shall occupy any part of any street, sidewalk, or public place in the City of Rockland for the purpose of operating or parking any vehicle, or placing or storing any construction materials, equipment, or any other object intended to be used in erecting or repairing any building on any land abutting on any of the streets or public places within the City, for a period longer than one work day without first obtaining and complying with the provisions of a permit therefor from the Code Enforcement Office, upon filing of a written application on a form provided by said Office, unless otherwise provided in this Chapter, Chapter 17, or by Order of the City Council. No permit shall be required for the temporary deposit of construction materials or contained debris on a sidewalk or the shoulder of any street or way for immediate conveyance from or to that location. The City Council

may establish a graduated fee for such permit, reflecting the duration and impact of the use thus permitted. Such permit may set forth conditions that, in the sole discretion of the Code Enforcement Officer, are reasonably required to minimize public inconvenience and protect the public health, safety and welfare, including, without limitation:

1. Purpose(s);
2. Duration and termination;
3. Maximum area that may be encumbered;
4. Securing or removing certain vehicles, equipment, and materials;
5. The requirement that the erection of staging, ladders, or other means for conducting or accessing construction or repairs, and/or for the protection of the public, shall be in compliance with the applicable sections of the Maine Uniform Building and Energy Code;
6. Upon consultation with the Police Chief, provisions for the safe and efficient passage of vehicles and pedestrians, including traffic and safety controls, barriers, and lights when needed;
7. Upon consultation with the Fire Chief or his designee, provisions for accommodating emergency response vehicles and personnel, and for fire prevention and suppression;
8. Signage, including notification of on-going business activities and events access to which is impeded by the permitted activities;
9. Temporary storage, containment, and removal of construction and demolition debris and rubbish; and
10. Provisions for minimizing and containing noise, dust, particulates, and other deleterious impacts of the permitted activities.

Whenever such temporary use of any portion of a street, sidewalk, or other public place is made necessary by construction or repairs for which the Code Enforcement Office has issued a building permit, the permissions and conditions authorized in this section may be set forth in such building permit, upon the payment of the additional, applicable fee, if any. Upon receipt of a permit for temporary use of a street, sidewalk, or other public place shall, prior to beginning work, provide the City with evidence of liability insurance that lists the City as an additional insured and in an amount not less than the maximum damages liability for municipalities set forth in the Maine Tort Claims Act. Nothing in this Article shall be construed as prohibiting the necessary use of the streets by any vehicles operated by the City or by any public utility; such public utility corporation shall however conform, so far as practicable, to the regulations contained herein or conditions imposed by order of the Code Enforcement Officer.

Eff: 07/10/13

Sec. 15-116 [Reserved.]

Sec. 15-117 Encumbrances; By Sales And Displays

1. Displays. Rockland businesses are hereby authorized to display promotional materials and/or merchandise on City sidewalks, subject to the limitations and requirements set forth below, upon the issuance of a permit for the same by the Code Enforcement Officer.

- A. No more than two portable signs may be permitted per building on the City sidewalk;
- B. Where two portable signs are permitted for occupants of one building, the displays shall be placed no closer than twelve feet to each other or to a display adjacent to another building;
- C. Sales transactions shall not be negotiated or completed on the sidewalk, and hawking, music, and electrified promotional materials are prohibited from the sidewalk, except as provided for in Chapter 15, Section 15-109 of the Rockland Code;
- D. Displays shall be located only within the building's sidewalk frontage between lines extending from the building's front corners to form a ninety degree angle with the right of way;
- E. The area where the displays are placed shall be kept in a clean, neat and orderly condition at all times;
- F. No displays may be affixed or attached to the sidewalk in any way;
- G. The display shall leave an unobstructed pedestrian passageway of at least four feet in width at all times;
- H. No display or merchandise shall obstruct an entrance to a building;
- I. Displays may not be placed within two feet of the curb line unless placed adjacent to, but not toward the street from, a fixture such as a light pole or trash container;
- J. Where parking is prohibited adjacent to the sidewalk, displays may be placed as close as one foot to the curb line, so long as they do not obstruct the view of motorists on the street or side streets;
- K. Portable signs shall not exceed three feet in width and four feet in height;

- L. Display promotional materials and/or merchandise are permitted on public sidewalks only during the hours the permittee's business is open to the public;
- M. The display permittee is solely responsible for any personal injury or property damage resulting from permittee's placement of a display over or on a City sidewalk, and shall provide the City with a certificate of liability insurance therefor, of at least \$500,000/occurrence, which coverage shall identify the City of Rockland, Maine as an additional insured for this purpose. Permittee shall hold the City harmless from any and all claims, liabilities, lawsuits, damages and causes of action alleged to arise from or relating to the display.

2. Display Permits. The Code Enforcement Officer shall grant a permit for display of promotional materials and/or merchandise that complies with the criteria set forth in this section, for a period not to exceed one year from the date of issuance. The permit fee shall be established by Order of the City Council. The grant of such a permit shall not constitute or be construed as a grant of any property right or interest in the sidewalk.

The Code Enforcement Officer, or a Law Enforcement Officer (including the Parking Enforcement Officer), may require the temporary removal of the displays for utility work, parades, snow removal, or other activities that may cause congestion in that area of the sidewalk;

The Code Enforcement Officer, or a Law Enforcement Officer (including the Parking Enforcement Officer) may require the permanent removal of displays if changing conditions of pedestrian traffic cause congestion in the vicinity of the display, irrespective of permittee's compliance with the requirements of this section. Such decision shall be based upon findings that the minimum four-foot pedestrian pathway is insufficient under existing circumstances and represents a danger to the health, safety, or general welfare of pedestrian traffic.

The Code Enforcement Officer may deny, suspend, or revoke a display permit in the event of permittee's violation of any of the requirements of this section, or of any other applicable provisions of the Rockland Code. A denial or revocation of a display permit may be appealed to the City Council with the submission to the Code Enforcement Office of a written request therefor within thirty days.

3. Violations. It shall be a civil violation to place a display without a permit or fail to comply with any requirement of this section. Such a violation shall be penalized as set forth in Section 15-152. Eff: 04/07/10

Sec. 15-117A. Encumbrances; Tables and Chairs

Business establishments which serve and/or sell food, including beverage products, may place tables and chairs on the public sidewalk directly adjacent to such establishment after receiving a permit to do so from the Code Enforcement Officer. Application for such permit shall be on a form and contains such information as required by the Code Enforcement Officer. Such permits shall be subject to the following restrictions:

- a. An unobstructed pedestrian passageway of at least four feet in width shall be maintained at all times. Tables and chairs may not be placed within two feet of the curb line;
- b. Permits shall be issued for the period beginning May 1st and ending October 31st of each year, and shall be renewed annually prior to May 1st. The permit shall be a license to use the sidewalk and shall not grant nor shall it be construed or considered to grant any person any property rights or interest in the sidewalk;
- c. The permit fee shall be set by Order of the City Council; Eff: 06/08/11
- d. The area in which tables and chairs are placed shall be restricted to the sidewalk frontage of the establishment;
- e. No food preparation shall be allowed on the sidewalk. There shall be no cooking, storage, cooling or refrigeration equipment located on the sidewalk; Eff: 05/24/06
- f. Alcoholic beverages are not allowed. This provision shall be enforced by the Rockland Police Department or other authorized law enforcement or State officials. Eff: 05/24/06
- g. Tables and chairs are allowed on the public sidewalks only during the hours of operation of the permitted business;
- h. The area where the tables and chairs are placed shall be kept in a clean, neat and orderly condition at all times;
- i. No tables or chairs may be affixed or attached to the sidewalk in any way; and no commercial logos shall be permitted on any of the tables, chairs or other installations set on the sidewalk. Eff: 05/24/06
- j. Use of the tables and chairs shall be for the general public and may not be restricted to use only by patrons of the permitted establishment, but those permitted establishments may deny access to unruly or disruptive persons;
- k. The permittee shall provide proof of liability insurance to the City and shall hold the City harmless from any and all claims, liabilities, lawsuits, damages and causes of action which may arise from this permit or the

permittee's activities, and shall name the City as an additional insured. An original certificate of insurance shall be submitted as part of the application for such permit;

- l. The permittee shall be responsible for repair of any damage that occurs to the sidewalk as a result of this activity;
- m. The Code Enforcement Officer, or a Law Enforcement Officer (including the Parking Enforcement Officer), may require the temporary removal of the tables and chairs for utility work, parades or other activities that may cause congestion in that area of the sidewalk;
- n. The Code Enforcement Officer, or a Law Enforcement Officer (including the Parking Enforcement Officer) may require the permanent removal of tables and chairs if changing conditions of pedestrian traffic cause congestion. Such decision shall be based upon findings that the minimum four-foot pedestrian pathway is insufficient under existing circumstances and represents a danger to the health, safety, or general welfare of pedestrian traffic.
- o. The Code Enforcement Officer may deny, revoke or suspend such permit for violation of any applicable provisions of this Code. Denial, revocation or suspension of such permit may be appealed to the City Council. Variances of any of these restrictions shall not be granted. Eff: 10/08/03

Sec. 15-118 Excavation Near Street (Repealed 09/07/16)

Sec. 15-119 Fences; Barbed Wire

No fence of barbed wire, or of which barbed wire is a part, shall be constructed or maintained upon, or along, the line of any street or public place, in such a manner that any person passing along the street can come in contact with the barbed wire.

Sec. 15-120 Fence or Rail Required

Owners and lessees of any lot of land abutting on a street in this City, which for want of a fence or rail shall be dangerous, shall place, or cause to be placed in front of the lot, upon or near the line of the street, a fence, rail or guard, which in the opinion of the Director of Public Works shall be a sufficient guard and protection to the public from danger, by reason of the situation of such lot. If any owner or lessee of such lot shall refuse or neglect compliance with the requirements of this Section, he shall on conviction pay a penalty of not less than five dollars (\$5) nor more than ten dollars (\$10) for every day during which such lot shall remain unfenced.

Sec. 15-121 Fireworks

No person shall set off or explode any fireworks as defined in Title 8, § 211 of the Maine Revised Statutes within the City limits, except an event conducted by the City or by a non-profit organization with a permit from the City Manager. In deciding whether to grant a permit, the Manager shall determine that the organization is a non-profit organization, that it has obtained a State permit under 8 M.R.S. § 212, and that it can take adequate safety precautions in light of: 1) the nature and location of the area where the display will occur, 2) weather conditions at the time of the display, 3) knowledge and experience of the person setting off the fireworks, 4) number of spectators expected, 5) availability of parking, and 6) proximity to a fire hydrant or similar water supply. In approving a permit, the Manager may impose reasonable conditions related to these factors.

Sec. 15-122 Hydrants

No person except one duly authorized shall remove the cap from any water hydrant in the City. No person shall interfere with or meddle with, obstruct the approach to, partially or wholly cover with snow or any other substance, or in any manner damage or deface such hydrant or decrease its immediate fully effective availability in event of an emergency.

Sec. 15-123 Lines and Grades of Streets

No person shall proceed to erect or make alteration in the location or grade of any fence, wall, building, or other structure which is to be built upon land abutting on any public street, without first applying to the City Engineer for the lines and grade of such street upon which he intends to build. Such application shall be made in writing at least fifteen (15) days before the work is begun, and the City Engineer shall, within such time, furnish the required lines and grades without charge to the applicant, if in his power so to do. If there is no established grade on the street, the City Engineer shall so report to the City Manager, who shall proceed to cause such grade to be established. In default of such application by any person desiring to erect or alter any structure, as aforesaid, he shall be held to have waived all claims for damages resulting

from such default.

Cross Reference: Chapter 15, Article IV.

Sec. 15-124 Littering

No person shall by hand, or by any conveyance not a vehicle, carry or convey dirt, manure, shavings, cinders, stone, sand, coal, wood, hay, straw, ashes, or other substances or materials on, over or across any street within the City and allow or permit any portion thereof to fall or be deposited upon the street, unless the material is forthwith and immediately removed therefrom.

State Law Reference: 17 M.R.S. §§ 2261-2276.

Sec. 15-125 Loitering On Street; Double Parking; On Hood or Roof of Vehicle

No person or persons shall impede, interfere with or block any vehicle traffic on any street by standing in the street or by double parking of a vehicle on any street. No person or persons shall sit, stand or lay down upon the hood or roof of any motor vehicle parked or moving on any street in the City of Rockland.

State Law Reference: 17-A M.R.S. § 505. **Cross Reference:** Chapter 12, Article II.

Sec. 15-126 Monuments

No person shall remove or conceal any monument set as a street boundary in the City; whoever violates this Section shall pay a penalty of twenty-five dollars (\$25). In case it becomes necessary for any City official or employee to remove or cover any such monument, he shall first notify the City Engineer that he may make such measurements and notes of the position of the monument as may be necessary for its accurate replacement at any time.

State Law Reference: 17-A M.R.S. §§ 507, 805, 806.

Sec. 15-127 Noise

No person shall without a permit from the City Clerk, approved by the City Manager, use any device to amplify sound for commercial profit advertising purposes, either stationary or by any means of conveyance, upon any street or public place in the City. In deciding whether to approve a permit, the Manager shall consider the following factors and may impose reasonable conditions of approval relating to those factors: 1) area where device will be used, 2) time of day and day of the week when device will be used, and 3) volume of the sound produced by the device. The penalty for violation of this Section shall be not less than three dollars (\$3) nor more than twenty dollars (\$20).

State Law Reference: 17-A M.R.S. § 501.

Sec. 15-128 Notices

No person shall deface or tear down any public notice, ordinance or advertisement posted in a street or public place by any public official in the performance of his duties.

Sec. 15-129 Numbers; Building

No person shall remove, obliterate, mar, deface or destroy any house or building number attached to or painted on such house or building as required to be displayed.

Sec. 15-130 Obstruction; Gutter

No person shall place any obstruction in any ditch or water-course by the side of any street in this City without providing a sufficient culvert for the passage of the water that shall be acceptable to the Director of Public Works, and then only with the approval of the Director of Public Works, under a penalty not exceeding ten dollars (\$10).

State Law Reference: 23 M.R.S. §§ 3251-3255.

Sec. 15-131 Obstructions; Liability

Any person having the care either as owner or occupant of any premises bordered by a public street or alley shall be liable to the City for any legal liability that may be adjudged against the City as a result of the placing of obstructions of any nature in the public street or alley by such person, his employees, or agents.

Sec. 15-132 Openings in Street or Sidewalk; Construction (Repealed 09/07/16)

Sec. 15-133 Openings in Street or Sidewalk (Repealed 09/07/16)

Sec. 15-134 Overhangings on Street or Sidewalk

No person shall hang, or cause to be hung any goods or other things over any sidewalk or street, unless otherwise permitted by law unless a permit is granted therefor, provided, that this Section does not apply to non-commercial flags.

Sec. 15-135 Paint on Sidewalk

No person shall paint or cause to be painted any sign, advertising or any other matter upon the public sidewalks, or apply paint thereof for any purpose in any manner, except such paint as may be applied under the direction of a public official or employee for public purposes.

Sec. 15-136 Poison

No person shall leave any box, bottle or package of any kind containing poison or other dangerous matter or thing, in any street, public place, or in any doorway, in such manner that such box, bottle or package or dangerous matter or thing may be picked up or fall into the hands of children or cause injury to any person using the street.

Sec. 15-137 Projections Onto Sidewalk or Over Street

No person shall make or maintain any door-step, platform, portico or porch, or any entrance or passageway to any cellar or basement, or any other structure projecting into or upon any street or sidewalk without having first secured (A) review and approval of the same, except awnings, by the Planning Board pursuant to pertinent City of Rockland site plan and technical standards and requirements, and (B) a license or other authorization granted by the City Council to project upon, into, or over the street or sidewalk. **State Law Reference:** 23 M.R.S. § 2952. Eff: 03/11/09 Amend 03/08/10

Sec. 15-138 Pumps; Sidewalk

No sidewalk gasoline or other pumps shall hereafter be installed within the limits of any street or sidewalk or in any place where the stopping of vehicles to be served from such pumps shall be in any part of the street or sidewalk; provided, however, that any pumps, so installed, existing at the time of the passage of this Article may continue in operation and may be repaired or replaced but there shall be no extension or expansion of the existing space occupied by such pumps.

State Law Reference: 23 M.R.S. § 1401-A.

Sec. 15-139 Raising or Lowering Objects

No person shall raise anything from, or lower anything to any street or public place by means of a rope, chain, pulley, or similar device without first obtaining a written permit from the City Clerk, and providing protection satisfactory to the Police Chief for pedestrians or vehicles using the street.

Sec. 15-140 Refuse; Conveying

A. No person, corporation, or legal entity shall carry or convey in any way, through any street or public place, any refuse, garbage, decaying or decayed fish, meat or vegetables or any other offal or filthy substances giving off offensive odors or stenches, or any bag or package containing same, in such a manner that it drips, leaks, drops or scatters, or allows the escape of offensive odors or stenches nor shall such conveyance or containers be left standing in any street, public place or private property. Any such conveyance or container, whether transporting any of the above mentioned substances or containers or left standing, shall be covered in a manner that will prevent to the greatest extent reasonably possible any spillage, leakage, or pollution including but not limited to odor and noise.

B. Any corporation, partnership, proprietorship, person or business entity found guilty of a violation of this section (hereinafter referred to as the "nuisance") shall be subject to a penalty of not less than One Hundred (\$100.00) Dollars and not more than One Thousand (\$1000.00) Dollars or by imprisonment for not more than fifteen (15) days, or by both. The Court may order this nuisance to be discontinued or abated, and issue a warrant therefore. Eff: 9/11/85 alc

Sec. 15-141 Refuse; Placing or Throwing

No person shall place, pile, throw, sweep, or deposit, or cause to be placed, piled, thrown, swept or deposited, any ashes, carrion, trash, dirt, cards, paper, glass, tacks, manure, rubbish, nuisance or refuse of any kind into any street or on any sidewalk or other public place, or upon the premises of another, except with the approval, of the private owner who then becomes responsible that it does not become a nuisance, and except at an officially designated dump.

State Law Reference: 17 M.R.S. § 2263-A.

Sec. 15-142 Removal of Building Materials

No person shall remove any sand, dirt, or street building or repairing material owned by the City from any street or sidewalk without permission of the Director of Public Works.

Sec. 15-143 Roof Snow Fenders

The owners of all buildings on both sides of Main Street between the junction of Main and North Main Streets and the junction of Main and Water Streets, whose slate, tin or zinc roofs slant toward the street and are sufficiently near to the street to permit snow to fall from the roof on a sidewalk or street, are hereby required, if so notified, to cause snow fenders to be installed within thirty (30) days, or as soon thereafter as reasonably practicable after such notice, upon the roof thereof next to the street, for the purpose of protecting persons and property from injury from snow and ice sliding from the roofs.

State Law Reference: 30-A M.R.S. §§ 3001-3007.

Sec. 15-144 Signs; Street Name

No person shall injure, damage, deface, break, take down or remove, or in any manner interfere with any street-name sign placed in a street under authority of the City Council, except a public official or employee for repair or replacement purposes. No person shall place any street-name or sign on any street except by authority of the City Council.

State Law Reference: 17-A M.R.S. §§ 805, 806.

Cross Reference: Chapter 15, §§ 15-502, 15-503.

Sec. 15-145 Signs of Warning Required

No person engaged in building, altering or repairing a street or sidewalk shall fail to provide such barricades, danger signs, lanterns, flares or other light as may be necessary during the process, day and night, for the purpose of guarding or enclosing unsafe or dangerous places or giving warning or notice thereof, in a manner approved by the Director of Public Works.

State Law Reference: 23 M.R.S. §§ 3351-3360-A.

Cross Reference: Chapter 15, Article IV.

Sec. 15-146 Signs of Warning; No Interference With

No person shall damage, interfere or meddle with, remove, throw down, destroy or carry away from any street or public place, any lamp, lantern flare or other light, barricade or danger signal, erected and placed therein for the purpose of guarding or enclosing unsafe or dangerous places or giving warning or notice thereof.

Sec. 15-147 Snow

No person shall deposit or cause to be deposited any ice or snow, in any street or public place in the City. Disposal of snow in Rockland Harbor by any entity, including the City of Rockland, shall be prohibited. Eff: 3/10/04; amended 09/10/14

State Law Reference: 17 M.R.S. § 2802; 17-A M.R.S. § 505; 23 M.R.S. § 3452.

Sec. 15-148 Sidewalks; Space Under

No person shall use or appropriate any space under a sidewalk for cellar or other underground uses without first obtaining a permit from the City Clerk approved by the City Manager.

Sec. 15-149 Sidewalks; Water Draining Thereon

No owner of any building, lot or premises shall allow rain water or drain water to drain from such building, lot or premises onto a sidewalk, or to allow ditches, leaders, ducts or drain pipes to empty on a sidewalk.

Sec. 15-150 Waste Paper

No person shall deposit waste paper on Main Street nor on premises adjoining the street in such a manner that it can blow into Main Street.

State Law Reference: 17 M.R.S. § 2263-A.

Sec. 15-151 Sleeping

No camping or sleeping during the nighttime will be allowed in any street or public place except in areas as authorized by the Police Chief and the City Manager and with written permission from those officials.

Sec. 15-152 Penalty

Any person guilty of a violation of any provision of this Article to which a particular penalty is not attached, or provided by State law, shall be subject to a penalty of not less than twenty dollars (\$20) and not more than one hundred dollars (\$100) for each and every offense, or by imprisonment for not more than five (5) days, or by both. The imposition of a penalty for violation of this Article shall not excuse the violation or permit it to continue; such violation shall be remedied within a reasonable time, or within such time limit as may be specified in any notice given to the owner or occupant of the premises by the City Manager, and each day such violation continues to exist following the expiration of the time limit specified in any such notice shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions, nor preclude the City Attorney from causing to be instituted an appropriate action to prevent, restrain, correct or abate any violation of this Article.

ARTICLE II New Streets

Sec. 15-201 Laying Out of Streets

No street or way shall be laid out and accepted as a public street or way except in accordance with the provisions of this Article.

State Law Reference: 23 M.R.S. §§ 3021-3030.

Cross Reference: Chapter 14, § 14-417; Chapter 16, § 16-105.

Sec. 15-202 Street Must Be Fifty (50) Feet Wide

No street or way less than fifty (50) feet wide shall be laid out and accepted by the City Council as a public street or way. Provided, however, that the Council may accept a lesser width when the fifty (50) foot street is impracticable.

Sec. 15-203 Petition For Laying Out Street

A petition for the laying out and acceptance of a public street or way shall be submitted to the City Council upon a form prescribed by the Director of Public Works. Such petition shall be accompanied by plan in triplicate drawn to a scale of forty (40) feet to one (1) inch and shall show the street or way to be accepted and the names of the abutting owners thereon.

Sec. 15-204 Notice

Upon receipt of the petition it shall be referred to the City Manager and the Planning Board for investigation, report and recommendation. Notice shall be given and a public hearing shall be held as provided for in the case of the passing of ordinances.

Sec. 15-205 Action Of City Council

The City Council may designate such improvements or changes in accordance with Chapter 16, Article I, as it considers necessary or desirable before accepting any such street or way, and may refuse to accept any such street or way until such improvements or changes have been completed.

Sec. 15-206 Plan Required

Upon acceptance of any street or way one copy of the plan thereof shall be filed in the office of the City Clerk.

Sec. 15-207 Condemnation

Whenever the Council shall take any land for a public street or way without the consent of the owners, it shall proceed as provided for in the Revised Statutes of Maine.

State Law Reference: 23 M.R.S. §§ 3023, 3029.

ARTICLE III Sidewalks

Sec. 15-301 Authority

As provided by the Revised Statutes of Maine, the City Council by ordinance may reserve and set off portions of the various streets of the City, now or hereafter to be established, for sidewalks and regulate the use thereof, to such extent as the City Council deems expedient, for the safety, convenience and accommodation of pedestrians, and may regulate the height and width of sidewalks in any public street, place, square, lane or alley in the City, and may authorize poles and trees to be placed along the edge of the sidewalks.

State Law Reference: 30-A M.R.S. §§ 3001-3007.

Sec. 15-302 Assessments

Assessments may be made for total amount not to exceed two-thirds of the cost of permanent sidewalks, subject to the same provisions applying to assessments for streets as provided by Article IV.

Sec. 15-303 Snow Removal

1. Purpose. The purpose of this Snow Removal Ordinance is to prevent the accumulation and provide for the timely removal of snow and ice from City sidewalks.

2. Sidewalk Clearance In Downtown Parking District. The owner of every parcel of land within the Downtown Parking District, as defined in Chapter 19, Article III, Section 19-307(4), bordering upon the sidewalk of any public way, except single-family residences, shall, within three hours after the ceasing to fall of any snow or other accumulating precipitation, or by no later than 9:00 a.m. on the next day when the precipitation ceases after 6:00 p.m., cause the same to be removed from the sidewalk(s) immediately adjacent and contiguous with his parcel of land in a manner that forms a path that is clear of snow and is at least five feet in width, measured from the property line, and continuous with the sidewalk snow removal by his abutters. Such owners shall keep the sidewalk clear of snow and ice thereafter, including snow and ice placed on the sidewalk as a result of subsequent snow clearing and removal activities by the City in the adjacent street.

3. Sidewalk Safety. The owner of every parcel of land within the Downtown Parking District, as defined in Chapter 19, Article III, Section 19-307(4), bordering upon the sidewalk of any public way shall cause the sidewalk(s) immediately adjacent and contiguous with his parcel of land to be safe and convenient by removing ice therefrom and by applying sand, salt, or other suitable substance purposed to establish a reasonably safe walking surface.

4. Limitation On Liability. Nothing in the preceding subsections shall be construed as imposing upon any property owner liability for personal injuries sustained by any member of the public traversing a public sidewalk required to be cleared or treated by the property owner herein.

5. Violation; Penalty. Each infraction of Subsections 15-303(1) through 15-303(4) shall be a civil violation, the occurrence of which shall subject the violator to a summons issued by the Police Department and fine of not less than \$50.00 for a first violation, \$100.00 for a second or continuing violation in any given winter season. Each day that a violation of this Section continues uncorrected shall be a separate violation.

6. Snow And Ice On Commercial And Multi-Family Structures. When an accumulation of snow or ice on a commercial or multi-family structure poses a threat of falling onto any public street or sidewalk anywhere in the City, the owner of the property shall notify the Police Department of the hazard, and cause the accumulated snow or ice to be removed within a reasonable time. Nothing in this Subsection 15-303(6) shall be deemed to relieve any responsible party of liability to any person for personal injuries or property damage caused by falling snow or ice.

State Law Reference: 23 M.R.S. § 3658; 30-A M.R.S. § 30-A M.R.S. § 2004.

Cross Reference: Chapter 15, §§ 15-143, 15-147, 15-149. Eff: 01/13/10

ARTICLE IV Street Construction and Excavations

Eff: 09/07/16

Sec. 15-401 Street Excavations - Statement of Policy

The City of Rockland requires compliance with the provisions of Article IV of this Chapter in order to minimize, to the extent possible, the safety and road maintenance problems that have been associated with excavations and paving operations in the past. The protection of the City's streets and sidewalks and infrastructure on and under the streets in the City is vital for assuring safe and passable ways, protecting the public health, safety, and welfare, and for fostering economic activity and development. To that end, it is the policy of the City to require all repair and excavation work performed on City streets and

sidewalks to be done promptly, with due regard to the safety of the public, and in a skillful and workmanlike manner.

Sec. 15-402 Definitions

For the purposes of this Article, certain words and phrases shall have the following meanings. Words and phrases not defined herein or elsewhere in Chapter 15 shall have their common and ordinary meanings.

1. Contractor. "Contractor" shall mean a person or entity retained to conduct the excavation(s) and other work authorized by a street opening permit and/or otherwise required under this Article or applicable law.
2. Excavation. "Excavation" shall mean any operation in which earth, rock, or other material below the surface is moved or otherwise displaced, by hand or by means of power tools, power equipment, or explosives, and including grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, and cable or pipe driving, except tilling of soil and gardening or displacement of earth, rock, or other material for agricultural purposes.
3. Installation. "Installation" shall mean any pipe, equipment, vault, entrance, coal hole or other receptacle for goods, or other structure placed in a street.
4. Permittee. "Permittee" shall mean a person authorized to conduct an excavation in a street or sidewalk pursuant to Section 15-405.
5. Sidewalk. "Sidewalk" shall mean that portion of a street between the curb lines or, in the absence of curbs, the lateral lines of a roadway, and the adjacent property lines intended or available for the use of pedestrians.
6. Utilities in Good Standing. "Utilities in Good Standing" shall mean a public utility as defined in 35-A M.R.S. § 102, as amended, that is not – either at the time of application or anytime within the past year – in violation of any provision of this Chapter.

Sec. 15-403 Administration

The Public Services Director (the "Director"), under the supervision of the City Manager, shall be responsible for administering the provisions of this Article, and for securing compliance with the City's street opening, excavation, connection, and restoration requirements.

Where the owner or operator of land retains a contractor to perform work regulated under this Article, such owner or operator and the contractor shall be jointly and severally responsible for complying with this Article; provided, however, that only one permit shall be granted and one performance guarantee required for each excavation.

Sec. 15-404 Street Paving; Notice; Moratorium

1. Notice of Street Paving. Prior to paving or substantially repairing any City street, or of any state or state-aid highway within the Urban Compact area, the Director shall duly serve upon owners of property abutting on such street and upon all persons occupying such street, including public utilities that may have utility facilities in the street, directing such owners and persons to make sewer, water, and conduit connections or other work as may be designated by the Director or planned or reasonably foreseeable by the owner, within 60 days from the date of the notice. The Director shall maintain a current list of newly constructed, reconstructed, and repaved streets, and portions thereof, and make such list available to the public upon request at both the City Clerk's office and the Department of Public Services, and on the City's website.

2. Moratorium On Street Openings. At the expiration of the time fixed pursuant to the preceding paragraph and after the street has been paved or repaired, no permit may be granted to open that street for a period of 5 years, except as otherwise provided herein.

3. Exceptions. Notwithstanding the foregoing, the Director may issue a street opening permit to open a street within 5 years after that street was paved or substantially repaired if the Director requires such Permittee to either:

- A. Utilize trenchless construction techniques that obviate the need for disturbing the paved surface, or
- B. Upon disturbing the paved surface, to relay the full width of the road surface on both sides of the cut for a distance of at least 20 feet from the furthest outside edges of the cut. If that repair overlaps the edge of a repair from a previous opening, the Director may require the Permittee to relay the full width of the road to the furthest edge of that previous repair. The Director shall prescribe the depth and method of restoring the pavement based upon the class of the street, except that in no case may the depth of the restored pavement be less than 3 ½ inches.

State Law Reference: 23 M.R.S. §§ 3351-3352.

Sec. 15-405 Street Opening Permit

1. Permit Required. No person may excavate, place any installation within, or fill an excavation in any street or sidewalk without having first obtained a Street Opening Permit therefor from the Director or his designee. The Director is

permitted to apply reasonable conditions to any permit to mitigate the unique circumstances of an application, as long as it doesn't have the effect of reducing the effect of the ordinance or limiting the adopted standards. The Director shall not issue such Street Opening Permit except upon receipt of:

- A. A completed application therefor, on a form prepared and provided by or on behalf of the Director;
- B. The permit or other applicable fee(s) established by Order of the City Council;
- C. A certificate of Public Liability Insurance evidencing liability coverage in conformance with Sec. 15-406(1); and
- D. The performance guarantee required under Sec. 15-406(2).

2. Exceptions. No street opening permit shall be required for:

- A. Curb cuts for which a curb cut permit is granted pursuant to Chapter 19, Article III, Section 19-307(9);
- B. Driveways for which a driveway permit is granted pursuant to Chapter 19, Article III, Section 19-307(9), where the work does not include the placement of a culvert or other subsurface disturbance that, in the discretion of the Code Enforcement Officer, may affect the stability of the right of way.

3. Permit Application. The written application for Street Opening Permit shall provide the following information:

A. Name, physical, postal, and e-mail or other internet address, and phone number of the applicant and applicant's contractor, if any;

B. Name(s), address(es), and license number and issuing state of the project manager and/or foreman for the excavation, and of every person who may operate excavating equipment in conducting the excavation, backfilling, compaction, and/or site restoration, and a statement as to whether each such manager, foreman, or operator has been denied an excavator license by any governmental entity or caused any damage to property or person while operating equipment at a worksite in the preceding 5 years. The Director may establish conditions to the permit that require that excavation work be performed, or not performed, by specified personnel.

C. Purpose(s) for which the permit is sought;

D. Street address and the type(s) and nature of the occupancy of building(s) to be served by the proposed excavation;

E. Start date for the proposed excavation and the estimated time needed to complete the excavation;

F. Detailed narrative description of the proposed excavation, including its purpose, the total area of street and/or sidewalk to be disturbed, volume of excavated material, trench width and length, and purpose and type of utility connections to be made in the excavated area;

G. Diagram of the proposed excavation showing the location of proposed utility installations / connections, and the size of street or sidewalk excavation;

H. Accurate estimate of the total cost for the excavation, including inspections, testing, and repaving;

I. Evidence of Applicant's notification of, and where applicable permission from, the owner or operator of underground facilities in the proposed excavation area. Evidence of notification may be satisfied by providing the Applicant's Dig-Safe number;

J. Signature of the City Engineer, when determined by the City Manager;

K. Signature of Police Chief when the flow of traffic will be restricted or detoured;

L. Signature of the City Clerk demonstrating that Applicant is current on all financial obligations to the City; and

M. Signature of the Applicant. Applicant's signature shall be deemed to be Applicant's acknowledgement of, and agreement to comply with, the requirements of this Article. Applicant and, when different, the owner of the property to be served or benefitted by the street opening shall be jointly and severally responsible for compliance with this Article.

The Director shall grant, grant with conditions, or deny each application for a street opening permit within five (5) working days of submission of a complete application. All such permits shall be subject to the conditions stated therein, and to the requirements set forth in this Article, including those in Sec. 15-407 – General Requirements.

4. Permit Fee. Except as otherwise provided herein, each applicant shall pay to the City a permit fee in an amount reasonably calculated to reimburse the City for the direct cost(s) in labor and equipment typically expended by the City in administering permits issued pursuant to this Article.

The Director shall waive payment of all but \$50 of the permit fee for driveway repairs and repaving for which a driveway permit has been issued and that also require a street opening permit.

The Director shall waive payment of all the permit fees for excavations to be performed by or on behalf of the City or MaineDOT.

The City Manager may waive payment of the permit fee in the event s/he determines that special conditions exist relating to the protection of public health, safety, and welfare, and/or significant financial hardship to a home owner that, in the

absence of such waiver, would delay or make impossible needed repairs of such owner's residence or utility facilities serving the residence.

Utilities in good standing may opt to be billed for permit fees, so long as such utility remains current on the resulting permit fee invoices.

5. Permit Valid for 30 Days. Excavation work must be started no later than thirty (30) days from the date of issuance of the Street Opening Permit. At the expiration of this thirty (30) day period, such permit shall become null and void and must be renewed before any work may begin. The permit fee must be paid for each issuance and renewal.

6. Winter Moratorium; Emergency Excavations. Except in the event of an emergency, the Director may not issue a permit for, and no person may commence, an excavation in a City street, sidewalk, or other public place between December 1 in any one year and March 15 in the following year.

7. Emergency Action. Nothing in this Article shall be construed to prevent the making of such excavations as may be deemed necessary for the preservation of life or property, or for the identification of blockages, leaks, or other failures, and the repair thereof, of gas, water, or other utility facilities in the street; provided, however, that the person making such excavation shall apply to the City for a permit therefor on the first municipal working day after such work is commenced. Before any emergency excavation is commenced, the responsible party must take all reasonable steps to notify Dig-Safe pursuant to 23 M.R.S. § 3360-A, and to ascertain the location of underground utility facilities that may be affected by the excavation. In no event may blasting be conducted in an unpermitted emergency excavation.

8. City of Rockland. No permit shall be required for an excavation to be performed by or on behalf of the City of Rockland, provided that the Director first issues a work order that sets forth the pertinent information otherwise required under paragraph (2) of this section. In the event of an emergency excavation by or on behalf of the City, the Director shall be notified and shall issue such work order documenting the emergency and the work as soon as practicable.

Sec. 15-406 Liability Insurance; Performance Guarantee; Non-Waiver of Immunity

1. Liability Insurance. All applicants for street opening permits shall provide with their applications a certificate of liability insurance naming the City as an additional insured for liability arising from the Permittee's excavation, in coverage amounts acceptable to the City Attorney.

2. Performance Guarantee.

A. Form. All applicants for a street opening permit, other than utilities in good standing, shall provide a performance bond or other bond, letter of credit, cash security deposit, or other guaranty of a type and in a form acceptable to the City to guarantee Permittee's performance in properly excavating, connecting to utilities, and restoring the excavated area (the "Performance Guarantee") in conformance with the applicable standards, rules, and regulations. In the event the Director determines that there has been a partial or complete failure of the trench or other portion of a right of way as a result of the street opening within two years of the Permittee's final completion of the street excavation and restoration, such failure shall be deemed to be the result of Permittee's failure to perform the excavation or restoration in conformance with the applicable standards, rules, and regulations.

Regardless of any other terms and conditions of said bond or other instrument, payment thereunder by said surety, guarantor, or other issuer to the City must be due immediately on demand upon Applicant's failure to restore the condition of the excavated way, sidewalk, or other public property to the satisfaction of the Director.

Letters of credit or other performance guarantees provided for permits issued prior to the effective date of this ordinance shall be retained and must remain valid for the entire term for which they were accepted by the City.

B. Exceptions.

(1) City Contract. No street opening permit shall be required of persons who are under contract with the City to perform the excavation if such persons provide a performance bond or other guarantee in an amount equal to or greater than that otherwise required hereunder.

(2) Waiver by City Manager. The City Manager may, upon written request by an Applicant, waive the requirement for a performance guarantee if the City Manager finds that the Applicant has insufficient financial resources to provide the guarantee and that the proposed excavation does not pose a significant risk of impairment to a street, sidewalk, or other City or utility infrastructure.

C. Amount. Licensed excavators or their employers may annually post a Performance Guarantee in the amount of \$25,000 to guarantee their performance under street opening permits for that calendar year. Alternatively, Permittees shall provide the City with a Performance Guarantee for each permitted excavation in the amount of the product of two times the project estimate stated in the application and accepted by the Director (Estimate x 2 = Performance Guarantee Amount). Bonds and other non-cash performance guarantees shall be in a form and issued by a surety, guarantor, or other issuer acceptable to the City, in its sole discretion, and shall remain effective and subject to negotiation and collection by the City for at least two years from the date of completion of the excavation and street restoration. Cash security deposits made in lieu of providing a bond or similar instrument of performance guarantee shall be refunded upon approved completion of all conditions and requirements of the permit, this Article, and applicable rules and regulations.

D. Corrective Actions; Payment.

The Director shall serve written notice upon any person or utility that fails to comply with or that violates any provision of this Article (a "Violator"), stating the nature of the failure or violation and providing a reasonable, specific time limit for the Violator to perform corrective actions; provided, however, that where such failure or violation may trigger tort or other liability for a street defect, the corrective action shall be commenced within 24 hours of the Director's notice. If the Violator fails to perform the corrective action within the specified time period, the City shall cause the necessary repairs, keeping an account of the expense thereof. Upon the completion of the corrective action by or on behalf of the City, the Director shall cause an invoice to be served upon the Violator for payment, in the amount of 200% of the whole of the expense incurred by the City, which invoice shall be due and payable immediately upon receipt. The Director shall issue no additional street opening permits to the Violator until such invoice is paid in full. Upon the Violator's failure to perform the corrective action or to pay the City's invoice therefor, the City shall reimburse itself from the Permittee's performance guarantee in an amount equal to 200% of the whole of the expense incurred by the City.

3. Non-Waiver. This Article shall not be construed as imposing upon the City or any official or employee of the City any liability or responsibility for damages to any person injured by the performance of excavation work for which an excavation permit is required under this Article, nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work. In the case of a dedicated-but-unaccepted street or way, this Article shall not be construed as authorizing any action which is inconsistent with any private rights in said street or way, nor shall the issuance of any permit hereunder be construed as an acceptance of said street or way by the City for highway or other purposes.

Sec. 15-407 General Requirements

1. Excavation Standards. All street excavations and restorations and other work that cause a disturbance of any street must be conducted in compliance with applicable statutes, ordinances, technical standards, and rules and regulations relating to opening, excavating, working in, and occupying a street or other public way, including the Excavation Standards set forth in Section 15-409, Special Conditions set forth in Section 15-410, and the City's Technical Standards Manual adopted pursuant to Chapter 2, Article XIV, Section 2-1402.

2. Non-Interference. Contractors shall not interfere with any existing facility, structure or substructure without the written consent of the City or owner of the facility, structure or substructure. Contractors will assume all liability for all damaged facilities, structures or substructures regardless of ownership, and for any damage or injury sustained as a result of such facility, structure or substructure damage. All excavations shall be conducted so as not to interfere with access to fire hydrants, fire escapes, fire stations, police stations, underground vaults, and all other vital equipment identified by the City and/or Dig-Safe.

3. Inconvenience Minimized. Work shall be carried out in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and abutting property owners to the greatest extent possible; excavation work, noise, dust and unsightly debris shall be minimized. The work area must be cleaned up and all debris removed when construction is completed.

4. Blasting. If blasting is required as part of a project, the Contractor shall conduct a survey, prior to blasting, of the condition of all foundations and other structures and facilities standing at such distance from the proposed blast that they may, in the judgment of the Contractor, be affected by the blast. All property owners and lessees, if any, of buildings, structures and facilities within five hundred (500) feet of the site of the blast, or within the area likely to be affected, whichever is greater, shall be given adequate notice of the planned blasting by the Contractor as soon as possible after the need to blast becomes obvious. In addition, the Contractor shall cause "doorknob-hanger" notices of the blasting to be hand-distributed to these properties between 48 hours and 24 hours before the blasting is scheduled.

4. Seasonal Night Work. Excavations in Routes 1, 1A, 17, and 73 between June 1 and September 30, except in emergencies or with the prior consent of the Director, shall be performed after 6:00 PM and prior to 7:00 AM.

5. Monuments. Monuments designating property, street lines, or permanent survey markers shall not be disturbed, removed, or concealed without the prior, written consent of the Director, in which instance the Director shall direct the replacement or restoration of the monument by the Permittee or Contractor.

6. Manholes and/or Catch Basins. No person or utility shall remove, damage, haul away, or otherwise disturb any manhole and/or catch basin castings, frames, and/or covers owned by the City without first receiving written permission from the City. Any manhole and/or catch basin castings, frames, and/or covers missing, damaged, or disturbed shall be repaired and/or replaced by the Contractor in accordance with the specifications set forth by the Public Services Department.

7. Sewers, Sewer Connections. No person may uncover, make any connection with or opening into, use, alter, or disturb any public sanitary or storm sewer without first obtaining a written permit therefor from the Water Pollution Control Director pursuant to Chapter 20, Article III, Section 20-304, and paying all applicable sewer connection or other fees and charges.

8. Prompt Completion of Work. After an excavation is commenced, the Contractor shall proceed with diligence and expedite all excavation work covered by the excavation permit and shall promptly complete such work and restore the street as specified in this Article. The Contractor shall daily perform such restoration work as may be reasonably necessary so as not to obstruct, impede, or create a hazard to public travel by foot or vehicle. If the City determines that the safety of the public is not being protected, then the City may intervene and perform corrective actions after providing 24 hours' notice to the Permittee or Contractor. If the work is not done in accordance with the time frame outlined in the permit application, then the permit must be renewed or the City will consider the work incomplete and will take action accordingly.

9. Record of Installation. Drawings denoting installation of utility lines or service lines within the right-of-way of streets shall be filed with the Director of Public Works within sixty (60) days of completion of construction.

10. Unauthorized Excavations. Any person conducting an excavation in a street or sidewalk who is not authorized to do so under this Article is not excused from compliance with these general requirements, and a violation of the same shall be subject to penalties and/or fines in the amount of three times the applicable penalties and/or fines applicable to violations committed in conducting permitted excavations, in addition to and not as a substitute for any penalties, fines, and remedies imposed on the violator for conducting an unauthorized excavation.

Sec. 15-408 Protective Measures and Routing of Traffic

1. Safe Crossings. Contractors shall, in general, maintain safe crossing for two (2) lanes of vehicle traffic at all street intersections where possible and safe crossing for pedestrians. If any excavation is made across any public street or sidewalk, adequate crossings shall be maintained for vehicles and pedestrians. If the street is not wide enough to hold the excavated material, without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along such sidewalk line.

2. Barriers and Warning Devices. It shall be the duty of every Contractor cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices, and to post flaggers to guide traffic, as may be necessary for the safety of the general public. Traffic control in the vicinity of all excavations affecting vehicular, pedestrian, and bicycle traffic shall be subject to final review and approval of the Police Department. Barriers, warning signs, lights, etc., shall conform to the latest edition of the "Manual on Uniform Traffic Control Devices." Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset on each day to sunrise of the next day. Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not to replace, light sources.

3. Normalization of Traffic Conditions. Contractors shall take appropriate measures to assure that, during the performance of the excavation work traffic conditions shall minimize inconvenience to the occupants of the adjoining property and to the general public.

4. Closing of Streets. When traffic conditions permit, the City may authorize the closing of streets to all traffic for a stated period of time. In an emergency, a street can be temporarily closed to prevent danger to the public. In such cases, a utility company or contractor responding to the emergency shall contact the Police and Fire Departments by phone before closing a street to traffic.

Closing of streets to all traffic for a limited period of time may also be approved by the Director of Public Services in conjunction with the City Manager, should an unforeseen risk to public safety arise during the completion of a non-emergency project.

5. Interference With Arterial Streets. Unless an emergency exists, construction activities shall not interfere with the normal flow of traffic on arterial streets of the City. The full inbound roadway lane width shall be maintained between the hours of 6:45 A.M. and 8:30 A.M. and the full outbound lane width shall be maintained between the hours of 4:00 P.M. and 5:45 P.M.

6. Shifting Traffic To Opposite Side. Contractors may shift traffic to the opposite side of the roadway to maintain required lane width. The Contractor may only make such shift with the approval of the Police Department following the proper review of detour plans to ensure adequate safe two-way traffic flow and proper number and placement of Police Officers or traffic safety flag persons.

Sec. 15-409 Excavation Standards

1. Clearance for Vital Structures. The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, traffic signal cables and loops, and all other vital equipment as designated by the City.

2. Breaking Through Pavement in Streets and Sidewalks.

a. All excavations on paved surfaces shall be pre-cut in a neat straight line with pavement breakers, saws, or asphalt cutters.

b. Heavy duty pavement breakers may be prohibited by the City when the use endangers existing substructures or other property.

c. Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

d. Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.

e. When three (3) or more street openings are made in sequence fifteen (15) feet or less, center to center (between each adjacent opening), the CONTRACTOR shall neatly cut and remove the area of pavement between these adjacent openings and shall patch as one trench.

f. On concrete sidewalks, all cuts shall be made from the nearest joint or score line on one side of the excavation to the nearest joint or score line on the other side of the excavation.

g. When an opening is made in a street, where the surface is Portland Cement Concrete, the concrete shall be cut back at least twelve (12) inches beyond the edges of the trench before the new concrete patch is replaced. Sufficient reinforcing shall be furnished to provide the equivalent of one-half (½) inch steel rods on twelve (12) inch centers both ways, top and bottom in the new concrete patch. The thickness of the concrete in the new patch shall be at least four (4) inches thicker than the existing concrete and the top surface shall be finished to conform to the surface of the old concrete.

h. When an opening is made in a street where the surface is bituminous concrete, the edges of the pavement shall be cut back an additional eight (8) inches beyond the edges of the patch before the new and permanent surface is replaced.

3. Trenches. Contractors shall minimize the lengths of open, excavated trenches, to better protect public safety and minimize the impact of the excavation on vehicular and pedestrian circulation and access to adjacent properties. The maximum length of open trenches parallel to the travel lanes in a street shall be two hundred (200) feet, except on Routes 1, 1A, 17, and 73, where parallel trenches may not exceed one hundred (100) feet in length without the Director's prior consent. Open trenches that are not parallel with the travel lanes may not exceed the bounds of one travel lane. No greater length shall be opened at any one time for pavement removal, excavation, construction, backfilling, patching or any other operation without the written permission of the City. Trench sides shall be shored so as to prevent the undermining of undisturbed pavement. Contractors shall meet all applicable OSHA Safety Requirements.

4. Care of Excavated Material.

a. All materials excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such a manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using the streets and adjoining property. Materials that are not suitable under this Ordinance or other applicable regulations for reuse for backfilling shall, as soon as practicable, be removed from the site by the City for reuse by the City or, with the Director's prior approval, removed for other reuse or disposed by the Contractor. Whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, boards or bins may be required by the City to prevent the spread of dirt into the traffic lanes.

b. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the City shall have the authority to require that the Contractor haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the Contractor's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

5. Backfilling of Excavation. Backfilling shall conform with the specifications therefor in the Technical Standards Manual or, in the absence of the same, with regulations adopted by the Water Pollution Control Director for sewer connections, as may be from time to time amended. The Contractor shall conduct compaction testing of the backfill for conformance with such specifications. The City may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in its opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill has been compacted to 95% of its maximum density as determined by the modified Proctor test. All expense of such tests shall be borne by the Contractor. Authorization to resurface does not release the contractor from being responsible for the future condition of the excavated area as required by this Ordinance.

6. Resurfacing of Streets and Sidewalks

A. The Contractor may backfill the excavation from the bottom of the adjacent pavement to the surface of the pavement with base aggregate meeting the Maine Department of Transportation Specification 703.06(a) for Type B or C base. The Contractor shall maintain this temporary surface level with the surface of surrounding pavement for at least two (2) weeks but no longer than thirty (30) days. The backfill shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it, as well as for vehicular traffic to pass safely over it at a legal rate of speed. The Contractor shall maintain the temporary backfill and shall keep same safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving, except if it is not possible to maintain the surface of the temporary paving in a safe condition for pedestrian and vehicular traffic, then the Contractor shall maintain barriers and lights where required herein.

B. No later than thirty (30) days after the excavation has been backfilled, the Contractor shall install permanent paving equal to or exceeding the character, thickness and quality of the adjoining undisturbed surface. If hot bituminous asphalt is unavailable due to the season, the excavation shall be surfaced with cold bituminous pavement until such time as permanent pavement is available.

Permittees shall, for a period of two (2) years thereafter, be fully liable for all defects in materials, compaction, and workmanship relating to such backfilling and resurfacing, and shall promptly and satisfactorily repair or replace the same upon notice by the Director of Public Services. If the work is not corrected within thirty (30) days of such notice, the City in its sole discretion, may declare the work to be in non-compliance, and Section 15-412(1) will apply.

7. Inspections. The City shall make such inspections as may reasonably necessary to secure Permittees' and Contractors' compliance with the requirements of this Article. Such inspections may be performed by the Director, his designee, the Water Pollution Control Facility Director or his designee, or other authorized personnel. The Director may order such actions and corrections as may be reasonably necessary to obtain compliance and/or protect the streets and public places in the City, or any underground utility facilities in a street or public place. The decisions and instructions of the Director with respect to any matter relating to a Permittee or its Contractor's performance and compliance shall be final and binding upon such Permittee and its Contractor, until and unless appealed to a court of competent jurisdiction and therein stayed or overturned.

Sec. 15-410 Special Conditions

1. Where three (3) or more street openings are made in sequence fifteen (15) feet or less, center-to-center, between each adjacent opening, the estimated cost for such excavations shall be calculated on the basis of one opening measured from the outer perimeter of the first opening to the outer perimeter of the last opening.

2. The City, when the Director deems it to be reasonably necessary, shall retain, at the Permittee's expense, an on-site inspector to inspect, monitor, and/or supervise all excavation, backfilling, resurfacing, and/or other temporary or permanent repairs. The Permittee shall be charged at the appropriate hourly rate of the inspector, plus thirty-five (35%) overhead for the services of such inspector.

3. If the Director, in its sole discretion, determines that settlement, heaving, or other failure or defect of the backfilled excavation has occurred during the two (2) years immediately following the final surfacing of such excavation, the Permittee may, at its option, either repair the opening or remit to the City a sum equal to 200% of the cost to repair the excavation. Permits issued prior to the effective date of the initial adoption of this performance guarantee requirement shall remain subject to the prior, three-year contractor liability for the condition of the opened street or sidewalk.

If a Permittee does not remit payment on any invoice for repairs to defective excavations by or on behalf of the City within thirty (30) days of the date of such invoice, the City may decline to issue further permits to the Permittee or its Contractor until it receives payment of such outstanding bill and may take other appropriate legal action.

Sec. 15-411 Fees, Penalties and Enforcement

1. Violations. The Owner and Contractor shall each be in violation of this Article if a street opening is commenced without a permit therefor, or if work relating to a permitted street opening, excavation, installation, connection, backfilling, street repair, or any other work or thing authorized or required thereunder is not in conformance with such permit, applicable law, ordinance, technical standard, or instruction of the Director.

2. Notice of Violations; Corrections. The Director shall provide written notice of all such violations to the responsible party(ies), stating the nature of the violation(s), the corrective action(s) required, and a reasonable time in which to perform such corrective actions. To assure public safety, the Director may provide oral notification and require immediate corrective action to avoid or mitigate a safety hazard.

A. Corrective Action By Contractor. The Permittee shall perform the corrective actions required by and to the satisfaction of the Director, within the period identified in the written or oral notice of violation. Permittee's failure so to do shall constitute a separate violation for each day Permittee remains out of compliance with such notice.

B. Corrective Action By the City. Upon Permittee's failure to perform corrective measures required by and to the satisfaction of the Director, the City may perform or cause to be performed the corrective measures, at Permittee's expense, in which event the Permittee shall be required to pay to the City an amount equal to ~~one and one-half~~ **two** times the whole of the expense incurred by the City. When the work is completed and the costs have been determined, the City shall issue no further permits to that Permittee until it has received full payment of the amount thus assessed to Permittee. Notwithstanding the City's performance of any work reasonably required to abate a violation of this Article, the Contractor shall remain fully responsible for performing the work in accordance with this Article and the Contractor's permit, and shall be subject to any applicable fine, penalty, or other remedy in addition to the payment imposed pursuant to this paragraph.

3. Fines and Penalties.

Irrespective of the Owner, Contractor, or City's correction of any violation, the Owner and Contractor shall be subject to one or more of the following fines and penalties, as may be applicable:

A. Commencing work without a permit (except emergencies): \$500 per day until permit issued or opening repaired;

B. Violation of any General Requirement (Sec. 15-407), Excavation Standard (Sec. 15-409), or Technical Standard: \$100 per day until corrected;

C. Failure to provide protective measure in violation of Sec. 15-408: \$250 per day;

D. Failure to comply with written or oral notice of violation: \$500 per day.

The violation of any requirement or standard under this Article shall constitute a separate offense and shall be subject to a separate fine or penalty as set forth herein.

The City Attorney is hereby authorized to commence legal action on behalf of the City in the Maine District Court for the imposition by the Court of such fines and penalties, and any other remedy available at law or in equity, and to enforce and collect the same.

4. Permit Invalidated; Additional Permits Prohibited. A violation of any provision of this Article, of a permit issued pursuant to this Article, or of a standard or requirement imposed by this Article, if uncorrected by the Contractor as provided

under paragraph 2(A) of this section, shall be deemed to invalidate all other permissions previously granted to Contractor, except the requirement that the work be corrected. No street opening permit shall be issued to any such Contractor until the Director is satisfied that the Contractor has abated its violation and fully complied with all the requirements of this Article.

Sec. 15-412 Annual Utility Work Plans.

Prior to March 31 of each year, all utilities having existing or proposed underground utility facilities in any street or other public place in the City shall file with the Director such utility's proposed work program for the ensuing construction season. Such annual work plan need not include provisions for emergency excavations or private service line excavations. The City may deny applications for street opening permits for excavations required to be, but not included in such utility's annual work plan.

State Law Reference: 14 M.R.S. § 871; 35-A M.R.S. §§ 2301-2522;
23 M.R.S. §§ 3301 – 3360-A.

Cross Reference: Ch. 15, Art. I, §§ 15-118, 15-123, 15-132, 15-133, and 15-145.

ARTICLE V Street Names and Numbers

Sec. 15-501 Street Names

The Director of Public Works shall prepare a Street-Name map, which map or any revision thereof after approval by the City Council is hereby incorporated and made a part thereof. Any ordinance enacted by the City Council naming any street, public park or square or changing the name of any street, public park or square shall amend the map.

Sec. 15-502 Street-Name Signs

The Director of Public Works shall cause to be erected and maintained, at all street intersections within the City, substantial signs on which shall be marked plainly the names of the streets there intersecting, and he shall also erect and maintain name signs at all public squares and in all public parks. Street-Name signs shall consist of white letters on a green reflective surface. Street-Name signs designating private roads shall be displayed over a sign of equal dimensions bearing the legend "Private Road" in white letters on a blue reflective surface.

Sec. 15-503 Street Numbers

1. Map. The City Assessor shall prepare a Street-Numbering Map, which map or any revision thereof after approval by the City Council is hereby incorporated and made a part hereof.

2. Display of Number. All premises shall bear a distinctive street number in accordance with and as designated upon the Street-Numbering Map on file in the office of the City Assessor. No person shall fail to place the correct number upon the front of occupied premises, the number facing the street and adjacent to the principal entrance and in such position as to be plainly visible from the street. Numbers hereafter placed shall be not less than three

(3) inches in height and shall contrast in color with the color of the building or background to which they are attached.

If storm doors are put on a house, the number assigned to the house shall be put on this door unless the number elsewhere placed is plainly visible from the street.

3. Use of Incorrect Number. No person shall affix or to be affixed, or allow to remain upon any building which he owns or occupies, a different number from the one designated on the Street-Numbering Map.

4. Penalty. Any person who, after being notified by the Police Chief, shall fail to comply with any of the provisions of this Section within the time limit of not less than thirty (30) days specified in such notice, shall pay a fine of not less than two dollars (\$2) nor more than five dollars (\$5), to be recovered on complaint by the Police Chief for the use of the City before the Sixth District Court.

Cross Reference: § 15-144.

Sec. 15-504 Way-Crossing Signs

The Director of Public Works shall cause to be erected and maintained such guide-posts at crossings of ways as may be required, and in the manner required by the Revised Statutes of Maine.

State Law Reference: 23 M.R.S. §§ 3301, 3302.

CHAPTER 16 SITE PLAN AND SUBDIVISION REVIEW

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CHAPTER 16
SITE PLAN AND SUBDIVISION REVIEW

ARTICLE I Land Subdivision

Sec. 16-101 Purpose

The purpose of this Article is to encourage the most appropriate use of land, provide for the orderly development of the City of Rockland and to protect and preserve the health, safety and general welfare of the citizens of Rockland including the future occupants of such subdivisions.

Sec. 16-102 Authority and Administration

1. Authority.

A. State Law. These provisions are adopted pursuant to and consistent with the Maine Revised Statutes, Title 30-A, §§ 4401 et seq.

B. Title. These subdivision regulations shall be known as cited as "Subdivision Ordinance of the City of Rockland".

2. Administration.

A. Planning Board Administers. The Planning Board for the City of Rockland hereinafter called the "Commission" shall administer these regulations.

B. Applicability. The provisions of these regulations shall pertain to all the land proposed for a subdivision, as defined, within the boundaries of the City of Rockland.

Sec. 16-103 Definitions

For the purpose of this Article, the word "subdivision" means the division of a lot, tract or parcel of land, as defined in the Maine Revised Statutes, Title 30-A, § 4401.

Sec. 16-104 Procedures for Subdivision Review

1. Pre-Application Meeting.

A. Informal Meeting. Prior to the formal submission of a subdivision application and the preliminary plan, the subdivider or his authorized agent may appear informally to discuss the proposed subdivision at a meeting of the Board.

B. Sketch Plan. The applicant is urged to present to the Board, for an informal review and comment, a sketch plan of the proposed subdivision. Such a sketch plan would show, in general terms, the layout of lots and any streets or similar terms.

C. No Binding Commitments. No binding commitments shall be made between the subdivider and the Board at this stage. A clear understanding of what is proposed, what is possible and what is acceptable is the aim of the "Pre-Application Meeting".

2. Subdivision Application. A subdivider shall submit a subdivision application to the Board upon such form(s) to be provided by the Board, paying to the City a fee as prescribed in Chapter 11, to cover the various costs to the City in reviewing the subdivision plan application. Upon receiving an application, the Board shall issue to the applicant a dated receipt and shall notify by mail all abutting property owners of the proposed subdivision, and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project. Within thirty (30) days from receipt of the subdivision application, the Board shall notify the applicant in writing either that the application is complete and if not, which specific information is necessary to make a complete application. After the Board has determined that a complete application has been filed, it shall notify the applicant that he may proceed to submit the preliminary plan of the subdivision for evaluation and review by the Board. Eff: 12/13/00

3. Preliminary Plan.

A. Basic Information. The Preliminary Plan map shall not be less than sixteen inches by twenty four inches (16"x 24") (at least eight (8) copies shall be provided: one (1) for the subdivider or his agent; five (5) for the Board; one (1) for the City Council; and one for Code Officer) and drawn to scale of not less than one inch (1") equals forty feet (40') nor greater than one inch (1") equals four hundred feet (400') with contour lines of five foot (5') intervals unless otherwise specified by the Board. Each shall include: Eff: 6/7/89

(1) Name of Subdivision. Proposed name or identifying title of the subdivision along with the date of submittal.

(2) Name of Subdivider. Name and address of subdivider and his authorized agent, owner(s), engineer(s) and surveyor(s).

(3) Description of Land. Deed, book and page number of original tract or parcel of land; acreage of the tract or parcel, City tax map and lot number and names of abutting landowners. (Information may be obtained either from the County Registry of Deeds and/or municipal tax maps or assessment cards).

(4) Survey. Perimeter survey of tract made and certified by a registered land surveyor relating to reference points, showing true north point, graphic scale, corners of tract, and date of survey and total acreage.

(5) Man-Made and Natural Features. Existing buildings, lot lines, roads, streets, highways, utility lines, sewer lines, pumping stations, water lines, easements, natural features such as lakes, streams, rivers, wetlands, natural drainage ways, wooded and open roads, etc.

(6) Proposed Construction. Proposed buildings, lot lines and approximate dimensions (acreage) of each lot, roads, streets, highways, utility lines, water lines, sewer lines, pumping stations, easements and disturbances of natural features.

(7) Drainage. Indication of proposed surface water drainage (by arrows) and diversion plan.

(8) Soils Investigation. If the subdivision is not to be served by a public sewer line, then an on-site soils investigation report by a soil scientist, certified by the State of Maine Department of Human Services, must be made. This report shall contain the most appropriate and suitable subsurface sewage disposal systems of each lot in the subdivision and be signed by the soil scientist.

(9) Water Supply. Proposed water supply system(s).

B. Additional Information. The Preliminary Plan map shall be accompanied by the following data:

(1) Different Owner. If the owner of the land is different than the name of the subdivider, state whether the subdivider has an option to buy or a purchase and sales agreement.

(2) Water Table. Statement indicating the water table level of the area from approved evidence.

(3) Solid Waste Disposal. Statement of method of solid waste disposal.

(4) Notice to Abutters. Copies of letters to abutting landowners notifying them of the proposed subdivision.

(5) Financial Capability. Statement of financial capability to complete subdivision project.

(6) Compliance with Other Laws. Statement of intention to comply with applicable local, state and federal ordinances, statutes, laws, codes and regulations such as, but not limited to, zoning ordinances, Great Ponds Act, Coastal Wetlands Act and the flood prone areas subject to the National Flood Insurance Program.

(7) Fire Protection. Statement from the Fire Chief concerning availability of fire hydrants and/or fire ponds.

(8) Covenants. Deed restrictions and covenants running with the land.

(9) Other Studies. The Board may require that the subdivider make other studies and provide other data that it deems necessary or desirable.

4. Approval of Preliminary Plan.

A. Decision; Options. The Board shall approve, approve with modification, or disapprove the Preliminary Plan. The reason for any modification or the causes for disapproval shall be stated in a letter to the subdivider or his authorized agent and recorded in the records of the Board.

B. Deadline for Final Plan. Approval of a Preliminary Plan shall not constitute approval of the Final Plan, but rather serve as approval of the general design submitted in the Preliminary Plan as a guide to the preparation of the Final Plan. Within six (6) months after the approval of the Preliminary Plan, the subdivider or his authorized agent shall submit the Final Plan to the Board with a check of ten dollars (\$10) per residential lot. In the case of a cluster development, ten dollars (\$10) per dwelling unit shall be submitted. This check shall be made payable to the City of Rockland.

C. Failure to Submit Final Plan. Failure to submit the Final Plan within the designated time period shall require the submission of a new subdivision application.

5. The Final Plan.

A. Basic Information. The map of the Final Plan shall be submitted with two (2) original transparencies and four (4) copies. It shall include the following:

(1) Preliminary Plan. All the information shown on the Preliminary Plan map and any additions or modifications made by the Board.

(2) Permanent Markers. Location of permanent markers at all lot corners. The term "permanent markers" shall include, but is not limited to the following: a granite monument, a concrete monument, an iron pin or a drilled hole in a ledge.

(3) Who Prepared Plan. The name, registration number and seal of the land surveyor, architect, engineer or planning consultant who prepared the plan.

(4) Space for Approval. Suitable space to record on the Final Plan approval by the Planning Board, certification by the City Clerk and the date of such approval as follows:

Approved: Rockland Planning Board

Signed _____, Chairman

_____, City Clerk
Date: _____
Conditions: _____

B. Additional Information. The map of the Final Plan shall be accompanied by the following data:

(1) Street Construction. Statement from the City Engineer and/or Director of Public Works that any proposed road or street construction, grading and ditching have been reviewed and approved.

(2) Covenants. Any additional covenants or deed restrictions intended to cover all or part of the subdivision that the Board may require.

(3) Bond. Evidence from the City Clerk that the subdivider has filed a certified check or a performance bond to cover the full cost of any required public improvements with the City Manager.

(4) Other Data. Other data that may be requested by the Board to accompany the Final Plan. Eff: 12/13/00

(5) Technical Review Fee. The Planning Board, in the review of any application, may refer said application presented to it to such engineer, traffic professional, environmental expert, attorney or other professional that the Board shall deem reasonably necessary to enable it to review said application as required by law. Such review shall not be a substitution for any technical submissions as required by Ordinance or requested by the Board, but rather shall constitute a third party review of any of the applicant's submissions. The Board may waive such third party review if it is determined that the scale or nature of the project does not warrant it. Fees charged by such professionals shall be in accord with fees usually charged for such services in the region and pursuant to a contractual agreement between the City and such professional. All such charges shall be paid by the City through an escrow account established in accordance with Section (6) below. Eff: 07/11/07

(6) Escrow accounts. At the time of initial review of an application for completeness, if the Planning Board determines that outside technical review will be reasonably necessary, the Board shall require the establishment of an escrow account, from which withdrawals shall be made to reimburse the City for the cost of professional review services. The applicant shall then provide funds to the City for deposit into such account in an amount to be determined by the Planning Board with the advice of the various municipal officials concerned. The applicant shall be provided with copies of any City voucher for such services as they are submitted to the City. When the balance in such escrow account is reduced to 1/3 of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within 30 days after the applicant is notified, in writing, of the requirement for such additional deposit, the Planning Board may suspend its review of the application. A building permit or certificate of occupancy or use shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the City. After all pertinent charges have been paid; the City shall refund to the applicant any funds remaining on deposit. Eff: 07/11/07

6. Performance Bond.

A. Amount. The Planning Board shall require that the subdivider file with the City Manager at the time of submission of the Final Plan a performance guarantee in an amount sufficient to defray all expenses of any proposed public improvements. This may be rendered in the form of a certified check payable to the City of Rockland or a faithful performance bond running to the municipality and issued by a surety company acceptable to the municipality. The conditions and amount of such certified check or performance bond shall be determined by the Planning Board with the advice of the various municipal officials concerned. The amount shall be at least one and a half (1½) times the estimated cost of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage, and utilities or other improvements specified on the Final Plan within two (2) years of the date of the certified check or performance bond.

B. Extension. The Planning Board may recommend a maximum extension of twelve (12) months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Planning Board and other interested officials or agencies, good cause for such extension.

C. Release. Before a subdivider may be released from any obligation requiring his guarantee of performance, the Planning Board will require certification from the various municipal officials concerned to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (State and local codes and ordinances).

7. Final Plan Approval.

A. Deadline. Within sixty (60) days after the submission of the Final Plan, the Planning Board by a majority vote shall

approve, approve with conditions or disapprove the Final Plan.

B. Reasons. The reason for any conditions or the cause for disapproval shall be stated in a letter to the subdivider or his authorized agent and recorded in the records of the Planning Board.

C. Procedures After Approval. Upon approval of the Final Plan, a majority of the Planning Board shall sign all copies. One (1) of the transparencies shall be filed with the Registry of Deeds and one (1) with the City of Rockland. One (1) of the copies is to be retained by the subdivider or his authorized agent, one (1) copy will be retained by the Planning Board as part of their permanent records, and one (1) copy to the Code Enforcement Officer.

8. Public Hearing.

A public hearing shall be held on the Preliminary Plan (and may also be held on the Final Plan) within thirty (30) days of submission. Notice of the date, time and place shall be published in a newspaper of general circulation in the area at least seven (7) days prior to the hearing date.

Sec. 16-105 General Requirements

In reviewing subdivisions, the Board shall consider the following general requirements. In all instances, the burden of proof shall be upon the person proposing the subdivision:

1. Conformance with Other Laws. Any proposed subdivision shall be in conformity with the provisions of all pertinent local, State and Federal ordinances, statutes, laws and regulations.

2. DEP Approval. If the proposed subdivision meets the definition of "subdivision" under the State of Maine Site Location Law as defined in the Maine Revised Statutes, Title 38, § 482, approval from the Department of Environmental Protection must be secured by the subdivider or his authorized agent.

3. On-Site Investigations. The Board may conduct on-site investigations of the proposed subdivision site at its discretion.

4. Lots and Density. Lot sizes shall be governed by the zone in which the subdivision is located. Lots shall be generally rectangular in shape with a ratio of no greater than one (1) to three (3), width to depth, unless specifically approved by the Board. On a cul-de-sac, the minimum frontage measured along the chord of a circle shall be the square root of one-third the required minimum lot area for the zone or shall be the normal minimum frontage required in the zone, whichever is less. For cluster developments see Section 19-306 Clustering. Eff: 04/11/07

5. Minimum Standards for Street Design and Construction. The design of streets shall provide for proper continuation of streets from adjacent subdivisions and built-up areas; and proper projection of streets into adjacent undeveloped and open land. The design of all streets and utilities within the right-of-way shall be prepared by a Maine Registered Professional Engineer.

A. Minor Streets. Minor streets shall be designed to discourage through traffic.

B. Right-of-Way; Width. Width of right-of-ways shall be a minimum of fifty feet (50') with sixty-six feet (66') desirable and the Commission may require additional width where the street may reasonably expect heavy usage.

C. Traveled Way; Width. The width of traveled ways shall be a minimum of two (2) eleven foot (11') traffic lanes. In addition the Planning Board may require two (2) eight-foot (8') parking. The Commission may also require that additional widths be added for streets which will receive heavy usage.

D. Horizontal Curves. The minimum centerline radius shall be established by the formula;

$$R = \frac{V^2}{15 \left(e + 0.14 + \frac{50 - V}{n} \right)}$$

R = minimum horizontal curve radius

V = design speed (miles per hour)

e = superelevation (ft/ft)

n = 1000 for design speeds of 50 or less and 500 for design speeds greater than 50

E. Vertical Curves. Changes in slope shall be accomplished with parabolic vertical curves designed in accordance with sound engineering practice.

F. Intersection Angle. The angle of street intersections shall be as close to ninety (90) degrees as possible; but in no case less than sixty (60) degrees (unless a traffic signal is used).

G. Street Grade. Street grades shall be a minimum of one-half percent (0.5%) and a maximum of seven percent (7%) which

may be varied by the Commission in certain cases. Grade at intersections shall be a maximum of three percent (3%) within fifty (50) feet of the intersection.

- H. **Dead-End Streets.** Dead end streets shall have a maximum length of one thousand (1000) feet from the centerline of the intersecting street and shall terminate in a cul-de-sac with a minimum radius of fifty feet (50'). The use of a T-shape turn around may be permitted as an alternative, if approved by the City Engineer and/or the Director of Public Works.
- I. **Minimum Construction Requirements.** Construction of streets shall conform to the requirements of the City Engineer with the following minimum requirements:
- (1) **Road Base.** Eighteen inches (18") of road base shall be required as follows:
 - (a) At least twelve inches (12") of sub-base gravel (MDOT Type D).
 - (b) At least six inches (6") of base crushed gravel (MDOT Type A).
 - (2) **Road Crown.** Road crown shall be at least two percent (2%) excepting transition to horizontal curves.
 - (3) **Paving.** Bituminous paving three and one-half inches (3-1/2") thick (two inch (2") binder with one and one half inch (1-1/2") surface coat) shall be required for the full width of the traveled way.
 - (4) **Engineering Standards.** All street construction shall conform to good engineering practices and be suitable for the intended usage of the street.
 - (5) **Shoulder.** Paving (two inches (2") hot bituminous) of the eight (8') foot shoulder (parking lane) may be required by the Commission.
- J. **Private Roads:** As an alternative to street design standards contained in Section 16-105.5.A through I, if approved by the Planning Board, a private road is permissible for residential subdivisions or development serving more than one single family dwelling in accordance with the following:
- (1) No more than six (6) new lots shall be created on any new or existing private road. Each lot shall have the minimum frontage required in the district regulations unless otherwise approved under Section 19-306 Clustering. The Planning Board may permit a private road to serve more than six (6) dwellings on commonly owned land when homes are clustered.
 - (2) All private roads shall connect to a street accepted by the City of Rockland, or a road built to the standards of Section 16-105.5. Multiple private roads may be established within a subdivision.
 - (3) When a private road is created or extended or a new lot is created on a private road and if the private road is to provide access to two or more lots or dwellings, a maintenance agreement specifying each lot owner's rights and responsibilities with respect to ownership, maintenance, repair, and plowing shall be established. Such agreement must be approved by the Planning Board and, before a building permit is issued, shall be recorded in the Knox County Registry of Deeds. Such recording shall bear the note: "The City of Rockland will not be responsible for the maintenance, repair, plowing or similar services for the private road. Future lot divisions may be prohibited."
 - (4) A plan and construction details for the private road must be submitted and shall include grades, the road profile, a typical section, a grading plan, a drainage plan, a plan for erosion and sedimentation control, and a utilities plan for each private road serving two or more lots. Construction details must bear the stamp and signature of a Professional Engineer registered in the State of Maine. The City of Rockland Fire Chief or his designee shall review all plans for private roads and make recommendations regarding safe passage with emergency equipment. The plan and construction details of the new, extended, or improved private road as approved by the Planning Board shall be recorded in the Knox County Registry of Deeds as part of the subdivision plan.
 - (5) The person proposing the private road shall submit a name of the road for City review. The name of the street shall not be so similar to the name of other streets or locations in the City as to cause confusion. The City reserves the right to designate any name for the road and name and number it in accordance with E-911 standards.
 - (6) The land within the right-of-way of a private road shall not be used to meet the frontage or lot area requirements of any lot obtaining its frontage from the private road. The creation of a private road shall not reduce the frontage, lot area, or other dimensional requirements of an existing conforming lot below that required by the zone in which it is located nor reduce the frontage, lot area, or other dimensional requirements of an existing nonconforming lot.
 - (7) **Construction Standards:** The design standards for new private roads and improvements to existing private roads are as follows:
 - (a) Right-of-way width shall be fifty feet (50'). A right-of-way may not be required in development on commonly owned land.
 - (b) Minimum travel width shall be eighteen feet (18').
 - (c) Minimum shoulder shall be 3 feet (3').
 - (d) Minimum aggregate sub-base (MDOT Type D) twelve inches (12").

- (e) Crushed gravel (MDOT Type A) or reclaim surface course six inch (6”).
 - (f) Minimum centerline grade: one percent (1%) or one-half of one percent (.5%) if paved.
 - (g) Maximum centerline grade: ten percent (10%)
 - (h) Minimum centerline radius: one hundred feet (100’).
 - (i) Roadway crown: three percent (3%) (two percent (2%) if paved).
 - (j) Maximum grade at intersection: three percent (3%).
 - (k) Maximum length dead end: fifteen hundred feet (1500’) (including a dead end public road, an existing private road or private road network).
 - (l) A turnaround suitable for public safety vehicles is required and can be designed as a “T” or cul-de-sac.
 - (m) Swales and culverts are generally acceptable. However, at the intersection with a City street, the drainage practice used on the intersecting street may be required for the portion within the City right-of-way.
 - (n) The applicant will provide and install a stop sign and street name sign meeting City specifications at the intersection with the public street or at the intersection with a road meeting the standards of a City street, designed to serve such private road.
 - (o) Trees and brush shall be cleared from within three feet (3’) of the traveled way and this clear zone shall be maintained permanently. The Rockland Fire Department may inspect the road periodically. If the road is not in good repair in the judgment of the fire department, the parties to the maintenance agreement may be notified that the road needs repair.
 - (p) The Planning Board may require sidewalks on private roads.
- (8) Before an occupancy permit is issued, the road (or portion thereof) will be inspected by the City and the applicant’s engineer shall certify that it has been constructed as designed.
- (9) Existing private roads: Any private road existing on January 11, 2006, which provides frontage for one or more lots shall be allowed to provide frontage to a maximum of six lots with Planning Board approval if it meets the standards or is improved to the standards of this section. The design standards for existing private roads are included in Paragraph § 7 above.
- (10) Subdivisions on existing City Streets: Where existing conditions or the number of new lots being created make compliance with Section 16-105.5 impractical, the Planning Board may permit necessary improvements to substandard existing City streets to meet the standards of a private road when approving subdivisions on such City streets. All accepted City streets must have bituminous paving in accordance with Section 16-105.5.H.(3.).
- (11) No private road shall be accepted as a City street by the City of Rockland unless its design and construction meet the standards set forth in 16-105.5.A-I. inclusive. Such construction and design shall be certified by a Professional Engineer registered in the State of Maine
- K. Sidewalks. There shall be a presumption that sidewalks are required to be installed in all Residential and Commercial subdivisions. Where the Planning Board finds that, due to special circumstances of a particular plan, sidewalks are not required in the interest of public health, safety and general welfare or are inappropriate because of the inadequacy or lack of connecting facilities adjacent to or in the proximity of the proposed subdivision, it may waive such requirements, subject to appropriate conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.
- L. Storm Sewer. A storm sewer may be required by either the City Engineer or the Planning Board. If a storm sewer is required, the road shall be curbed on one or both sides of the street as appropriate and paving shall be as specified in I (3) above for the curbed shoulder(s). A separate stub shall be provided for each parcel to convey storm and groundwater from perimeter drains and the like. Each stub shall be clearly located and identified on the record drawing and in the field. Design and specification of the sewer shall be approved by the City Engineer before construction begins and record drawings shall be submitted to the City Engineer within three (3) months of substantial completion. No street may be accepted by the City unless such record drawings are received.
- M. Sanitary Sewer. Unless each lot is to be served by a private septic system, the Planning Board shall require the construction of a separate sanitary sewer. A separate stub shall be provided for each parcel to convey sanitary wastewater. Each stub shall be clearly located and identified on the record drawing and in the field. Design and specification of the sewer shall be approved by the City Engineer before construction begins and record drawings shall be submitted to the City Engineer within three (3) months of substantial completion. No street may be accepted by the City unless such record drawings are received.
- (1) Street Lighting and Underground Utilities. The design, type and location of street and proposed on-site lighting are subject to review. The lighting materials must blend with the overall project scheme enhancing building design and landscaping. Standards and fixtures must be compatible with surrounding development. Excessive brightness must

be avoided and lighting must be confined to the extent possible to the area of the project.

- (2) The Planning Board shall require the applicant to install street lighting in the subdivision. Where utilities are installed underground, the applicant shall install street lights wired into the underground system. The requirement of street lighting may be waived if no new streets are being constructed as part of the subdivision, and street lighting in the existing street is adequate to illuminate the proposed development.
- (3) Utilities shall be installed underground, unless in the sole discretion of the Planning Board such an installation would cause unnecessary hardship or, because of the prevalence of overhead wires in the immediate vicinity, extension of the existing overhead wire network would be more practical. Utilities shall be installed in a timely manner during street construction to prevent re-excavation of the finished street. Eff: 01/11/06

6. Utility Easements. The Board shall require easements for sewer lines, drainage or other utilities if they are not in the street rights-of-way.

7. Buffer Strip. The Board may require a buffer strip when the proposed subdivision will be located adjacent to a use where separation is desirable.

8. Surface Water. The Board may require the installation of ditches, catch basins, piping systems and other appurtenances for the conveyance, control or disposal of surface waters. Adequate drainage shall be provided so as to reduce exposure to flood hazards.

9. Traffic Study. The Board shall require the subdivider to submit a traffic study on the impact of the proposed subdivision if the proposed subdivision adjoins that section of U.S. Route One which is between Maverick Street and the Rockport Town Line, or is to be located on a right of way leading into the above section of U.S. Route One.

The traffic study required under this section shall examine the impact of projected traffic changes that may be caused by the subdivision and recommend improvements and/or changes to the proposed subdivision, including downsizing of the project, if such improvements or changes will ameliorate traffic problems and will not reduce the current Level of Service (L.O.S.) of the roadway system involved. The required traffic study shall be undertaken by a licensed traffic engineer at the expense of the subdivider. The Planning Board may require the developer of the subdivision to follow recommendations contained in the traffic study.

10. Groundwater Study. If the proposed subdivision lies within the drainage area of Rockland Harbor north of Maverick Street as shown on a map from a 1978 Time and Tide study entitled "Rockland Shore Erosion - Critical Area Measure - Final Report", a copy of which map is incorporated in this section by reference, the Board shall require that the subdivider undertake or participate at the subdivider's own expense in a Site Specific Hydrogeological Study performed by a licensed geologist certified by the State of Maine who is knowledgeable in the areas of hydrology and hydrogeology unless the Board makes a positive finding that the proposed project shall have such minimal impact upon groundwater or drainage that such requirement is unduly burdensome.

Each such study shall be tailored to the site and surrounding land uses, and shall be guided by the best professional judgement of the licensed professional conducting the study. The study shall evaluate

- (a) The character and depth of surficial materials,
- (b) The bedrock topography,
- (c) The horizontal and vertical ground water gradients,
- (d) Current ground water recharge and/or discharge areas and rates,
- (e) Changes in ground water recharge, flux, gradients, and discharge under proposed development conditions,
- (f) The impact of these changes on the stability of slopes down gradient from the site, from changes in site loading, ground water flux, and surface water discharge.

The study shall be closely coordinated with the on-site geotechnical evaluation of the management of stormwater from the property. The Board may require the subdivider to follow recommendations contained in the study, including downsizing of the project if so indicated in the study. The Board may also, at its sole discretion, require that the subdivider pay for an independent evaluation of the subdivider's hydrogeological study. Eff: 4/9/97

Sec. 16-106 Enforcement

No person, firm, corporation or other legal entity shall sell, lease, develop, build upon, or convey for consideration any land in a subdivision which has not been finally approved and signed by the Planning Board, certified by the City Clerk and recorded in the Knox County Registry of Deeds. Nor shall such person, firm, corporation or other legal entity sell or convey any land in an approved subdivision unless at least one "permanent marker" as defined in 30 MRSA, Section 4956(4) is set at one lot corner of the lot sold or conveyed. Nor shall there be any sewer, water, or other public utility services installed, streets constructed, lots graded, buildings erected or other improvements made to any lot in a subdivision for which a Final Plan has not been approved. Violation of this provision shall be punishable by a fine of not more than one thousand dollars (\$1000) for each offense. The City

Council may institute legal proceedings seeking other appropriate relief in addition to a fine, including but not limited to injunctive relief and specifically the restoration of the land to its previous condition.

Sec. 16-107 Resubdivision

After approval of a plat by the Board, any additional division of land within or contiguous to the plat or any changes to privately owned rights-of-way created by the subdivision, shall be subject to the full requirements of these regulations for review and approval. This requirement shall not apply to divisions of land in an approved subdivision which are conveyances between abutters, and which result in an increase in lot size to the lots involved. Eff: 5/14/97

Sec. 16-108 Waivers

1. Hardship. Where the Zoning Board of Appeals finds that extraordinary and unnecessary hardship due to topographical considerations may result from strict compliance with the regulations or where there are special circumstances of a particular plan, it may vary such regulations provided that these variations will not have the effect of nullifying the intent and purpose of the official map, the comprehensive plan, the shoreland use ordinance or other land use ordinances where such exist.

2. Special Circumstances. Where the Zoning Board of Appeals finds that due to special circumstances of a particular plan, the provision of certain required improvements and regulations not requisite in the interest of public health, safety and general welfare or inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.

3. Conditions Imposed. In granting waivers and modifications, the Zoning Board of Appeals shall require such conditions as will, in its judgement, secure substantially the objectives of the requirements so varied or modified.

Sec. 16-109 Appeals

Pursuant to Maine Rule of Civil Procedure 80B, appeals from a final decision of the Planning Board to approve, approve with conditions, or deny a subdivision application may be filed with the Knox County Superior Court by any person aggrieved within thirty (30) days of the Board's decision. Eff: 01/09/08

Sec. 16-110 Validity and Severability, Effective Date and Filing

1. Severability. Should any section or provision of these regulations be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of these regulations.

2. Filing in Registry. A certified copy of the Subdivision Regulations and any amendments shall be endorsed by the City Clerk and shall be filed with the Knox County Registry of Deeds in the manner provided by law.

State Law Reference: 30-A M.R.S. § 4401; 33 M.R.S. §§ 1601-105, 1601-106; 38 M.R.S. §§ 481-490.

ARTICLE II Site Plan Review Ordinance

Sec. 16-201 Projects Reviewed; Effect on Action by Code Enforcement Officer and Board of Appeals

No person, corporation or other legal entity shall construct a new structure or structures or add on to an existing structure or structures, for a public, commercial or industrial use or for a multi-unit residential development which consists of five or more dwelling units and which does not constitute a subdivision without first obtaining approval from the Planning Board under this Section. No building permit for projects requiring review under this Section shall be issued by the Code Enforcement Officer without evidence that the project has received final Planning Board approval. If an interpretation or variance appeal is filed with the Zoning Board of Appeals prior to the granting of final approval of the application by the Planning Board, the Planning Board shall table final action on the application pending the Zoning Board of Appeals' decision and shall notify the Zoning Board of Appeals of that action. Eff: 01/09/08

Any change of use of an existing structure or land to another permitted use not within the Downtown Parking District, the

Industrial Park, or the Plaza Commercial Zone, where the required number of parking spaces for the use is ten (10) or more in accordance with Section 19-307.7.J Table of Parking Requirements, shall be subject to Planning Board approval under this Article, whether or not a structure is involved. Additionally, any change of use outside of the Downtown Parking District or Plaza Commercial to Eating and Drinking Places, Convenience Stores, and use with a drive-up window or drive-thru, or Sole Source Pharmacy, shall also be subject to Planning Board approval regardless of how many parking spaces are required. In granting, denying and/or imposing conditions, the Planning Board shall review a scaled drawing of sufficient detail for consideration of the following: location, character and nature features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; frequency and number of vehicles accessing the site; pedestrian circulation; lighting; noise; hours of operation; availability of necessary public services; compliance with applicable requirements of all City Ordinances and standards to the greatest practical extent. The Planning Board may impose any reasonable conditions in the interest of public safety and to minimize impact on adjacent properties and neighborhoods. The Planning Board may request additional information as deemed necessary. Eff: 03/16/05

A new structure permitted for residential use, which undergoes a change of use to a non-residential or mixed use within five (5) years from the date of the original building permit, shall be subject to full Site Plan Review by the Planning Board under this section. This provision shall not apply to legally established Home Occupations. Eff: 05/10/06

Notice Required. All property owners within three hundred (300) feet of the lot lines of any proposed change of use under this section shall be notified in writing at least ten (10) days prior to consideration of the change of use by the Planning Board.

When the use of the lot that is the subject of a site plan application is a grid-scale power generation facility, notice of the application shall be provided to the Knox County Emergency Management Agency for distribution to municipalities and, when the lot abuts a town line, to the Selectmen and/or Manager of such adjacent town, whether or not such use constitutes a change of use. Submission deadlines shall be the same as for any Site Plan Review. Eff: 08/10/16

Sec. 16-201.1 Exceptions to Review Requirements

1. New Structures or additions or changes in use will not be reviewed under the Site Plan Review Ordinance if in any five year period the new structure or new addition or the structure within which a change of use is to be located is:

- a. Under 600 square feet in gross floor area and does not exceed 20 feet in height, or
- b. Located in the City of Rockland Industrial Park, except grid-scale and distributed power generation facilities.

Eff: 08/10/16

2. Structures or additions will not be reviewed under the Site Plan Review Ordinance if the structure replaces another structure partially or totally destroyed by fire, explosion, or other mishap, and is to be rebuilt the same size (building footprint and height) at the same location and elevation, and no other changes are required to the site. In the case of such replacement structure, the proper permits from the Code Office are required even though Site Plan Review may no be mandatory, and the permits must be applied for within six months after the partial or total destruction of the original structure or addition. If ordinance or Code provisions require, (or the applicant chooses to make) changes to the size, height or elevation of the building or changes to the site, or to its use, the project shall be reviewed as a new structure under the Site Plan Review Ordinance. Eff: 10/9/91

Sec. 16-202 Procedure

The following procedure shall govern the submission and review of all mandatory site plans:

1. Statement by Applicant. The applicant shall submit to the Planning Board a statement indicating the name and address of the owner of the parcel proposed for development, and the estimated cost of the development. The statement shall also include an estimate of the time required to complete the proposed development. The statement shall be accompanied by the payment of a fee as prescribed in Chapter 11, Section 11-403, Fee Schedule, to cover the various costs to the City in reviewing the site plan applications may include a public hearing. Eff: 8/12/87

2. Site Plan. Every applicant applying for approval under this Article shall submit to the City Planner eight (8) copies of the site plan of the proposed development which shall be prepared in accordance with Sec. 16-203 herein. The City Planner shall retain one (1) copy, forward five (5) copies to the Board, and one (1) to the City Manager. Eff: 6/7/89

3. City Manager's Comments. Within ten (10) days after receipts of the site plan, the City Manager or his designee shall submit written comment to the Planning Board.

4. Deadline for Commission Action. Within thirty (30) days after receipt of a complete site plan and required statement (or such further time as may be agreed upon by the parties), the Planning Board shall in writing approve, approve upon conditions certain, or disapprove the site plan and shall forward copies of its decision to the applicant, the Building Inspector, City Manager, and the City Council.

5. Public Hearing. The Planning Board may at its sole discretion convene a public hearing to consider the matter.

6. Form of Decision. All decisions of the Planning Board under this Article shall contain a statement setting forth its findings of fact, its conclusions and the reasons therefore upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed by certified letter with return receipt requested or hand delivered to the applicant within seven (7) days of the decision.

7. Performance Guarantee. The Planning Board may at its sole discretion require a performance guarantee from the developer in the form of a certified check payable to the City of Rockland or a performance bond running to the City of Rockland and issued by a corporate surety acceptable to the Planning Board or an escrow agreement with the City, managed by a financial institution acceptable to the Planning Board. The conditions and amount of such performance guarantee shall be determined by the Planning Board with the advice of the various City departments or agencies concerned. The amount shall be at least equal to the total estimated cost of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage and utilities or any other improvements specified in the site plan. The performance guarantee shall not be released by the Planning Board until it has been established that the work required has been completed in accordance with the approved site plan.

8. Informed Growth Act Review.

A. Adoption. Pursuant to Title 30-A, Maine Revised Statutes, Section 4365-A, the City of Rockland hereby adopts by reference the Informed Growth Act, set forth in Title 30-A, Maine Revised Statutes, Ch. 187. SubCh. 3-A, as amended, and the procedures and criteria for the review of large-scale development contained therein.

B. Fee. The applicant for approval of a large-scale development shall pre-pay to the City the estimated cost of the comprehensive economic impact study conducted pursuant to the Informed Growth Act, together with and in addition to any other technical assistance and/or legal fees and costs authorized under this Article. The applicant shall pay the City any amount by which the actual cost of the comprehensive economic impact study exceeds the pre-paid estimated cost of the study; the City shall remit to the applicant any amount by which the actual cost of the study and any other technical assistance and/or legal fees or costs chargeable to the applicant under this Article is less than the pre-paid estimated cost.

C. Effective Date. The procedures adopted and fees imposed herein shall be effective as to applications for large-scale developments received on or after September 28, 2011. Eff: 01/11/12

Sec. 16-203 Elements of the Site Plan

The site plan shall be drawn to a scale of not less than one (1) inch equal fifty (50) feet and shall contain the following:

1. Title. Proposed name of identifying title of the development along with the date of submittal.
2. Scale. Scale and orientation.
3. Parcel Size. Dimensions (to the nearest foot) and acreage of the parcel to be built upon or converted.
4. Contours. Existing contours at elevation intervals of not more than two (2) feet. Proposed contours to be shown in contrasting demarcation at intervals of not more than two (2) feet.
5. Existing Man-made and Natural Features. The size, shape and location of existing and proposed buildings, structures and other significant physical features both within the development and outside the perimeter of the development in accordance with the following schedule: In addition, all projects located in whole or in part within the Chickawaukie Lake watershed must have that fact clearly indicated on the Site Plan. Eff: 8/12/87

Additions or separate buildings
having a ground floor area of:
Four hundred (400) square feet or less.
More than four hundred (400) square feet up
to ten thousand (10,000) square feet.
More than ten thousand (10,000) square feet
up to fifty thousand (50,000) square feet.
More than fifty thousand (50,000) square feet.

Distance beyond property line
of development:
To property line only.

One hundred (100) feet.

Two hundred (200) feet.
Three hundred (300) feet.

6. Vehicular Access and Traffic Impact. The location and dimensions of parking areas, loading and unloading facilities, handicapped assistance facilities, and points of ingress and egress of vehicles to and from the site to public and private streets and ways proposed and existing. In addition, if the proposed site adjoins that section of U.S. Route One between Maverick Street and the Rockport Town Line, or is to be located on a right of way leading to the above section of Route One, the Board shall require the developer to submit a traffic study on the proposed project.

The traffic study shall be undertaken by a certified traffic engineer at the expense of the applicant for site plan approval, shall examine the impact of projected traffic changes that may be caused by the project and shall recommend improvements and/or changes to the proposed project, including downsizing, if such improvements or changes will ameliorate traffic problems and will

not reduce the current Level of Service (L.O.S.) of the roadway system involved. The Planning Board may require the applicant to follow recommendations contained in the traffic study. Eff: 9/11/96

- 7. Easements. Location of all existing and proposed easements and right-of-way.
- 8. Pedestrian Access. Location of all pedestrian access ways and the dimensions thereof, existing and proposed.
- 9. Underground Utilities. Location and size of existing and proposed water and sewer mains, culverts, storm drains, fire hydrants, wells, septic systems, fire ponds and all underground utility conduits.
- 10. Lighting. Locations of outdoor lighting and the intensity of illumination thereof.
- 11. Surface Drainage and Groundwater Impact. Location of natural features such as water courses, marshes, rock outcroppings, stands of trees and indication of surface water drainage. In addition, if the proposed project lies within the drainage area of Rockland Harbor north of Maverick Street as shown on a map from a 1978 Time and Tide study entitled "Rockland Shore Erosion - Critical Area Measure - Final Report", a copy of which map is incorporated in this section by reference, the Board shall require that the applicant undertake or participate at the applicant's own expense in a Site Specific Hydrogeological Study performed by a licensed geologist certified by the State of Maine who is knowledgeable in the areas of hydrology and hydrogeology, unless the Board makes a positive finding that the proposed project shall have such minimal impact upon groundwater or drainage that such requirement is unduly burdensome.

Each such study shall be tailored to the site and surrounding land uses, and shall be guided by the best professional judgement of the licensed professional conducting the study. The study shall evaluate

- (a) The character and depth of surficial materials,
- (b) The bedrock topography,
- (c) The horizontal and vertical ground water gradients,
- (d) Current ground water recharge and/or discharge areas and rates,
- (e) Changes in ground water recharge, flux, gradients, and discharge under proposed development conditions,
- (f) The impact of these changes on the stability of slopes down gradient from the site, from changes in site loading, ground water flux, and surface water discharge.

The study shall be closely coordinated with the on-site geotechnical evaluation of foundation and slope conditions and with the engineering evaluation of the management of stormwater from the property. The Board may require the applicant for site plan approval to follow recommendations contained in the hydrogeological study, including downsizing of the project if so indicated in the study. The Board may also, at its sole discretion, require that the applicant for site plan approval pay for an independent evaluation of the applicant's hydrogeological study. Eff: 4/9/97

- 12. Landscaping. Landscape plan showing location and type of plantings and screening.
- 13. Signs. Location and size of signs and advertising features shall be governed by Chapter 19 of the Rockland Code, Section 19-315, Signs. Eff: 1/11/95
- 14. Above-ground Utilities. Location and size of above-ground utilities.
- 15. Abutters. Names of abutting landowners are required in all cases. In addition, show all landowners within the area required by Site Plan in accordance with the schedule in #5 above. Lastly, all construction occurring in whole or in part within the Chickawaukie Watershed must show the Camden-Rockland Water Company under this section. Eff: 8/12/87
- 16. Other Data. Such other information as the Planning Board may, from time to time, request.
- 17. Space for Approval. Suitable space to record, on the Site Plan, approval by the Planning Board, date and conditions of approval, Certification by the City Clerk and certification of substantial completion by the Code Enforcement Officer as follows:

Approved: Rockland Planning Board

_____, Chairman
 _____, Commission Members

Date & _____
 Conditions: _____

City Clerk: _____
 Code Enforcement Officer: _____

Eff: 8/12/87

18. Technical Review Fee. The Planning Board, in the review of any application, may refer said application presented to it

to such engineer, traffic professional, environmental expert, financial experts, facilities safety expert, attorney or other professional that the Board shall deem reasonably necessary to enable it to review said application as required by law. Such review shall not be a substitution for any technical submissions as required by Ordinance or requested by the Board, but rather shall constitute a third party review of any of the applicant's submissions. The Board may waive such third party review if it is determined that the scale or nature of the project does not warrant it. Fees charged by such professionals shall be in accord with fees usually charged for such services in the region and pursuant to a contractual agreement between the City and such professional. All such charges shall be paid by the City through an escrow account established in accordance with Section (19) below. Eff: 07/11/07; Amended 08/10/16

19. Escrow accounts. At the time of initial review of an application for completeness, if the Planning Board determines that outside technical review will be reasonably necessary, the Board shall require the establishment of an escrow account, from which withdrawals shall be made to reimburse the City for the cost of professional review services. The applicant shall then provide funds to the City for deposit into such account in an amount to be determined by the Planning Board with the advice of the various municipal officials concerned. The applicant shall be provided with copies of any City voucher for such services as they are submitted to the City. When the balance in such escrow account is reduced to 1/3 of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within 30 days after the applicant is notified, in writing, of the requirement for such additional deposit, the Planning Board may suspend its review of the application. A building permit or certificate of occupancy or use shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the City. After all pertinent charges have been paid; the City shall refund to the applicant any funds remaining on deposit. Eff: 07/11/07

Sec. 16-204 Standards

A site plan shall be approved unless in the judgment of the Planning Board one or more of the following conditions are found to exist:

1. Traffic. The provisions for vehicular loading, unloading, and parking, and for vehicular and pedestrian circulation on the site and onto adjacent public and private streets and ways will create hazards to safety, or will impose a significant burden upon public facilities. There shall be a presumption that sidewalks are required. However, in those cases where the Planning Board makes a specific finding that, due to the inadequacy or lack of connecting sidewalks adjacent to the proposed project, together with circumstances within the proposed project which render the immediate construction of sidewalks inappropriate, the Planning Board may substitute one of the following conditions:

- i. It may require a reasonable payment from the applicant to be used to link the proposed project to the City's sidewalk system when the system reaches the proximity of the project.
- ii. It may waive the requirement either partially or entirely.
- iii. It may make reasonable provision for the construction by the developer of sidewalks serving the project, whether or not the sidewalks are actually within the project. Eff: 11/15/02

2. Compatibility with Other Uses; Burden on Public Facilities. The size and location of proposed building and structures and the proposed uses thereof will be detrimental or injurious to other private or public development in the neighborhood or will impose significant burdens upon public facilities.

3. Landscaping. The provisions of on-site landscaping and screening do not provide adequate protection to neighboring properties from detrimental features of the development. The Planning Board may modify or waive the landscaping, screening, and/or buffering requirements set forth in Ch. 19, Art. III, Sec. 19-316 – Performance Standards where the Board finds that part or all of the landscaping or buffering required thereunder either (A) is impracticable due to site constraints not caused by the proposed development other than its utilization of or compliance with setback requirements; (B) is unnecessary due to the compatibility of abutting existing or proposed uses; or (C) would impede or detract from the programmatic, aesthetic, or community benefit components of a proposed development. Financial burden or capacity shall not alone justify a waiver of a landscaping, screening, or buffering requirement. Eff: 08/10/16

4. Drainage. The site-plan fails to solve the soil and drainage problems that the development will create.

Projects within the Chickawaukie lake watershed, as defined in Section 19-304-13, shall be required to improve existing man-made drainageways flowing directly or indirectly to Chickawaukie Lake which will receive storm water from the proposed development, if such storm water is calculated to increase in volume above existing conditions. The volume of sediment or dissolved nutrients reaching Chickawaukie Lake shall not be increased. Eff: 11/13/87

5. Lighting. The provisions of exterior lighting create a hazard for vehicular or pedestrian traffic or safety or will unreasonably diminish the value or create a hardship to the reasonable enjoyment of adjacent property.

6. Fire Hazard. The proposed development will create fire hazard.

7. Sewer; Water; Solid Waste. The proposed development will impose an undue burden on on-site and off-site sewer and water or solid waste disposal.

8. Compatibility With Area. The proposed use and layout will be of such size or character that it will not be consistent with the appropriate and orderly development of the surrounding area.

9. Signs. If a sign is part of the application, the Planning Board does not have jurisdiction over review of this element. Standards and procedures relating to signs or other advertising devices are contained in Chapter 19 of the Rockland Code, Section 19-315, Signs. Eff: 1/11/95

10. Compliance With Other Ordinances. The proposed use, building, design or layout will not meet the provisions of the Zoning Ordinance or other regulations and ordinances of the City of Rockland or statutes of the State of Maine.

11. Financial Capacity. The applicant has not demonstrated that it has sufficient financial capacity to fund and complete (1) any improvements directly affecting any disturbed right-of-way or utilities or other infrastructure therein. Eff: 08/10/16

12. Decommissioning. The Board may require that an applicant proposing to erect a wind turbine or construct a Grid-Scale Power Generation Facility or Community-Based Renewable Energy Project submit a Decommissioning Plan for the Board's review and approval. For these purposes, "decommissioning" may include, at the Planning Board's discretion, the physical removal of all components of the project, including, as may be applicable, wind turbines, cabling, electrical equipment, structures and associated facilities, and all materials and chemicals. The Board may accept a decommissioning plan that provides for decommissioning no later than five years following the cessation of power generation on the site so long as the operator is, during such five year period, actively seeking to achieve a repurposing of the site and facilities to be decommissioned. The decommissioning plan must include a detailed estimate of the costs of decommissioning, and a financial plan acceptable to the Board for funding such decommissioning costs. To the extent any structures or components are proposed to be omitted from the decommissioning, the plan shall provide evidence of alternative, beneficial use of such structures and components following the cessation of power generation on the site. Eff: 08/10/16

Sec. 16-205 Approval

1. Assignment. A successor to an applicant who has received site plan approval by the Planning Board pursuant to this Article, or other assignee of such approval, shall be bound by and must comply with the application, site plan and related materials, and representations of such applicant, and with all conditions of approval and other requirements imposed by or on behalf of the Planning Board, to the fullest extent permitted by law. Notwithstanding the foregoing, a site plan approval for a Grid-Scale Power Generation Facility may not be assigned without Planning Board approval, and shall be void in the absence thereof. Eff: 08/10/16

2. Completion Deadline. If an applicant has not obtained a Certificate of Occupancy from the code enforcement officer within two (2) years from the date on which the Planning Board granted its approval under Sec. 16-202.4, then the applicant shall be subject to a penalty under Sec. 16-207. The Planning Board may permit an extension of up to one (1) additional year to obtain a Certificate of Occupancy for good cause shown. Eff: 11/10/89

3. Violation. Failure to comply with the order of the Planning Board shall constitute a violation of this Article and shall be subject to Section 16-207.

Sec. 16-206 Appeals

Pursuant to Maine Rule of Civil Procedure 80B, appeals authorized under Section 16-201 of this Article shall be filed with the Knox County Superior Court within thirty (30) days of the Board's final decision. An appeal of the Board's final decision may be filed by any person aggrieved by that decision. Eff: 01/09/09

Sec. 16-207 Penalty

Violation would mean a fine of no less than fifty (\$50) a day nor more than one hundred dollars (\$100) a day; each day is considered an additional violation.

State Law Reference: 30-A M.R.S. § 3001; 33 M.R.S. §§ 1601-105, 1601-106.

CHAPTER 17 Traffic and Vehicles

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CHAPTER 17 Traffic and Vehicles

ARTICLE I Definitions

Sec. 17-101 Words and Phrases Defined

The following words and phrases when used in this Article shall for the purpose of this Chapter have the meanings respectively ascribed to them in this Article. Whenever any words and phrases used herein are not defined herein but are defined in the laws of Maine regulating the operation of vehicles, any such definition therein shall be deemed to apply to such words and phrases used herein.

1. Alley. A narrow way between buildings or giving access to the rear of buildings.
2. Authorized Emergency Vehicle. Vehicles of the fire department, police vehicles, public traffic emergency repair vehicles, ambulances and such emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Police Chief. A privately-owned vehicle commandeered by the Fire or Police Chief or owned or used by a fireman or policeman shall have the same status under this Chapter as a publicly-owned authorized emergency vehicle while actually engaged in or responding to a call for public emergency service.
3. Business District. Main Street from the South line of Cedar Street to the South line of Berry Engine House lot; Park Street from Main Street to the East line of Broadway.
4. Cross Walk. (a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway; (b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
5. Curb. The outer edge of a defined sidewalk, or either edge of the wrought and usually traveled part of a street.
6. Curb Loading Zone. A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.
7. Driver. Every person who drives or is in actual physical control of a vehicle.
8. Public Holidays. Public holidays, as used in this Chapter, are those provided by the Revised Statutes of Maine, as amended, namely those listed in Chapter 2, Section 2-1211.
9. Intersection. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angles may come in conflict.
10. Motor Vehicle. Every vehicle which is self-propelled, including motorcycles.
11. Municipal Parking Lot. All parking lots maintained by the City to which the public has access.
12. Park. When prohibited means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.
13. Pedestrian. Any person afoot.
14. Person. Every natural person, firm, co-partnership, association or corporation.
15. Police Officer. Every officer of the municipal Police Department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
16. Private Road Or Driveway. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons. A private road cannot be used for the purpose of meeting frontage requirements except as outlined in Chapter 19, Section 302. Eff: 6/9/88
17. Residence District. That portion of the City not defined as business district hereunder.
18. Right-Of-Way. The privilege of the immediate use of the roadway.
19. Roadway. That portion of a street or highway improved, designed, or ordinarily used for vehicular travel.
20. Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.
21. Stop. When required means complete cessation of movement.
22. Stop, Stopping or Standing. When prohibited means any stopping or standing of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic-control sign or signal.

23. Street or Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

24. Through Street. Every street or portion thereof at the entrance to which vehicular traffic from intersecting streets or highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this Chapter.

25. Time. Whenever certain hours are named herein, they shall mean standard time or daylight-saving time as may be in current use in this City.

26. Traffic. Pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together, while using any street for purposes of travel.

27. Traffic-Control Devices. All signs, signals, markings and devices, whether immovable or whether manually, electrically or mechanically operated, placed or erected by authority of the City Council, the Maine Department of Transportation, or the Police Chief by which traffic is alternately directed to stop and to proceed or for the purpose or regulating, warning or guiding traffic. Eff: 9/12/90

28. Vehicle. Every device in, upon, or by which any person or property owner is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

29. Individual Parking Space. A portion of the paved surface of the street, of sufficient length and depth from the sidewalk curb to accommodate a vehicle to be parked as shall be specified and marked off by the City Manager.

ARTICLE II Required Obedience to Traffic Regulations

Sec. 17-201 Authority of Police and Fire Department Officials

Officers of the Police Department or such officers as are assigned by the Police Chief are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require notwithstanding the provisions of this Chapter. Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

Sec. 17-202 Obedience to Police and Fire Officials

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or Fire Department official.

Sec. 17-203 Public Employees to Obey Traffic Regulations

The provisions of this Chapter shall apply to the driver of any vehicle owned by or used in the service of the United States Government, this State, County or City, and it shall be unlawful for any driver to violate any of the provisions of this Chapter, except as otherwise permitted in this Chapter or by State statute.

Sec. 17-204 Exemptions to Authorized Emergency Vehicles

1. Applicability; Exceptions. The provisions of this Chapter regulating the operation, parking, and standing of vehicles shall apply to authorized emergency vehicles as defined in Section 17-101 of this Chapter, except as follows:

A driver when operating any such vehicle in an emergency, except when otherwise directed by a police officer, may:

- A. Parking. Park or stand notwithstanding the provisions of this Chapter;
- B. Red Light; Stop Sign. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- C. Speed. Exceed the speed limits so long as he does not endanger life or property;
- D. Direction. Disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

2. Warning Required. Those exceptions herein before granted in reference to the movement of an authorized emergency vehicle shall apply only when the driver of the vehicle sounds a siren, bell or exhaust whistle as may be reasonably necessary, as a warning to others.

3. Recklessness. The foregoing exemptions shall not, however, protect the driver of any such vehicle from the consequences of his reckless disregard of the safety of others.

State Law Reference: 29-A M.R.S. §§ 2054, 2078; 14 M.R.S. § 8104.

Sec. 17-205 Persons Propelling Push Carts, Riding Animals, Or Driving Animal-Drawn Vehicles to Obey Traffic Regulations

Every person propelling any push cart or riding any animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this Chapter applicable to the driver of any vehicle, except those provisions of this Chapter which by their very nature can have no application.

ARTICLE III Obedience To Traffic-Control Devices

Sec. 17-301 Authority To Install

The Police Chief with the approval of the City Manager shall place and maintain or cause to be placed and maintained, traffic-control signs, signals, and devices when and as required or authorized under this Chapter, and may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under this Chapter or under State law, or to guide or warn traffic, including angle parking signs and markings, turning markers, and signs prohibiting left, right or U turns, the location of which he is authorized to determine. All signs or signals required or authorized here under shall so far as practical be uniform as to type and location throughout the City. All traffic-control devices so erected and not inconsistent with the provisions of State law or this Chapter shall be official traffic-control devices.

State Law Reference: 30-A M.R.S. § 3009; 29-A M.R.S. § 2057.

Sec. 17-302 Obedience To Official Traffic-Control Devices

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with this Chapter, unless otherwise directed by a police officer, subject to the exceptions granted to the driver of an authorized emergency vehicle in this Chapter. No provision of this Chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

State Law Reference: 30-A M.R.S. § 3009; 29-A M.R.S. §§ 2053-2058.

Sec. 17-303 Obedience To No-Turn Signs and Turning Markers

Whenever authorized signs are erected indicating that no right or left or "U" turn is permitted, no driver of a vehicle shall disobey the directions of any such sign, and when authorized marks or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

Sec. 17-304 Traffic-Control Signal Legend

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights successively, the following colors shall be used, and the terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

1. Green Alone or "Go".

A. Vehicles. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn; but vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.

B. Pedestrians. Pedestrians facing the signal may proceed across the roadway within any crosswalk.

2. Yellow Alone or "Caution" When Shown Following the Green or "Go" Signal.

A. Vehicles. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection but, if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

B. Pedestrians. Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

3. Red Alone or "Stop".

A. Vehicles. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line and shall remain standing until green or "Go" is shown alone.

B. Pedestrians. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

4. Red With Green Arrow.

A. Vehicles. Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

Ch. 17, Sec. 17-205

B. Pedestrians. No pedestrian facing such signal shall enter the roadway unless he can do so without interfering with any vehicular traffic.

Sec. 17-305 Flashing Signals

Whenever flashing red or yellow signals are used, they shall require obedience by vehicular traffic as follows:

1. Flashing Red (Stop Signal). When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

2. Flashing Yellow (Caution Signal). When a yellow lens is illumined with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

Sec. 17-306 Designation of Crosswalks and Traffic Lanes

The Police Chief with the approval of the City Manager is hereby authorized:

1. Crosswalks. To designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary. Such crosswalks shall be laid out and marked in conformity with the Federal Manuel on Uniform Traffic Control Devices. Eff: 8/7/02

2. Lanes. To make lanes for traffic on street pavement at such places as he may deem advisable consistent with this Chapter and with the Federal Manuel on Uniform Traffic Control Devices. Eff: 8/7/02

Sec. 17-307 Stop Signs

1. Authority to Erect. Whenever this Chapter designates and describes a through street, it shall be the duty of the Police Chief to place and maintain a stop sign on each and every street intersecting such through street. Every such sign shall bear the word "Stop", in letters not less than six (6) inches in height, and shall be located as near as practicable at the nearest line of crosswalk on the near side of the intersection or, if none, at the nearest line of the roadway.

2. Stop Required. When stop signs are erected as herein provided at or near the entrance to any intersection, every driver of a vehicle shall stop such vehicle at such sign or at a clearly marked stop line before entering the intersection except when directed to proceed by a police officer or traffic-control signals.

3. Entering Through Street. After the driver of a vehicle has stopped in obedience to a stop sign at the entrance to a through street, such driver shall then proceed cautiously, yielding the right of way to vehicles which have entered the intersection from the through street or which are approaching so closely on such through street as to constitute an immediate hazard, but may then proceed.

4. Locations. See Section 17-805.

Sec. 17-308 Display of Unauthorized Signs, Signals, or Markings

1. Prohibited Activity. No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be, or is, an imitation of, or resembles an official traffic-control device, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device. No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any advertising of a business, service facility or point of interest except with the approval of the City Council for an Official Business Directional Sign as authorized under the Regulations of the Maine Department of Transportation according to the Maine Traveler Information Services Act or Sec. 19-314 of this ordinance. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs; or 24x30-inch emblem signs directing visitors to church or non-profit service organizations in which case three (3) such 24x30-inch emblem signs may be erected along the state right-of-way. No emblem signs may be erected without approval of the City Council and the Code Enforcement Officer. Eff: 10/8/85

2. Nuisance. Every such prohibited sign, signal, or marking within the City's right-of-way is hereby declared to be a public nuisance, and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause

it to be removed without notice.

State Law Reference: 29-A M.R.S. § 2058.

Sec. 17-309 Display of Unauthorized Signs, Signals, or Markings

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device, or any inscription, shield, or insignia thereon, or any part thereof.

Ch. 17, Sec. 17-305

ARTICLE IV Stopping, Standing and Parking (Amended 03/13/13)

Sec. 17-401 Stopping, Standing or Parking Prohibited in Specific Places

No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. Sidewalk. On a sidewalk;
2. Curb. On or over a curb, where existing, on any City right of way. Eff: 09/08/10
3. Driveway. In front of a public or private driveway or alleyway;
4. Intersection. Within an intersection;
5. Crosswalk. On a crosswalk;
6. Intersection Curb. Within ten (10) feet of the near corner of the curbs at an intersection;
7. Stop Sign. Within fifteen (15) feet upon the approach to any stop sign located at the side of a roadway;
8. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of the entrance (when properly sign-posted);
9. Street Excavation. Along side or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
10. Parked Vehicles. On the roadway side of any vehicle stopped or parked at the edge or curb of street;
11. Bridge. Upon any bridge;
12. Where Prohibited by Sign. At any place where official signs or curb painting so prohibit, or during times or for such periods as to be in violation of the restriction stated on such signs. No person shall move a vehicle not lawfully under his control into any prohibited area or away from a curb such a distance as is unlawful.

Sec. 17-402 Parking Prohibited At All Times On Certain Streets and Parking Lots

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets or parts of streets described in Section 17-801. When signs are erected in a municipal parking lot giving notice thereof, no person shall park a vehicle at any time upon that portion of the municipal parking lot where parking is prohibited.

Sec. 17-403 Violations of Parking Ordinance

Overtime Parking and Shuffling, Relocating Vehicles, or Removing Chalk to Avoid Penalties. When signs are erected in each block giving notice thereof, no person shall park a vehicle upon any of the streets or parts of the streets described in Section 17-802 for a longer period than so specified in that Section. No person shall relocate or move a vehicle in order to avoid a violation of the parking time limit. The following action shall be considered prima facie evidence of such prohibited conduct when observed by a law, or parking enforcement officer: when a person removes or obscures chalk marks placed by an officer, or moves or relocates a vehicle which has been parked less than the posted time limit from a time limited parking space and then returns to the same parking space or moves to a parking space within 500 feet of that same parking space, as measured along the street, within twenty minutes of the time that the initial parking space was vacated. Such shuffling or relocating shall constitute overtime parking for the purposes of this section with the higher shuffling fines and waiver fees. Overtime parking is a violation of this Article, and shall be subject to the fines set forth in this Section. Each two hours of overtime parking shall constitute a separate offense. Eff: 11/13/15

Sec. 17-404 Parking Prohibited in Hazardous or Congested Places

1. Areas Marked. The Police Chief, with the approval of the City Manager, is hereby authorized to determine and designate by proper signs and/or curb markings, places not exceeding one hundred (100) feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay in traffic.
2. Prohibition. When official signs are erected and/or curbs marked at hazardous or congested places as authorized herein, no person shall stop, stand, or park a vehicle in any such designated place.
3. Enforcement Procedure. When a vehicle is stopped, standing or parked in such a hazardous or congested place which is posted and/or curbs marked to restrict such stopping, standing, or parking, the officer finding such vehicle shall

take its registration number and any other information which may identify the owner, and shall conspicuously affix to such vehicle a traffic citation, on a form provided by the City, for the registered owner to answer to the charge against him. The citation shall bear the time, date, place and officer's name or badge number. A stub containing the same information, along with the registration number of the offending vehicle, shall be retained by the Police Department, and it shall be prima facie evidence that the registered owner of the vehicle was the violator.

4. Removal. When the vehicle violating Section 17-404(2) is causing extremely hazardous conditions, it may be removed at the direction of any police officer at the owner's expense.

Sec. 17-405 Stopping, Parking Not To Obstruct Traffic

No person shall stop, stand, park or leave his vehicle on any street in such manner or under such conditions so as to obstruct the free passage of other vehicles in either direction unless specifically permitted by a police officer, or so as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic.

No person may conduct a toll booth fundraiser or other fundraising event in any street. No person may conduct a toll booth fundraiser or other fundraising event that includes directing traffic off a public street onto public or private property without first obtaining a permit therefor pursuant to Chapter 11, Sec. 11-307. Eff. 09/10/12

Sec. 17-406 Parking In Alleys

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.

Pedestrian traffic only shall be permitted forthwith in the alley running Easterly between No. 241 and No. 245 Main Street.

Sec. 17-407 Combination Bus Stop - Taxicab Stands

1. Establishment. The City Council by order shall designate spaces as bus stops and taxicab stands on such public streets in such places and in such number as it shall determine to be of the greatest benefit and convenience to the public. The Police Chief shall cause such spaces to be designated by appropriate signs or curb markings or both.

2. Use. The driver of a bus or a taxicab is hereby authorized to park the same in their designated spaces without restrictions as to time.

3. Bus Drivers. The driver of a bus shall not stand or park the same upon any street in any business district at any place other than at such a space, when same has been officially designated and appropriately marked, except that this provision shall not prevent the driver of any such vehicle from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers

4. Taxicab Drivers. No designated bus stop shall be used for a taxicab stand except that the driver may stop in such designated bus stop while actually engaged in admitting or discharging passengers; or transporting their luggage. The driver of a taxicab shall yield the space immediately to a bus about to be driven into such space.

5. Other Persons. No person shall stop, stand or park a vehicle other than a bus or a taxicab in any such space when same has been officially designated and appropriately marked.

Sec. 17-408 Standing Or Parking Close To Curb

No person shall stand or park a vehicle on any street other than parallel with the edge of the roadway and with the right-hand wheels of the vehicle within twelve (12) inches of the curb or edge of the roadway, except as follows:

1. Angle-Parking. Upon such streets or parts thereof which have been officially signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of roadway indicated by such signs or markings.

2. Backing to Curb. When specifically authorized by a police officer, any person may back a vehicle to the curb for the purpose of loading or unloading merchandise or materials for a period not in excess of thirty (30) minutes. No person shall so back a vehicle to a curb unless specifically so authorized by a police officer, and no person shall in any event back a vehicle onto any curb or sidewalk in this City.

Sec. 17-409 Parking In Wrong Direction

On all streets or parts of streets in the City of Rockland, no person shall stand or park a vehicle headed in the direction opposite that of lawful traffic movement.

Sec. 17-410 Assemblage; Places Of

The Police Chief is authorized to place temporary or permanent traffic-control signs in front of the entrance to places

of assemblage or any building in which entertainments, plays, shows, exhibitions and the like are given, either regularly or otherwise, and for such period as the Police Chief in his discretion may deem wise under the circumstances.

Sec. 17-411 Large Vehicles

No owner, driver, or person in charge of any vehicle which has a carrying capacity or more than three thousand (3,000) pounds, or which including load is more than eighteen (18) feet in length, or which including load is more than eight (8) feet in width, or which including load is more than twelve (12) feet six (6) inches in height, shall permit the same to stand upon any public street in the City for a longer period than one (1) hour at any time.

Ch. 17, Sec. 17-405

Sec. 17-412 Lights On Parked Vehicles

As provided by the Revised Statutes of Maine, whenever a vehicle is lawfully parked in a place and under conditions where there is sufficient artificial light to make such vehicle clearly visible from a distance of not less than one hundred (100) feet in each direction, no lights need be displayed upon such parked vehicle; otherwise lights must be displayed during the period from one-half hour before sunset to one-half hour before sunrise. Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

Sec. 17-413 Owner's Liability

Whenever any police officer shall find any vehicle which has been illegally parked and such police officer is unable to determine the person who is responsible for such parking, the owner of the vehicle shall upon request of the Police Department furnish to it the name of the driver of the vehicle responsible for such illegal parking. Failure upon the part of any owner to do so shall make him liable to the general penalty under this Chapter.

Sec. 17-414 Schools

The Police Chief is hereby authorized to cause temporary or permanent signs to be erected, indicating no parking adjacent to any school property, when such parking would, in his opinion, interfere with traffic or create a hazardous situation. When official signs are erected indicating no parking adjacent to any school property, no person shall park a vehicle in any such designated place.

Sec. 17-415 Snow Removal

No vehicle shall be parked within the maintained limits of any street, municipal parking lot, public way or sidewalk between the hours of 2:00 a.m. and 6:00 a.m. during the months of January, February, March, and December, and no vehicle shall be parked at any other time on any public street, municipal parking lot, or public way so as to interfere with or hinder the removal of snow from the street, municipal parking lot, or public way by the City, plowing or loading or hauling. The Chief of Police may cause any vehicle so parked on any street, municipal parking lot, or public way, so as to interfere with or hinder the removal of snow by the City by plowing or loading or hauling, to be removed from the street, municipal parking lot, or public way and placed in a suitable parking space off the street at the expense of the owner of such vehicle and without the City being liable for any damage that may be caused by such removal, according to the provisions of Section 17-421.

For the purpose of facilitating the removal of snow, the Director of Public Works or Police Chief may cause to be placed properly marked signs along any street or streets, municipal parking lot, or public way as he shall, from time to time, deem necessary. It shall be unlawful for the operator of any vehicle to enter upon, stop, or park within the spaces indicated by such signs.

Sec. 17-416 Parking In Fire Lanes and Within Five (5) Feet of a Fire Hydrant Prohibited

1. No person shall park or permit to stand, a motor vehicle in a fire lane established in accordance with Article IX, except when actually picking up or discharging passengers or actively engaged in loading or unloading a motor vehicle.

2. No person shall park or permit to stand a motor vehicle within five (5) feet of a fire hydrant.

Cross Reference: Ch. 17, Art. IX, Sec. 17-907.

Sec. 17-417 Unlawful Parking

No person shall park a vehicle upon any roadway for the principal purpose of: (1) advertising; (2) displaying such

vehicle for sale; or (3) washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

Sec. 17-418 Public Utility Vehicles

Vehicles operated by the City of Rockland or by public utility companies, used for installation, repair and maintenance purposes, may be exempted by the Police Chief upon notice to the City Clerk in each case temporarily for the period while actually at work at a definite location, from any of the requirements of Article 4 hereof, provided that during such exemption period, work will be conducted with all reasonable dispatch, and that such precautions as the Police Chief may require in the interest of public safety shall be taken. The Police Chief is authorized to place temporary signs prohibiting parking in such places at the scene of work as in his discretion he deems necessary to facilitate traffic and the work in progress. Subject to the necessary exceptions provided by this Section, Article IV of this Chapter shall be observed insofar as practicable. Upon receipt of such notice, the City Clerk shall notify the Police Chief, and the Director of Public Works of such operations. Ch. 17, Sec. 17-412

Sec. 17-419 Disability Parking

When a motor vehicle is found parked, standing or stopped, including for loading and unloading, in a marked disability parking space, and the motor vehicle does not bear a special registration plate or placard issued under 29-A M.R.S. § 521, or a similar plate issued by another State, it shall be cited for violation of this Article. Fines and waiver fees for violation of the disability parking section shall be as set forth in Section 17-420. In the event of a successful appeal of a Notice of Illegal Parking for a violation of this section, on the basis of the violator’s possession but failure to display a lawful, current disability parking registration plate or placard, such violator nonetheless shall be charged a Failure to Display penalty set forth in Subsection 17-420(4) herein.

Sec. 17-420 Violations of Parking Ordinance

1. Violations; Fines. Violations of the restrictions on parking set forth in Sections 17-401 through 17-416 and 17-418 are violations of this Article, and shall be subject to the fines set forth in this Section. The continuation of a violation for an additional period in violation of the applicable restriction shall constitute a separate offense.

2. Administration.

A. Any person violating the parking provisions of this Article and/or the registered owner of the vehicle may be subject to summons, Court appearance, and a minimum fine. The officer finding a vehicle stopped, standing, or parked in violation of this Article shall take its registration number and other information which will identify the owner, and shall conspicuously affix to such vehicle a Notice of Illegal Parking, on a form provided by the City. The Notice shall bear the time, place and the officer's name or badge number. A stub or duplicate containing the same information, along with the registration number of the vehicle, shall be prima facie evidence that the registered owner of the vehicle was the violator.

B. Waiver Fees. Any person who violates the parking ordinance in this Article may pay, in lieu of the applicable fine or penalty, a waiver fee in the amount(s) and within the period(s) set forth in the schedule in paragraph (4) of this section. Such payment shall in no event be construed to be a fine or penalty, but on the other hand shall be construed to be an amount which the offender may voluntarily contribute toward the cost of administering the parking laws. All monies collected under this paragraph shall be payable to the City of Rockland.

3. Fines.

A. Overtime Parking. Any person violating the overtime parking provision of this Article may be subject to Court appearance and a minimum fine of fifty dollars (\$50) for each violation. The maximum fine for each violation shall be one hundred dollars (\$100.) Each two hours of over time parking shall constitute a separate offense.

B. Fire Lane and Fire Hydrant Violations. The owner or operator in violation of Section 17-416 shall pay to the City a sum not less than ninety dollars (\$90) nor greater than one hundred dollars (\$100), payments of which shall be due within thirty (30) business days of the issuance of the notice of said violation. Any motor vehicle found parked or standing in a fire lane that has been established in accordance with this Article, or within five (5) feet of a fire hydrant, in addition to the foregoing, may be towed upon the direction of a police officer, to any public or private parking facility and all expenses of

such towing, and any subsequent storage shall be borne by the registered owner or operator of such vehicle.

C. Disability Parking. Whenever a motor vehicle is found parked in violation of Section 17-419 of this Article, it shall be cited for a fine of not less than two hundred dollars (\$200).

4. Schedule of Fines and Waiver Fees:

Sec.	Parking Violation	Fines Pursuant to Sec. 17-420(1)		Ch. 17, Sec. 17-419	
		Min.	Max.	Initial Waiver Fee if Paid w/in 30 Days of Violation	Fee after 30 day Initial Waiver Fee but before Summons Issued
17-401	Stopping, Standing or Parking Prohibited in Specific Places	\$50	\$100	\$20	\$40
17-402	Parking Prohibited At All Times on Certain Streets or Lots	\$50	\$100	\$20	\$40
17-403	Overtime Parking (NOTE: Each 2 hrs. of over time parking constitutes a separate offense) Shuffling or Relocating	\$50 \$50	\$100 \$100	\$10 \$25	\$20 \$50
17-404	Parking Prohibited in Hazardous or Congested Places	\$50	\$100	\$20	\$40
17-405	Parking Not to Obstruct Traffic	\$50	\$100	\$20	\$40
17-406	Parking in Alleys	\$50	\$100	\$20	\$40
17-407	Combination Bus Stop – Taxicab Stands	\$50	\$100	\$10	\$20
17-408	Standing or Parking Close to Curb	\$50	\$100	\$20	\$40
17-409	Parking in Wrong Direction	\$50	\$100	\$20	\$40
17-410	Assemblage; Places of	\$50	\$100		
17-411	Large Vehicles	\$50	\$100	\$10	\$20
17-412	Lights on a Parked Vehicle	\$50	\$100	\$10	\$20
17-413	Owner’s Liability	\$50	\$100		
17-414	Schools	\$50	\$100	\$10	\$20
17-415	Snow Removal (2 AM to 6 AM, Dec. through March)	\$50	\$100	\$10	\$20
17-416	Parking in Fire Lanes and within 5 feet of fire hydrant	\$100	\$100	\$90	\$90
17-417	Unlawful Parking	\$50	\$100	\$20	\$40
17-419	Disability Parking Failure to Display	\$200		\$200 \$10	\$200 \$20

5. Disabling Mechanical Devices; Towing.

A. Disabling or Towing of Vehicle Authorized. In addition to the enforcement of parking regulations through fines imposed by the District Court, the City may employ a disabling mechanical device, commonly known as a “boot”, and/or tow the vehicle, in accordance with the following provisions.

B. Prior Notice. The Police Chief or his designee shall, by certified mail, return receipt requested, notify the registered owner of one or more motor vehicles to which three or more Notices of Illegal Parking in violation of Sections 17-401 through 17-415, 17-417, or 17-418, or one or more Notices of Illegal Parking in violation of Sections 17-416 or 17-419 have been affixed, which Notices all are at least 30-days past due. Such written notice shall warn that, in the event

any fine, penalty, waiver fee, or other charge for a violation of this Chapter remains unpaid or otherwise unresolved after thirty (30) days following the date of such written notice, any further or additional violation of the parking regulations of this Chapter may result in the application of a disabling mechanical device on or the towing of one of the owner's vehicles.

The parking of a vehicle in violation of the parking regulations of this Chapter shall be considered prima facie evidence that the registered owner of the vehicle was the violator in each instance.

C. Placement, Appeal, Removal of Disabling Mechanical Device.

(1) If a motor vehicle so disabled remains at the same location for twenty four hours, the vehicle may be towed and impounded under the provisions of Section 17-421 of this Article. All expenses incurred as a result of such towing and impoundment shall be the responsibility of the registered owner of the vehicle.

(2) Before the disabling mechanical device is removed from a vehicle, all outstanding parking fines and/or waiver fees must be paid along with a twenty-five dollar (\$25) "boot" disengagement fee, which fee shall be in five dollar (\$25) increments for each subsequent disabling mechanical device removal. Ch. 17, Sec. 17-420

(3) The decision to place a disabling mechanical device on a vehicle may be appealed to the Chief of Police or his designated representative, using the procedures established for appeals of parking tickets in general by the Rockland Police Department.

(4) The City shall not be responsible for any damages that may occur as a result of the placement or removal of the disabling mechanical device to any vehicle.

(5) The removal of the disabling device by a violator, after that device has been placed upon a vehicle by a police officer, shall result in a penalty of two hundred and fifty dollars (\$250), together with reimbursement to the City of Rockland for any expense or cost incurred by the city arising from the loss or damage to the disabling device as a consequence of such removal.

D. Towing and Impounding.

(1) The towing and impounding of a vehicle shall be under the procedures set forth in Section 17-421 of this Chapter.

(2) A vehicle towed and impounded under the provisions of this paragraph shall not be released unless and until the registered owner of the vehicle provides proof of ownership of the impounded vehicle, and has paid all outstanding parking fines, waiver fees, and other parking penalties, subject to the appeals process set forth in paragraph (6) of this Section. All towing and storage charges shall also be the responsibility of the registered owner of the vehicle, subject to the appeals process set forth in Section 17-421 of this Chapter, and shall be paid prior to the release of the vehicle.

6. Appeals. A registered owner of a motor vehicle that has been issued a ticket under this Chapter may request that the issuance of the ticket be rescinded by appealing the issuance of said ticket. An appeal shall be made by delivering to the Rockland Police Department, within seven business days of the issuance of the ticket, a written appeal on a form to be provided by the Police Department. Delivery of the appeal shall be accomplished by hand delivery to the Police Department or by deposit in the United States mail, postage prepaid, properly addressed to the Deputy Chief of Police and post marked within seven business days of the date of issuance of the ticket. The Deputy Chief of Police, or his designee, shall render a written decision granting or denying the appeal within ten business days of the submission of the appeal. Written notice of the decision shall be sent by regular mail to the registered owner of the motor vehicle, a record of which shall be maintained at the Police Department. In the event of a successful appeal of a Notice of Illegal Parking for a violation of Section 17-419, Disability Parking, on the basis of failure to display a lawful disability parking registration plate or placard, such violator nonetheless shall be charged a Failure to Display penalty set forth in Subsection 17-420(4) herein.

7. Failure to Pay Court-Ordered Fine. In the event any person subject to a court order to pay a fine or other penalty for a violation of this Chapter fails to pay such fine or other penalty within the time such payment is required, the Police Chief or any officer may, without notice to such adjudicated violator, place a disabling mechanical device and/or tow one or more motor vehicle(s) of such adjudicated violator, pursuant to Subsection 17-420(5).

Sec. 17-421 Vehicle Towing Procedure

1. Applicability. The procedures herein set forth shall be utilized in all cases where a vehicle is towed from any public street, municipal parking lot, public way, or public property, or from any private property at the request or direction,

of the City.

2. Notice to Owner Required. Except as otherwise provided herein, notice shall be sent to the registered owner of a vehicle towed by regular mail, postage prepaid, during the next business day following the tow.

The notice shall state the following:

- A. The registration number and a brief description of the vehicle;
- B. The name and address of the person or company performing the tow;
- C. The location of the vehicle;
- D. The ordinance, statute or regulations violation which led to the tow;
- E. The towing fee and any accruing storage charges;
- F. That a hearing as provided herein is available if the owner feels that the tow was unauthorized or otherwise improper.

Written notice is not required when the vehicle was towed as a result of the detention of its driver, or when the driver or owner has otherwise been in contact with the City or with dispatch regarding the disposition of the vehicle.

3. In the event the Police Chief or his designee reasonably concludes that a vehicle that has been towed at the request or direction of the City was stolen from its registered owner, the owner shall be notified by mail as set forth in paragraph 2 of this section. The registered owner of the stolen vehicle shall be responsible for all towing and storage charges which accrue until the owner is able to recover the vehicle from impoundment.

Ch. 17, Sec. 17-421

4. Hearing Provided. A person whose vehicle has been towed at the request or direction of the City may request that a hearing be held to determine the validity of the tow. The hearing will be held by the City Manager or his representative within seventy-two (72) hours of a request for a hearing.

The petitioner shall be given notice of the time and location of the hearing and shall be allowed to present any evidence, testimony or documentation in support of his or her position and shall have the right to question any witnesses appearing in opposition to his or her position. The hearing shall be conducted as informally as possible consistent with due process.

The City Manager or his designated representative shall consider any relevant evidence or testimony and may uphold the validity of the tow-away. If the tow is not upheld, the City shall pay the full cost of the tow and any accrued storage charges assessed by the tow operator up to and including the day upon which the hearing is held.

5. Appeal. Any person aggrieved by a decision of the City Manager or his designated representative may appeal to the City Council in writing within ten (10) days of receipt of that decision in writing. The Council may uphold or reverse the City Manager's, or his representative's decision. If the decision is reversed, the City shall pay the full towing fee and any accrued storage charges up to and including the day upon which the hearing before the City Manager, or his representative, was held.

Sec. 17-422 Permit Parking (Eff: 7/14/04)

1. Custom House Parking Lot. The purpose of this sub-section is to allow downtown business owners and employees to park in the Custom House Parking Lot, exempted from the two-hour parking restriction, to free up parking on Main Street for use by the general public.

A. Up to 30 permits for parking spaces in the Custom House Parking Lot shall be issued by the City Clerk on a month to month basis. However, an annual permit may be purchased and shall be for a single calendar year (January thru December). Annual permits may be purchased at any time during a calendar year and the fee will be prorated at the monthly rate for the number of months remaining in that year. Fees for monthly and annual permits shall be set by Order of the City Council.

B. No one business, corporation or individual may hold more than 25% of the available parking permits in any given month or for any given year.

C. Permitted vehicles should be parked in the designated "Permit Parking Only" area, however, if the designated "Permit Parking Only" area is full, permitted vehicles may park in any other space in the Custom House Parking Lot that is available. Should there be no spaces available in the Custom House Parking Lot, permitted vehicles may park on the southerly side of Limerock Street, between Main Street and Union Street; the westerly side of Custom House Place, between Limerock Street and School Street; and on the southerly side of School Street, between Union Street and Main Street, exempt from any time limits on parking on those streets.

D. Permitted vehicles may not be parked overnight during the City's winter parking ban, December 1 to April 1. The City shall not be liable for any damage that may occur to a vehicle parked overnight from April 1 to December 1.

E. As of the effective date of this Ordinance, anyone holding a valid monthly parking permit must renew such permit by the 25th of the month for which the permit was issued to hold that permit for the succeeding month. Any permit not renewed by the 25th of the month for which the permit was issued shall be considered available for the next month and may be assigned to another user on a first come first serve basis. Eff: 06/08/11

2. Overnight Parking Permits.

Qualifying residents of Rockland may obtain an overnight parking permit from the City Clerk that authorizes the permit holder to park overnight in those City parking lots or areas where and when overnight parking is allowed, subject to the limitations and requirements established in the Code of Ordinances or by order, regulation, or rule. A fee for overnight parking permits may be established by Order of the City Council, which fee shall then be collected prior to the issuance of the parking permit.

3. Resident Parking Permits

A. Resident Parking Permit Program. There is hereby established a Resident Parking Permit program in the City of Rockland, for the purpose of permitting residents on streets or portions of streets identified in Section 17-803, Resident Parking Schedule, and their guests and service providers, to utilize on-street parking along the street of their residence for periods exceeding posted time-limits. The City Clerk shall issue Resident Parking Permits upon written application therefor by qualifying residents of streets or portions of streets to relieve them from parking time limits set forth in Section 17-802, Time Limits on Parking Schedule, as follows:

- (1) Residents. Annual permit stickers issued to residents of the residential parking zone for parking in excess of Section 17-802 Time Limits on public streets in residential areas, in the specified area Ch. 17, Sec. 17-422 § issued. All other parking regulations of the City shall apply;
- (2) Guests; Service Providers. Guest and Service Provider Placards issued to residents of the residential parking zone for guest and service provider parking in excess of Section 17-802 Time Limits on public streets in the specified area and for specified, limited or periodic time periods, for which the permit is issued. All other parking regulations of the City shall apply.

B. Definitions.

As used in this section, the following definitions will apply:

- (1) Resident means a person who has established primary residency in the City of Rockland;
- (2) Residential means a contiguous or nearly contiguous area containing public streets where residents dwell;
- (3) Resident motor vehicle shall mean an inspected, registered motor vehicle owned or leased by a resident of the residential parking permit area and bearing a valid parking permit;
- (4) Residential permit parking zone shall mean an area designated for Resident Parking Permits;
- (5) Resident Parking Permit means a permit for a permanent or seasonal resident in the residential parking zone that will not bear a fee;
- (6) Guest shall mean a guest of a resident;
- (7) Service provider shall mean a person providing a service to a resident; and

C. Designation of Resident Permit Parking Areas.

A residential area shall be considered eligible for residential permit parking if the City Council determines that on-street parking in that area used by residents who live in the area is unduly limited by parked vehicles of commuters or other persons seeking to avoid parking limitations or fees elsewhere. In determining the eligibility of a residential area for inclusion in the Resident Parking Permit program, the City Council shall take into consideration the need for and impact of including a residential area in the program, including, without limitation, the following factors:

- (1) The extent of the willingness, desire, and need of the residents in the proposed area to embrace residential permit parking and to assume responsibility for application therefor and proper display of parking permits;
- (2) The proximity of the residential neighborhood to any major generators of on-street parking, such as transportation services, commuter centers, or retail centers that impact the availability of parking for residents;
- (3) The scarcity of convenient off-street parking for residents;
- (4) The extent to which inspected, registered motor vehicles belonging to residents cannot otherwise be accommodated; and
- (5) Traffic, noise, and safety problems caused by motorists circling the neighborhood looking for parking.

D. Permit Requirements. Permits shall be issued in the following manner:

- (1) Eligibility. A person is eligible to apply for a residential parking permit if she or he:
 - (a) owns or leases a motor vehicle;
 - (b) resides on property that has its primary vehicle access or, in the absence of any vehicular access, its primary pedestrian access, from a public street that lies in a designated residential permit parking zone; and
 - (c) has not been convicted of a parking violation for which the applicant has not made acceptable payment arrangements;
- (2) Residency. Proof of residence in the residential permit parking zone acceptable to the City Clerk must be presented at the time when application is made. All applicants must demonstrate compliance with applicable state vehicle registration and inspection, and driver licensure requirements in order to be eligible for a Resident Parking Permit;
- (3) Application.
 - (a) The application for a Resident Parking Permit shall contain the name, address(es), phone number(s), e-mail address, and date of birth of the owner or lessee of the motor vehicle; the make, model, and registration number of the vehicle, and the number and state of the applicant's driver's license;
 - (b) The following documents must be presented with the application:
 - (i) Vehicle registration, and if the vehicle is leased, evidence that the vehicle is leased to the applicant;
 - (ii) A valid Maine driver's license showing applicant's address as being within the residential zone, or, for Seasonal Residents, a current, valid driver's license from another state that is not under suspension; and
 - (c) Proof of current, permanent or seasonal residency within the zone;
- (4) Permit Stickers; Guest and Service Provider Placards. The City Clerk shall issue a permit sticker to qualifying applicants, effective July 1 and expiring on the following June 30. Each sticker and placard shall identify the residential parking permit zone, the dates, and the vehicle registration number for such manner that is easily legible to the authorities and not susceptible to tampering. Ch. 17, Sec. 17-422
 active Guest and Service Provider Placards may be issued per residence in the zone. Placards shall be limited to specified time periods not to exceed two weeks, or for regular, periodic visits;
- (5) Display. Resident Parking Permit stickers shall be displayed on the lower left corner of the rear window of applicant's, guest's, or service provider's vehicle. Stickers affixed to a vehicle must be removed prior to the sale or other disposition of the vehicle. Guest and Service Provider Placards shall be placed on the dashboard of the left side of the vehicle;
- (6) Replacement. Replacement stickers or placards shall be issued only on proof of displacement or return of the old sticker;
- (7) Renewal. Permits shall be renewed on an annual basis. Renewal of any annual permit shall be treated as original issuance.
- (8) Misrepresentations. No person shall furnish any false information to the City in connection with an application for a Resident or Guest and Service Provider Parking Permit or Placard. Any permit issued upon such information shall be void. No person may sell, transfer, or lend a permit to another person. The Guest and Service Provider Placard must be associated with a valid residential parking permit.

E. Scope of Permit. Resident, Guest, and Service Provider Parking Permits and Placards do not authorize their bearers to park during posted day or night street maintenance restrictions, no-parking zones, overnight parking ban zones, or during winter or emergency parking bans. Permit holders must comply with all parking regulations except parking time limitations set forth in Section 17-803. Eff:

04/11/12

4. General Provisions.

A. The City Clerk shall issue the applicable permit upon written application therefore, and only after first ascertaining and recording the applicant's name, address, phone number(s), and e-mail address, and the make, model, color and year of manufacture of the vehicle to which the permit is to be affixed. The Clerk shall not issue a parking permit until first determining that the applicant holds a valid Maine driver's license, and that the vehicle to which the permit is to be affixed is registered in the State of Maine.

B. Display of Permits. Parking permits must be clearly displayed in the windshield of the vehicle, preferably by hanging the permit from the vehicle's rearview mirror, to be exempt from the two-hour parking restriction. Anyone receiving an overtime parking ticket because the permit was not properly displayed shall be responsible for paying the appropriate waiver fee.

C. Parking Permits are not transferable.

D. Revocation. The City Manager shall have the authority to revoke any parking permit if the holder of that permit fails to follow these regulations or any other relevant provision of this Code. Any such revocation may be appealed to the City Council.

E. Replacement Permits. Replacement permits may be obtained from the City Clerk for a fee established by Order of the City Council.

F. Dedication of Funds. All revenues collected for Custom House Parking Lot parking permits and overnight parking permits shall be deposited into a dedicated reserve account to be used for the maintenance and improvement of City parking lots and/or the establishment, maintenance and improvement of other parking facilities. Eff: 06/08/11

Sec. 17-423 Parking Advisory Committee

There shall be a Parking Advisory Committee comprised of seven (7) members appointed by the Mayor and confirmed by the City Council for three (3) year terms, except that of the seven (7) members first appointed, three (3) members shall be appointed for three (3) years, two members shall be appointed for two (2) years and two (2) member shall be appointed for one (1) year. Such terms shall expire December 31 of each year as designed. The Committee shall elect annually, in January of each year, a chair and a secretary from among its membership, and determine its own rules of procedure. Should the position of Chair become vacant during such year, the Committee shall elect another of its member to serve as chair for the remainder of that year. As of the effective date of this section, no member shall be elected chair of the Committee more than six (6) consecutive times; and no member shall serve more than five (5) consecutive terms on the Committee. The secretary shall be responsible for taking minutes at each meeting of the Committee, and shall forward copies of the minutes to the City Manager for distribution once such minutes are accepted by the Committee. The duties of the Committee shall include, but not be limited to, inventory of all public parking; perform parking needs assessments; create plans to meet parking needs; advise the City Council on parking matters; and such other duties as may be required by the City Council. In addition to the ~~five (5)~~ seven (7) members above, Mayor (or designee), the City Engineer and Police Chief (or designee), shall be ex-officio non-voting members of the Committee. Ch. 17, Sec. 17-423 No member of the City Council may serve as an appointed, voting members of the Committee. Eff: 02/13/19

ARTICLE V Operation of Vehicles

Sec. 17-501 Backing Limitation

The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

Sec. 17-502 Bicycles, Skateboards, and In-Line Skates

1. Definitions. For the purpose of this section, "bicycle" includes a motorized bicycle or a motorized tricycle.
2. Riding of Bicycles. No person shall ride or propel a bicycle upon any public street in this City other than astride a permanent and regular seat attached thereto, or use a bicycle to carry more persons at one time than the number for which it is designed and equipped, or ride abreast or to the left of any other person riding or propelling a bicycle, or ride or propel a bicycle anywhere but as far as practicable to the right side of the way, except when making a left turn.
3. Equipment. No person shall ride or propel a bicycle upon any public street in this City unless the bicycle is equipped with a bell, horn or other warning device, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle; nor shall any person ride a bicycle on any street in the City between the hours of sunset and sunrise unless such bicycle shall have attached to it a light so displayed as to be visible from the front and rear thereof, or in lieu of a rear light, a reflector may be attached. Skateboards, rollerskates and in-line skates shall not be ridden, propelled, or otherwise operated on any street between the hours of sunset and sunrise.
4. Parking. No person shall park a bicycle on any street except in a standing position against the curb or edge of roadway or sidewalk.
5. Sidewalks. No person shall ride or propel a bicycle, skateboard, rollerskates or in-line skates on any sidewalk area except at a permanent or temporary driveway anywhere within the City.
6. Traffic Laws Apply. Every person propelling or riding a bicycle, skateboard, rollerskates or in-line skates upon any public street is subject to the duties applicable to the operator of a vehicle, except as to those provisions of this Chapter which by their nature can have no application.
7. Obedience to Traffic-Control Devices. Any person operating a bicycle, skateboard, rollerskates or in-line skates shall obey the Traffic-Control Devices.

8. Clinging to Vehicle. No person riding upon any bicycle, skateboard, rollerskates or in-line skates shall attach the same or himself to any moving vehicle upon a roadway.

State Law Reference: 29-A M.R.S. §§ 2063, 2321-2328. Eff: 9/9/98

Sec. 17-503 Clinging to Moving Vehicle

No person riding upon any motorcycle, coaster, roller skates, or any toy vehicle shall attach the same or himself to any moving vehicle upon any roadway.

Sec. 17-504 Entering Traffic From Curb

The driver of a vehicle starting from a curb or roadway edge shall yield the right-of-way to all moving traffic on the roadway, he shall not enter or attempt to enter such moving traffic until he can do so safely.

State Law Reference: 29-A M.R.S. § 2053 et seq.

Sec. 17-505 Entering Traffic From Alley or Private Driveway

The driver of a vehicle emerging from any ally, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway, yielding the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

Sec. 17-506 Following Fire Apparatus Prohibited

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or drive into or park such vehicle within the block

Ch. 17, Sec. 17-501

Sec. 17-507 Heavy Loads

A. Purpose and Authority. The purpose of this Ordinance is to prevent damage to the ways and bridges in the City of Rockland 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 the ways and bridges of Rockland, and to reduce the public expense of their maintenance and repair. This Ordinance is adopted pursuant to 30-A M.R.S. § 3009 and 29-A M.R.S. § 2353.

B. Definitions. The definitions contained in Title 29-A M.R.S. shall govern the construction of words contained in this Ordinance. Any words not defined therein shall be given their common and ordinary meaning.

C. Restrictions and Notices. The Council may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in its judgement, be necessary to protect the traveling public and prevent abuse, and designate the ways and bridges of the City to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signature of Rockland's Director of Public Works. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the travelled way.

No person except an authorized employee of the Public Works Department of the Rockland Police Department may remove, obscure or otherwise tamper with any notice so posted.

D. Exemptions. The following vehicles are exempt from this Ordinance:

1. Any two-axle vehicle while delivering home heating fuel to a private consumer.
2. Any vehicle engaged in highway maintenance or repair under the direction of the State or City.
3. Any emergency vehicle (such as firefighting apparatus or ambulances) while responding to an emergency.
4. Any school transportation vehicle while transporting students.
5. Any public utility vehicle while providing emergency services or repairs.

E. Penalties. Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than two hundred and fifty dollars (\$250) nor more than one thousand dollars (\$1000). Each violation shall be deemed a separate offense. In

addition to any fine, the City may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorneys fees and costs. Prosecution shall be in the name of the City of Rockland and shall be brought in the Maine District Court. Eff: 7/14/93

Sec. 17-508 Noise

No person shall sound an automobile horn, bell or other sound device on a vehicle anywhere in the City at any time, except when necessary for safe driving. No person shall so load or unload a vehicle with iron or other material that may strike together without properly deadening it so that it will cause no unnecessary noise. No person shall drive a motor vehicle, except a Fire Department vehicle, on a street unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive noise and annoying smoke, nor use a muffler cut-out on any vehicle, except a Fire Department vehicle, upon any street.

1. Loud or Unnecessary Noise. No person shall operate a motor vehicle upon any street or way in the City of Rockland so as to make any loud, unusual or unnecessary noise against the peace, quiet or good order of the City of Rockland.

2. Penalty. Any person who violates Section 17-801(1) shall be subject to a fine of not less than ten dollars (\$10) nor more than fifty dollars (\$50), or by imprisonment for not more than thirty (30) days, or both.

State Law Reference: 17-A M.R.S. § 501; 29-A M.R.S. § 2079.

Sec. 17-509 One-Way Streets

Upon those streets and parts of streets described in Section 17-803, vehicular traffic shall move only in the indicated direction when signs indicating direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited, which signs the Police Chief is hereby authorized and directed to erect and maintain.

State Law Reference: 29-A M.R.S. § 2059.

Sec. 17-510 Operation of Vehicles on Approach of Authorized Emergency Vehicle

Ch. 17, Sec. 17-506

Upon immediate approach of an authorized emergency vehicle, when the driver thereof is giving exhaust whistle or bell, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway, clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. This Section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

State Law Reference: 29-A M.R.S. §§ 2078, 2079.

Sec. 17-511 Overtaking Vehicle

No driver of a vehicle shall leave the line on the right for the purpose of overtaking another vehicle unless there is clear way of at least one hundred (100) feet in advance on the left. When overtaking another vehicle proceeding in the same direction, the driver of any vehicle shall pass at a safe distance to the left thereof, and shall not again drive to the right side of the roadway until safely clear of such overtaken vehicle. The driver of a vehicle on a street about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle on suitable and audible signal being given by the driver of the overtaking vehicle, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. The driver of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any intersection of highways.

State Law Reference: 29-A M.R.S. § 2070.

Sec. 17-512 Parades and Processions; Permits

No procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles, excepting the military forces of the United States and of this State and excepting parades on public holidays, shall occupy, march or proceed along any street, to the exclusion or interruption of other persons in their individual right and use thereof, except in accordance with a permit issued by the Police Chief and such other regulations as are set forth herein which may apply. In deciding whether to issue a permit, the Chief shall consider the following factors and may impose reasonable conditions of approval which he deems necessary to protect the public health, safety and welfare and which are related to the following factors: 1) number of people or vehicles involved; 2) time of day when held; 3) amount of time needed to reach the destination point; 4) streets to be used; 5) time of year when held; and 6) number of spectators anticipated.

State Law Reference: 8 M.R.S. §§ 501, 502; 37-B M.R.S. §§ 187, 342.

Sec. 17-513 Processions; Drivers

Each driver in a procession shall drive as near to the right-hand edge of the roadway as practical and follow the vehicle ahead as closely as is practical and safe.

Sec. 17-514 Processions; No Driving Through

No driver of a vehicle shall drive between the vehicles comprising an authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this Chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

Sec. 17-515 Right-Of-Way

All vehicles have the right-of-way over other vehicles (except authorized emergency vehicles when operated on official business and the drivers thereof sound audible signals by bell, siren, or exhaust whistle) approaching at intersecting public ways from the left, and shall give the right-of-way to those approaching from the right; except that traffic officers stationed at such intersection may otherwise regulate traffic thereat, and except at intersections where traffic is controlled by traffic-control signals in operation or by stop signs.

State Law Reference: 29-A M.R.S. §§ 2053, 2058.

Sec. 17-516 Sidewalk; Vehicles Shall Not Be Driven On

The driver of a vehicle shall not drive or ride within any sidewalk areas except at a permanent or temporary driveway.

State Law Reference: 29-A M.R.S. § 2056.

Sec. 17-517 Speed Regulations

Any person driving a vehicle on a way shall drive the same at a careful and prudent speed not Ch. 17, Sec. 17-510 and proper, having due regard to the traffic, surface, and width of the highway, and of any other conditions then existing, and no person shall drive any vehicle upon a way at such a speed as to endanger any person or property. Subject thereto, and except in those instances where a lower speed is specified in the Revised Statutes of Maine, as amended, it shall be prima facie lawful for the driver of a vehicle to drive the same at a speed not exceeding the following, but in any case when such speed would be unsafe it shall not be lawful:

1. Passing School. Fifteen (15) miles an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours;
2. Intersection. Fifteen (15) miles an hour when approaching within fifty (50) feet and in traversing an intersection of ways when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty (50) feet of his approach to such intersection he does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the ways entering such intersection for a distance of two hundred (200) feet from such intersection;
3. Elsewhere In Built-Up Section. Twenty-five (25) miles an hour in a business or residential district, or built-up portion, defined as the territory of the City contiguous to any way which is built up with structures devoted to business or where the dwelling-houses are situated less than one hundred fifty (150) feet apart for a distance of at least one-quarter ($\frac{1}{4}$) of a mile;
4. Outside Built-Up Section. Forty-five (45) miles an hour under all other conditions.
5. Excess Speed. Any speed in excess of the limits established by law shall be prima facie evidence that the speed is not reasonable and proper as defined in the first sentence of this Section.

State Law Reference: 29-A M.R.S. §§ 2073-2075.

Sec. 17-518 Snow Plows; Following and Meeting

The driver of any vehicle other than one on official business shall not follow closer than two hundred (200) feet to any snow plow engaged in plowing. The driver of any vehicle meeting a snow plow on a roadway plowing shall turn off on another street if practicable, otherwise shall come to a complete stop at least fifty (50) feet away from the plow and not start again until the plow has passed.

State Law Reference: 29-A M.R.S. § 2068.

Sec. 17-519 Through Street

Those streets and parts of streets described in Section 17-804, having been so designated by the Maine State Highway Commission as provided by the Revised Statutes of Maine, are hereby declared to be through streets.

State Law Reference: 29-A M.R.S. § 2058.

Sec. 17-520 Traffic Law Violation Tickets

No person shall remove from any vehicle a traffic law violation ticket, notice or citation placed on or in such vehicle by a police officer of the City, except for the purpose of answering such notice or citation as required therein.

Sec. 17-521 Traffic Obstructed

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

State Law Reference: 29-A M.R.S. § 2060.

Sec. 17-522 Truck Loading and Unloading On Main Street

From 9:00 A.M. to 5:00 P.M. on any day except Sundays and public holidays, trucks and drays are prohibited from loading or unloading freight, goods and merchandise at all places, stores and buildings upon Main Street between Park and Lindsey Streets on the West side and the approximately opposite area on the East side, when it is reasonably feasible to perform such work off-street or in an adjacent alley, unless such loading or unloading can be done within ten (10) minutes.

However, between the hours of 12:00 Noon and 1:00 PM on any day except Sundays and public holidays, no such loading or unloading shall be allowed on Main Street between Park and Lindsey Streets on the West side and the approximately opposite area on the East side. Eff: 2/11/98

Sec. 17-523 Truck Traffic Routes

Truck traffic routes, to be identified by signs and markings erected and maintained by the Police by the City Manager, may be established within the City limits; when established and posted, all vehicles into the City limits for the transportation of property through the City shall drive such vehicle or vehicles over and along such established truck traffic routes.

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State Law Reference: 30-A M.R.S. § 3001.

Sec. 17-524 Turn Around; Limitation

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction on Main Street between Rankin and Pleasant Streets, and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

Sec. 17-525 Turn, Left

The driver of a vehicle intending to turn left at an intersection or into an alley or a private road or driveway shall approach such intersection or point of turning in the lane for traffic to the right of and nearest to the center line of the street (with the left side of vehicle as near as possible to, and to the right of the center line of the street on which he is proceeding), and in turning shall pass beyond the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left. For the purpose of this Section, the center of the intersection shall mean the meeting point of the medial lines of the streets intersecting one another. On one-way streets, such turn shall be made from the left lane of traffic.

State Law Reference: 29-A M.R.S. § 2060.

Sec. 17-526 Turn, Right

The driver of a vehicle intending to turn right at an intersection or into an alley or private road or driveway shall approach such intersection or point of turning, as closely as practicable to the right-hand curb or boundary of the street (in the lane for traffic nearest to the right-hand side of the way), and in turning shall keep as closely as practicable to the right-hand curb.

State Law Reference: 29-A M.R.S. § 2060.

Sec. 17-527 Unattended Vehicle

No person driving or in charge of a motor vehicle shall permit it to stand on any roadway unattended without first effectively setting the brakes thereon and stopping the motor of the vehicle. No person shall allow an animal-drawn vehicle to be unattended unless it is reasonably fastened.

State Law Reference: 29-A M.R.S. § 2068.

Sec. 17-528 Unlawful Acts; Placing Glass, Etc., On Highway Prohibited

No person shall throw or place or cause to be thrown or placed upon a highway any glass, glass bottle, nails, tacks, wire, scrap metal, crockery, cans, or any other substance injurious to the feet of persons or animals, or to tires or wheels of vehicles. Whoever accidentally, or by reason of an accident, drops from his hand or a vehicle any such substance upon any highway shall forthwith make all reasonable efforts to clear such highway of the same.

State Law Reference: 29-A M.R.S. § 2396.

Sec. 17-529 State Laws

All State motor vehicle laws are hereby incorporated herein by reference. No person shall violate any motor vehicle law of the State of Maine within the limits of the City of Rockland.

Sec. 17-530 Curb Loading Zones

The Police Chief with the approval of the City Manager may designate spaces as curb loading zones on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public. The Police Chief shall cause such spaces to be designated by appropriate signs or curb markings or both. No person shall stop, stand or park a vehicle in any such space between the hours of 8:00 A.M. and 6:00 P.M. on any day except Sundays and public holidays when same has been officially designated and appropriately marked, except for the purpose of and while actually engaged in loading or unloading passengers for a period not to exceed three (3) minutes, or in loading or unloading materials for a period not to exceed thirty (30) minutes.

1. School Street, south side starting after the last two-hour parking space in a easterly direction to a point 20 feet westerly from its intersection with Main Street. Eff: 12/14/18

2. Thorndike Parking Lot, west side beginning at Glover’s Passage extending southerly 50 feet

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Sec. 17-531 Idling of Commercial and Private Passenger Motor Vehicles.

(a) *Application.* This section applies to gasoline-powered commercial and private passenger vehicles. This section does not apply to commercial vehicles or other vehicles which are subject to the provisions of 38 M.R.S.A. § 585-L.

(b) *Five-minute limitation.* No person may cause or allow a private passenger motor vehicle to idle for more than five consecutive minutes in any sixty-minute period. For purposes of this section, “idle” shall mean that the primary propulsion engine is running while the vehicle is stationary and not engaged in a gear to power the drive train.

(c) *Exceptions.* The limitation set forth in subsection (b) shall not apply to:

(1) Motor vehicles idling while in a traffic lane, as the result of congested traffic conditions beyond the driver’s control; or as a result of an official traffic control device or signal or at the direction of a law enforcement official;

(2) Motor vehicles idling when operating a defroster, heater, air conditioner or installing equipment solely to prevent a safety or health emergency and not as part of a rest period;

(3) Motor vehicles idling for maintenance, servicing, repair or diagnostic purposes if idling is required for such an activity;

(4) Motor vehicles idling as part of a state or federal inspection to verify that all equipment is in good working order if idling is required as part of the inspection;

(5) Motor vehicles idling due to mechanical difficulties over which the operator has no control if the vehicle owner submits the repair paperwork or product receipt by mail within 30 days to the appropriate authority verifying that the mechanical problem has been fixed. If no repair paperwork is submitted within 30 days, the vehicle owner is subject to penalties as provided in subsection (d);

(6) Motor vehicles idling for not longer than an additional 10 minutes beyond the limit imposed in subsection (b) to operate heating equipment when the ambient air temperature is 32 degrees Fahrenheit or below; and

(7) Motor vehicles idling as needed for the purpose of providing heat when the ambient air temperature is below 0 degrees Fahrenheit.

(d) *Prima facie evidence.* The fact that a parked motor vehicle is idling in violation of this section shall be prima facie evidence that the unlawful idling was caused or allowed by the person in whose name that vehicle is registered.

(e) *Enforcement and penalties.*

(1) This section shall be enforced by the Rockland Police Department.

(2) Any person who violates this section shall be punished by a minimum penalty of fifty dollars (\$50.00).

(3) For a period of one hundred and eighty (180) days following the effective date of this section, violators shall only receive written warning for violations; after the 180-day period, violations shall be fully enforced in accordance with this section.

Eff: 11/09/18

ARTICLE VI Pedestrians' Rights and Duties

Sec. 17-601 Pedestrians Subject To Traffic-Control Signals

Pedestrians shall be subject to traffic-control signals as heretofore declared in Section 17-304 of this Chapter, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this Article.

Sec. 17-602 Pedestrians' Right-Of-Way In Crosswalk

1. **When No Traffic Signal.** When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

2. **When Vehicle Stopped.** Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

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State Law Reference: 29-A M.R.S. § 2056.

Sec. 17-603 Pedestrians To Use Right Half Of Crosswalk

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

Sec. 17-604 Crossing At Other Than Crosswalk

Every pedestrians crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

State Law Reference: 29-A M.R.S. § 2056.

Sec. 17-605 Crossing At Right Angles

1. **Main Street.** No pedestrian shall cross Main Street between Pleasant Street and Summer Street except within a marked crosswalk.

2. **Park Street.** No pedestrian shall cross Park Street between Union and Main Streets except within a marked crosswalk.

3. **Limerock Street.** No pedestrian shall cross Limerock Street between Union and Main Streets except within a marked crosswalk.

4. **Walk Light.** No pedestrian shall cross at intersections, controlled by traffic control signals, except when the walk light is displayed.

5. **Crosswalk Defined.** A pedestrian crosswalk is either a marked highway and/or a pedestrian crossing sign.

State Law Reference: 29-A M.R.S. § 101.

Sec. 17-606 Drivers To Exercise Due Care

Notwithstanding the foregoing provisions of this Article, every driver of a vehicle shall exercise due care to avoid

colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

**ARTICLE VII Procedure on Arrests;
Penalties; Miscellaneous**

Sec. 17-701 Penalties

1. General Penalty. Unless another penalty is expressly provided by State law or elsewhere in this Chapter, any person convicted of a violation of any provision of this Chapter shall be punished by a fine of not more than five hundred dollars (\$500), except as otherwise provided in the following subsections of this Section. Eff: 9/9/98

2. Bicycle, Skateboard, Rollerskate and In-Line Skate Violations. Any person violating any bicycle, skateboard, rollerskate or in-line skate provision of this Chapter shall be subject to the penalty imposed for violation of this Chapter; however, such person may elect in lieu of the penalty to surrender his bicycle, skateboard, rollerskates or in-line skates to the Police Department in accordance with the following schedule: three (3) days for the first violation, ten (10) days for the second violation or thirty (30) days for the third violation of any one provision of this Chapter in one (1) calendar year. For each violation of any one provision of this Chapter after the third violation in any one (1) calendar year, the general penalty provided by subsection 1 hereof shall be applied, except that the violator with the approval of the Chief of Police may elect to surrender his bicycle, skateboard, rollerskates or in-line skates for thirty (30) days. Eff: 9/9/98

3. Section 17-203 Violations. Any person violating Section 17-203 of this Chapter shall be punished by a fine of not more than one hundred dollars (\$100) unless another penalty is expressly provided by State Law.

4. Other Violations. Any person violating any other provision of this Chapter shall be subject to the general penalty imposed for violation of this Chapter, however, such person may, in lieu of such penalty, pay the sum of ten dollars (\$10) for a first violation and twenty dollars (\$20) for each violation thereafter of any one section of this Chapter. Such payment shall in no event be construed to be an enforced imposition of a fine or penalty, but on the other hand shall be construed to be an amount which the offender may voluntarily contribute toward the cost and expense of furnishing to the public a less expensive alternate method of regulating and administrating traffic law violations. Any violators making such payment shall be given a receipt for every such payment and a copy of such receipt shall be retained by the Treasurer. If, however, such payment is not made at the office of the Treasurer within two (2) business days after notice of such violation is served, by traffic ticket or otherwise, this alternative method is not available or applicable and the penalty provided by this Chapter shall be imposed. Eff: 9/9/98

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State Law Reference: 29-A M.R.S. § 2604.

Sec. 17-702 Regulations No Exclusive

The provisions of this Chapter imposing a time limit on parking or governing loading and unloading shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles or governing loading and unloading in specified places or at specified times.

Sec. 17-703 Separability

If any part or parts of this Chapter are held by a court of competent jurisdiction to be invalid it is the legislative intent of the City Council that such decision shall not affect the validity of the remaining portions of this Chapter.

Sec. 17-704 Schedules

Schedules I, II, III, IV, V and V specifying certain traffic and parking regulations with street names and portions of streets regulated or designated are attached to and become a part of this Chapter.

ARTICLE VIII Schedules

Sec. 17-801 Schedule I. Parking Prohibition

Parking is prohibited at all times upon the following streets or parts thereof:

Street

Area Affected

1. Atlantic

A. East side, beginning at the intersection of Crescent Street in a Southerly direction 25 feet.

- 2. Beech
 - A. North side from Union Street in a Westerly direction to Lincoln Street.
 - B. South side from Union Street seventy-five (75) feet in a Westerly direction.
 - C. South side between Broadway and Shaw Avenue.
- 3. Birch
 - A. Both sides.
- 3A. Broad
 - A. East side between Park Street and Limerock Street. Eff: 01/09/08
- 4. Broadway
 - A. Both sides from the intersection of Broadway and North Main Street southerly to the intersection of Broadway and Thomaston Street. However, parking shall be permitted on the West side in front of Carpenter Funeral Home when visiting hours and services are being held, southerly from a point one hundred (100) feet south of the intersection of and Rankin Street. Further, parking on the West side of of the High School entrance shall also be allowed in the Rockland District High School is holding special
- Broadway
Broadway south
case of overflow when
functions. Eff: 2/9/94
 - 5. Camden
 - A. East side of Camden Street from Front Street to the Rockport Town Line.
 - B. West side of Camden Street from Cedar Street to the Rockport Town Line. Eff: 1/13/99
 - 6. Carrolls Lane
 - A. North side.
 - A. Both sides from the intersection of North Main and Cedar Streets, in a Westerly direction, to the junction of Simmons and Cedar Streets.
 - B. Both sides from the intersection of North Main Street and Broadway and Cedar Street Southeasterly to the junction of Frederick and Cedar Streets.
 - 8. Cottage
 - A. South side between Main Street and North Main Street.
 - B. North side, beginning at the intersection of Main Street and extending westerly a distance of 100 feet. Eff: 10/09/13
 - 8A. Court
 - A. West side between Broadway and Gay Street. Eff: 8/8/90
 - 9. Crescent
 - A. North side, beginning at the intersection of Scott Street in an Easterly direction to Atlantic Street for a distance of one hundred seventy-six (176) feet and six (6) inches.
 - B. South side Pacific Street Easterly to Atlantic Street.
 - A. East side.
 - 10. Custom House Place
 - A. Both sides from its intersection with West Meadow Road to the public way for a distance of two thousand forty-five (2045)
 - 11. Dodge Farm Road
 - A. South side.
 - 12. Elm
 - A. South side between North Main Street and Broadway. Eff: 03/14/07
 - 12A. Gay
 - A. South side for a distance of one hundred (100) feet in an Easterly direction starting from one hundred twenty (120) feet East of the entrance at 38 Gordon Drive (Tax Map #62-A-17) Eff: 10/04/15
 - 12B. Gordon
 - B. North side for a distance of sixty (60) feet in an Easterly direction starting from a point ninety (90) feet East of the entrance at 50 Gordon Drive (Tax Map #62-1-14). Eff: 10/04/15
 - 13. Grace
 - A. South side from Union Street West to High Street.
 - B. North side from Union Street to the Easterly border of the newly created bus stop located approximately forty feet Westerly of Union Street. Eff: 7/8/98
 - C. South side forty (40) feet Easterly from Broadway. Eff: 03/14/07
 - 14. Granite
 - A. North side between Main Street and Union Street.
 - B. South side forty (40) feet Easterly from Union Street. Eff: 03/14/07
 - C. South side between Union Street and Broadway. Eff: 03/14/07
 - 15. Grove
 - A. Entire North side of street; South side from Union Street seventy-five (75) feet in a Westerly direction, and commencing at Lincoln Street in an Easterly direction ninety (90) feet. Eff: 7/9/97
 - 16. High
 - A. Entire East side.

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- 16A. Highland A. Easterly side from its intersection with Park Street in a northerly direction a distance of 526 feet. Eff: 6/7/95
17. James A. North side for a distance of three hundred fifteen (315) feet Westerly from the Westerly curb line of Main Street.
- 17A. Leland A. East side between Rankin Street and Gay Street. Eff: 9/12/90
18. Limerock A. Forty (40) feet along the curb on the South side of Limerock Street commencing at the driveway entrance to the Post Office grounds and extending in a Westerly direction.
 B. South side between Broadway and Broad Street.
 C. Community Bldg. Parking Lot (parking prohibited by all trucks larger than so-called pickup trucks).
 D. North side, three hundred (300) feet in a Westerly direction from the Westerly edge of driveway at 303 Limerock Street.
 E. North side between Union Street and Lincoln Street. Eff: 11/10/95
- 18A. Lincoln A. Both sides from Summer Street to Beech Street. Eff: 8/7/02
19. Lindsey A. South side from Main Street to alley.
20. Main A. West side, Warren Street to Cedar Street.
 B. West side between Museum and School Streets.
 C. West side from Park to Orient.
 D. West side from School to Limerock.
 E. West side, in a Northerly direction from the junction of Main and North Main Streets to Cottage Street.
 F. West side, from Summer Street in a Northerly direction to Talbot Avenue.
 G. West side, beginning at Park Street in a Southerly direction to Myrtle Street.
 H. East side from Cottage Street in a Northerly direction to Front Street. Eff: 1/13/99
 I. East side, beginning at Park Drive in a Southerly direction to the entrance to the Rockland Public Landing.
 J. East side, from the Southerly line of the entrance to the Maine State Ferry Terminal in a Southerly direction one hundred five (105) feet.
 K. In a Northerly direction from Mechanic Street to Ingraham Lane.
 L. West side, beginning at the intersection with Lindsey Street, in a southerly direction a distance of 39 feet, encompassing one (1) parking space. Eff: 8/13/97
 M. East side beginning approximately twenty-nine (29) feet south of the intersection with Tillson Avenue and extending to the intersection of Tillson Avenue. Eff: 7/9/14
21. Maple A. North side from White Street to Lincoln Street.
 B. South side from White Street fifty (50) feet in a Westerly direction
22. Masonic A. North side from Union Street to Claremont Street.
 B. South side from Union Street fifty (50) feet in a Westerly direction.
 C. South side forty (40) feet Easterly from Broadway. Eff: 03/14/07
23. Maverick A. South side between Camden Street and Front Street.
- 23A. McCloud A. North side between Suffolk Street and Pacific Street. Eff: 11/09/90
 B. Both sides from Camden Street to Birch Street.
24. Museum A. North side from Main to Union Street, with the exception of a bus stop near the Westerly side of the Easterly entrance to the Farnsworth Art Museum parking lot. Eff: 7/8/98
 B. South side 50' Westerly from Main Street to loading zone.
 C. South side 126' Easterly from Union Street. Eff: 3/9/87
25. Myrtle A. North side, between the intersection of Union Street to the West and Main Street to the East, and on the South side, starting from the Southeasterly corner of the intersection of Union Street and Myrtle Street Easterly to a point one hundred and twenty (120) feet and starting from the Southwesterly corner of the intersection of Main Street and Myrtle Street Westerly to a point one hundred and forty-one (141) feet. Eff: 7/8/92
26. New County Rd. A. South side from Belvedere Street in an Easterly direction six hundred seventy feet.

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- B. South side from its intersection with Pleasant Street and Payne Avenue to the Thomaston Town Line. Eff: 07/13/05
- C. North side from its intersection with Pleasant Street and Payne Avenue to the Thomaston Town Line. Eff: 07/13/05
27. North
 28. North Main
- A. North side from Main Street to Water Street.
- A. One side (West side) from the intersection of Main Street to the intersection of Birch Street. Eff: 11/13/87
- B. Both sides from the intersection of North Main and Broadway in a Southerly direction one hundred twenty-five (125) feet.
- C. Both sides from Maverick Street 200 feet in an Easterly direction.
- D. East side from Main Street in a Northerly direction three hundred (300) feet.
- E. East side from James Street in a Northerly direction to Warren Street.
- F. West side from Main Street in a Northerly direction to Gay Street.
29. Oak
 30. Orient
 31. Park Drive
 32. Park Street
- A. South side.
- A. South side.
- A. North side from Main Street in an Easterly direction to Winter Street.
- A. North side commencing at Broadway and fifty (50) feet in an Easterly direction.
- B. South side from Main Street in a Westerly direction to a point 281 feet Westerly from the intersection of Park Street and Union Street. Eff: 3/15/95
33. Pen Bay Avenue
 34. Pleasant
- A. Both sides, from Camden Westerly five hundred (500) feet.
- A. South side from Main Street to Union Street.
- B. Both sides three hundred (300) feet in an Easterly direction from Broadway.
- C. South side beginning at the entrance to E. Allen Gordon Park, one hundred eighty-three (183) feet in an Easterly direction.
- D. South side beginning at the entrance to E. Allen Gordon Park, three hundred (300) feet in a Westerly direction.
- E. North side beginning at its intersection with Belvedere Street, two hundred (200) feet in a Westerly direction to its intersection with Columbia Avenue. Eff:
- 2/11/98
- F. North side fifty-five (55) feet in a Westerly direction from Main Street. Eff:
- 10/10/07
35. Rankin
 36. Robinson
 37. Rockland
 37A. Samoset
- A. Both sides from Main Street to Union Street.
- A. North side between Main and State Streets.
- A. South side between Main Street and North Main Street.
- A. 660 feet on the western side from the main entrance of the Jameson Point complex to the cul-de-sac. Eff: 10/11/89
38. School
 39. Scott
 40. Suffolk
 41. Summer
- A. North side, from Main Street to Union Street.
- A. West side Northerly from Crescent Street to Linden Street
- A. Both sides from Fulton Street to Ocean Street.
- A. South side beginning at the curb line on the West side of Main Street and extending Westerly three hundred (300) feet.
- B. North side from Main Street in a Westerly direction to Union Street.
- A. South side from Union Street seventy-five (75) feet in a Westerly direction.
- B. North side between Main Street and Union Street. Eff: 03/14/12
42. Talbot
- A. South side from Broadway Westerly to Southwestern boundary of the South School property.
- B. North side from Broadway Westerly to Southwestern boundary of the South School property. Eff: 5/13/98
43. Thomaston
- A. South side for a distance of one hundred seventy-two (172) feet Easterly from the Easterly curb line of Main Street.
- B. South side. For a distance of two hundred twenty-one (221) feet Easterly from the Easterly line of Main Street, and commencing at the Western line of the Coast Guard property and proceeding Westerly one thousand one hundred
44. Tillson
- U.S.
 hundred
- twenty-five (1125) feet.

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- 44A. Union A. Both sides from Rankin Street to Pleasant Street. Eff: 12/14/90
- 45. Walker Place A. South side from Broadway to School property.
- 45A. Warren A. South side from Knox Street to Main Street. Eff: 8/11/04
- 46. Water A. West side from Main to Laurel Street.
- 46A. Weeks A. West side. Eff: 11/10/95
- 47. White A. West side from Limerock Street to Maple Street.
B. East side from its terminus at Maple, 80 feet in a southerly director. Eff: 03/12/14
- 48. Willow A. North side from Union Street seventy-five (75) feet in an Easterly direction.
B. South side from Union Street to Main Street.
C. South side between Fogg and Union Streets.
- 49. Winter A. South side from Main Street East to Western boundary of Fireproof Garage property and from Weeks Street in a Westerly direction four hundred (400) feet.
B. North side from Main Street 69 feet in an easterly direction.

Sec. 17-802 Schedule II. Time Limits on Parking

1. General Limitation. Parking time limited between 9:00 AM and 6:00 PM on Mondays, Tuesdays, Wednesdays, and Thursdays, and between 9:00 AM and 9:00 PM on Fridays and Saturdays, with the exception of Sundays and public holidays:

Street	Area Affected
A. Four-Hour Limit	
1. Public Landing/Harbor Park	A. All designated parking spaces at the Public Landing and Buoy Park (to be known as Harbor Park) except for parking along the sea wall which shall be two hours, and parking adjacent to the Fisherman’s Memorial which shall be eight hours. Eff: 8/11/04
2. Main Street	A. Between Pleasant Street and Rankin Street between the hours of 9:00 PM and 2:00 AM. Eff: 12/13/02
B. Two-Hour Limit	
1. Beech Street	A. Both side beginning at its intersection with Lincoln Street, easterly a distance of approximately six hundred and twenty-four (624) feet. Eff: 8/7/02
2. Custom House Parking Lot	A. All spaces in the public parking lot with the exception of up to 30 spaces which may be made available for permit parking under the provisions set forth in Sec. 17-420 of this Chapter. Eff: 7/14/04
2A. Custom House Place	A. West side only. Eff: 11/14/97
3. Elm	A. North side from Main Street to Union Street. Eff: 6/7/95
4. Grace	A. North side, four (4) parking spaces, from Union Street Westerly to the property of SAD #5.
4A. Granite	A. South side beginning forty (40) feet easterly from Union Street. Eff: 10/12/11
5. Limerock	A. Between Main Street and Union Street except for a section of forty (40) feet as described in Schedule I. B. Community Building Parking Lot. C. South side between Union Street and Claremont Street on days when elections are being held in the Community Building.
6. Lindsey	A. North Side. Eff: 6/7/95
7. Main	A. West side of Main Street beginning one hundred thirty-six (136) feet south from Robinson Street to the Northerly line of Ulmer Park. B. East side of Main Street beginning one hundred thirty-six (136) feet south from Robinson Street to the Northern line of Ulmer Park. Eff: 11/14/03
8. Maple	A. South side fifty (50) feet from White Street Westerly to Lincoln Street.
9. Museum	A. South side of street starting about one hundred twenty-six (126) feet Easterly of Union Street for a distance of about one hundred thirty-four (134) feet (presently seven (7) parking spaces). Eff: 11/14/97

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10. North Main/Leland Street Parking Lot
- 10.A. Oak
11. Orient
12. Park Drive
13. Park Street
14. Public Landing
15. School
- 15A. Summer
- 15B. Talbot
16. White
17. Willow
- C. One-Hour Limit
1. Masonic
- D. Thirty-Minute Limit
1. Beech
2. Tillson
- E. Twenty-Minute Limit
1. Park Street
2. Public Landing
- F. Fifteen-Minute Limit
- (1) Main
- G. Twelve-Minute Limit
- (1) Limerock
- People's
2. School Days. Parking time limited on School Days between the hours of 8:00 A.M. and 4:00 P.M. on the following:
- A. Summer
3. Marie H. Reed Breakwater Park, Samoset Road. Parking in the marked spaces on the east side of Samoset Road between the Jameson Point Road and the cul-de-sac at the park, a distance of approximately one hundred and eighty one (181) feet, shall be prohibited between sunset and sunrise. Eff: 8/7/91
- A. All parking spaces in the public parking lot. Eff: 2/10/93
- A. Beginning at a point forty-eight (48) feet from the intersection of the Westerly line of Main Street and the Northerly line of Oak Street, Westerly along the aforementioned Northerly line of Oak Street to the intersection of the Northerly line of Oak Street and the Easterly line of Union Street. Eff: 9/9/92
- A. Between Main Street and Union Street.
- A. South side. Beginning at a point forty (40) feet east of the intersection of Park Drive and Main Street and extending approximately five hundred forty (540) feet. Eff: 8/7/02
- A. Between Main Street and High Street, except for the two spaces immediately west of its intersection with Union Street which shall have a twenty-minute limit (see E.1. below). Eff: 7/12/06
- A. From the area of the Chamber of Commerce Building, along the sea wall to the restaurant wharf (NOTE: sea wall is two-hour limit area).
- A. Between Main Street and Union Street.
- A. South side from Union Street to Lincoln Street. Eff: 11/12/04
- B. South side beginning three-hundred (300) feet westerly from Main Street and extending to Union Street. Eff: 10/12/11
- A. South side between Union Street and Main Street, except for those portions marked as "No Parking". Eff: 03/14/12
- A. Between Maple Street and Beech Street.
- A. North side beginning seventy-five (75) feet easterly of Union Street and extending to Main Street. Eff: 10/12/11
- A. South side from Union Street Westerly to High Street.
- A. South side from 75 feet Westerly of Union Street to 100 feet Westerly of Union Street (3 parking spaces).
- A. North side between the Thorndike Parking Lot entrance and Captain Spear Drive, one space beginning 57 feet east of the Thorndike Parking Lot entrance. Eff: 7/8/15
- A. North side, two spaces west of its intersection with Union Street. Eff: 7/12/06
- A. In the designated parking spaces around the Chamber of Commerce Building.
- (a) Between Pleasant Street and Rankin Street between the hours of 2:00 A.M. and 6:00 A.M., Sundays and legal holidays excepted. Eff: 12/1
- (a) North side, six (6) parking spaces between the East and West driveways of the new Federal and Post Office Building, one (1) parking space in front of laundry known as 17 Limerock Street.
- (1) South side, from Lincoln Street to Broadway.

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Sec. 17-803 Schedule III. Resident Permits

Residents who have applied for and have a valid, current Resident Parking Permit, and holders of valid, current temporary Guest and Service Provider Placards, may park the vehicle(s) to which proper evidence of such permit is affixed

for periods of time that exceed time limits on parking set forth in Section 17-802 Schedule II, in the following residential permit parking zones, as applicable. Resident Parking Permits and Guest and Service Provider Placards do not excuse compliance with time limits or any other restrictions of on-street parking except as set forth in this Section. No on-street parking of vehicles that lack a valid, current Resident Parking Permit or Guest and Service Provider Placard is allowed in residential permit parking zones between 1:00 and 4:00 a.m. on any day.

Residential Permit Parking Zone:

Area Affected:

Zone 1:

Granite Street

Between Union and Broadway Eff: 04/11/12

Sec. 17-804 Schedule IV. One Way Streets

Upon the following streets or parts thereof, traffic shall move only in the following specified directions:

Street	Area Affected
1. Alley	Easterly from Main Street between No. 241 and No. 245 Main Street.
1A. Alley	Easterly from Main Street between No. 449 and No. 453 Main Street. Eff: 09/09/09
2. Beech	West between Union and Lincoln Street.
3. Cedar	East between Birch and Frederick Streets.
3A. Community Building (Parking Lot)	Northerly then easterly from Limerock Street to Union Street. Eff: 10/12/94
4. Elm	East.
5. Granite	West between Main Street and Union Street.
6. Limerock	West between Main Street and Union Street.
7. Lindsey	East.
8. Main	North between Park Street and Rankin Street.
9. Museum	1. West four hundred twenty (420) feet from Main Street. Eff: 6/27/98
9A. North	Easterly from Main Street to Water Street. Eff: 11/18/09
10. New County Road	East one hundred (100) feet from Payne Avenue.
11. Oak	West.
12. Orient	East.
13. Park	West one hundred (100) feet from Payne Avenue.
14. Rankin	West between Main Street and Union Street.
15. School	East for whole length.
16. Summer	West between Main Street and Union Street.
17. Talbot	East between Union Street and Main Street ending at a point 200 feet from the intersection of Talbot Avenue and Main Street. Eff: 4/12/89
18. Willow	East between Union Street and Main Street.
19. Union	South between Rankin Street and Park Street.
20. Grace	West between Union and High Streets. Eff: 7/8/98

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Sec. 17-805 Schedule V. Through Streets

Street	Area Affected
1. Atlantic Street	From Crescent Street to Mechanic Street.
2. Birch Street	From Cedar Street to and through Maverick Street.
3. Broadway	From Thomaston Street to Park Street, thence to and through North Main Street, to and through Cedar Street, on Route 1, to Birch Street.
4. Camden Street	From Main Street to Rockport Town Line.
5. Cedar Street	From Camden Street to Butler Square Junction, thence to Old County Road.
6. Holmes Street	From Main Street to Broadway.
7. Lake Avenue	From Old County Road to Lakeview Drive.
8. Lakeview Drive	From Maverick Street to Rockport Town Line.
9. Limerock Street	From Main Street to Union Street, thence to Broadway, thence to Old County

- Road.
- 10. Main Street From Owl's Head Town Line to Park Street (Traffic Control), thence to Limerock Street (Traffic Control), thence to Camden Street.
 - 11. Maverick Street From Camden Street to Birch Street, thence to and through Old County Road to Lake Avenue.
 - 12. New County Road From Park Street to Thomaston Town Line.
 - 13. North Main Street From Main Street to Butler Square Junction, thence to Maverick Street.
 - 14. Ocean Street From Water Street to Scott Street.
 - 15. Old County Road From Thomaston Town Line to junction of Maverick Street and Lake Avenue, thence to Rockport Town Line.
 - 16. Pacific Street From Ocean Street to and through Mechanic Street.
 - 17. Park Street From Union Street (Traffic Control) thence to Payne Avenue.
 - 18. Pleasant Street From Main Street to Broadway.
 - 19. Rankin Street From Main Street to Broadway, thence to Old County Road.
 - 20. Scott Street From Ocean Street to and through Crescent Street to Atlantic Street.
 - 21. Suffolk Street From South Street to Ocean Street.
 - 22. Talbot Avenue From Main Street to Union Street, thence to Broadway, thence to Old County Road.
 - 23. Thomaston Street From Main Street west.
 - 24. Union Street From Rankin to Park Street (Traffic Control), thence to Pleasant Street.
 - 25. Warren Street From Main Street to North Main Street.
 - 26. Water Street From Main Street to and through Ocean Street.

Sec. 17-806 Schedule VI. Stop Signs

1. -A-

- Acadia Drive at Pen Bay Avenue Eff: 11/10/89
- Acadia Drive at Summit Road Eff: 11/10/89
- Achorn Street at Camden Street
- Achorn Street at Front Street
- Admontem Avenue at North Main Street
- Amesbury Street at Broadway
- Amesbury Street at North Main Street
- Autumn Street at Lovejoy Street

2. -B-

- Bayview Square at Camden Street
- Beacon Street at Traverse Street Eff: 11/10/89
- Beech Street at Broadway, E
- Beech Street at Broadway, W
- Beech Street at Lincoln Street
- Beech Street at Union Street
- Belvidere Street at New County Road
- Belyea at Camden Street
- Benner Road at Mountain Road Eff: 11/10/89
- Berkley Street at Broadway
- Berkley Street at Orange Street
- Birch Street Place at Birch Street
- Blake Lane at North Main Street Eff: 11/10/89
- Bog Road at Mountain Road, N Eff: 11/10/89
- Bog Road at Mountain Road, S Eff: 11/10/89
- Bog Road at Benner Road Eff: 11/10/89
- Brewster Street at Cedar Street, N
- Brewster Street at Cedar Street, S
- Brewster Street at Maverick Street

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Brewster Street at Warren Street
Brick Street at Pleasant Street
Broad Street at Park Street, N
Broad Street at Park Street, S
Broad Street at Pleasant Street
Broadway at Birch Street
Broadway at North Main Street
Broadway at Thomaston Street

Bunker Street at Cedar Street
Bunker Street at Warren Street
Burrows Street at Pleasant Street

3. -C-

Camden Street Terrace at Camden Street
Carroll's Lane at South Main Street
Cedar Street at Birch Street
Cedar Street at Broadway
Cedar Street at Camden Street
Cedar Street at Old County Road
Center Street at Traverse Street, E
Center Street at Traverse Street, W
Chestnut Street at Broadway
Chestnut Street at North Main Street
City Place at Ulmer Street
Claremont Street at Limerock Street
Claremont Street at Masonic Street
Clarendon Street at South Main Street
Clarendon Street at Suffolk Street
Columbia Avenue at New County Road
Columbia Avenue at Pleasant Street
Cottage Street at Main Street
Cottage Street at North Main Street
Court Street at Broadway
Court Street at Gay Street
Crescent Street at Pacific Street, E
Crescent Street at Pacific Street, W
Crescent Street at Scott Street
Crescent Street at South Main Street
Crescent Street at Suffolk Street, E
Crescent Street at Suffolk Street, W
Custom House Place at Limerock Street
Custom House Place at School Street

Eff: 11/10/89

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4. -D-

Deerfield Lane at Lakeview Terrace
Dunton Avenue at South Main Street

Eff: 11/10/89

5. -E-

Edwards Street at Holmes Street
Eliza Steele Drive at Broadway
Elm Street at Main Street

Eff: 11/10/89

6. -F-

F
Fales Street at Camden Street

Fern Street at Talbot Avenue
Field Street at New County Road
Florence Street at South Main Street
Florence Street at State Street, E
Florence Street at State Street, W
Fogg Street at Rankin Street
Fogg Street at Willow Street
Franklin Street at Holmes Street
Franklin Street at Pleasant Street
Frederick Street at Cedar Street
Frederick Street at Maverick Street
Front Street at Camden Street
Fulton Street at Pacific Street
Fulton Street at South Main Street
Fulton Street at Suffolk Street, E
Fulton Street at Suffolk Street, W

7. -G-

Gamage Lane at South Main Street
Gay Street at Broadway, E
Gay Street at Broadway, W
Gay Street at North Main Street
Gay Street Place at Gay Street
Glen Street at Camden Street
Glen Street at Waldo Avenue
Glenwood Avenue at Payne Avenue
Gordon Drive at Moran Drive E
Gordon Drive at Moran Drive W
Gordon Drive at Thomaston Street
Grace Street at Broad Street, E
Grace Street at Broad Street, W
Grace Street at Broadway
Grace Street at High Street, E
Grace Street at High Street, W
Grace Street at Union Street
Grace Street Place at Grace Street
Granite Street at Union Street, E
Granite Street at Union Street, W
Granite Street at Broadway
Griffin Avenue at Camden Street
Griffin Avenue at Jefferson Street
Grove Street at Lincoln Street
Grove Street at Union Street
Gurdy Street at North Main Street

Eff: 11/10/89

Eff: 11/10/89

Eff: 09/13/95

Eff: 09/13/95

Eff: 11/10/89

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8. -H-

Hall Street at South Main Street
High Street at Grace Street, N
High Street at Grace Street, S
High Street at Limerock Street
High Street at Masonic Street, N
High Street at Masonic Street, S
High Street at Park Street
Highland Street at Limerock Street
Highland Street at Park Street
Hill Street at Broadway

Hill Street at Fogg Street
Historic Parking Lot at Tillson Avenue
Holmes Street at Broadway, E
Holmes Street at Broadway, W
Holmes Street at South Main Street

9. -I-

Ingraham Lane at South Main Street

10. -J-

James Street at Main Street
James Street at North Main Street
Jefferson Street at Cedar Street
Jefferson Street at Maverick Street
John Street at Cedar Street
John Street at Warren Street

11. -K-

Katahdin Avenue at Acadia Drive
Katahdin Avenue at Pen Bay Avenue
Katahdin Avenue at Summit Road
Kelley Lane at Thomaston Street
Knott Street at Cedar Street
Knott Street at Maverick Street
Knowlton Street at Gay Street
Knox Street at Warren Street
Knox Street at Cedar Street

Eff: 11/10/89

12. -L-

Lake Avenue at Lakeview Drive
Lake Avenue at Old County Road
Lakeview Terrace at Old County Road
Lawn Avenue at Broadway
Lawn Avenue at Melrose Circle
Lawn Avenue Extension at Cedar Street
Lawn Avenue Extension at Melrose Circle
Lawrence Street at Atlantic Street
Lawrence Street at Pacific Street, E
Lawrence Street at Pacific Street, W
Lawrence Street at Suffolk Street, E
Lawrence Street at Suffolk Street, W
Lawrence Street Extension at South Main Street
Laurel Street at South Main Street
Laurel Street at Water Street
Leland Street at Gay Street
Leland Street at Rankin Street
Lime Street at Tillson Avenue
Limerock Street at Broadway, E
Limerock Street at Broadway, W
Limerock Street at Old County Road
Lincoln Street at Summer Street, N
Lincoln Street at Summer Street, S
Lincoln Street at Limerock Street
Lincoln Street at Talbot Avenue
Linden Street at Pacific Street, E
Linden Street at Pacific Street, W
Linden Street at Scott Street

Eff: 11/10/89

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Eff: 03/09/87

Linden Street at Suffolk Street
Lindsey Street at Main Street
Lisle Street at Park Street
Lisle Street at Pleasant Street
Lovejoy Street at Holmes Street
Lovejoy Street at Thomaston Street
Luce Avenue at Pleasant Street

13. -M-

Maple Street at Lincoln Street
Maple Street at White Street
Maple Street Extension at Lincoln Street
Marks Lane at Thomaston Street
Marine Street at Atlantic Street
Marine Street at Pacific Street
Masonic Street at Broad Street, E
Masonic Street at Broad Street, W
Masonic Street at Broadway, E
Masonic Street at Broadway, W
Masonic Street at High Street, E
Masonic Street at High Street, W
Masonic Street at Highland Street
Masonic Street at Union Street
Maverick Street at Camden Street, E
Maverick Street at Camden Street, W
Maverick Street at Front Street
McCloud Street at Pacific Street
McCloud Street at Scott Place
McCloud Street at Suffolk Street
Mechanic Street at South Main Street
Melrose Circle at Lawn Avenue, N
Melrose Circle at Lawn Avenue, S
Melrose Circle at Lawn Avenue, E
Melrose Circle at Lawn Avenue, W
Merry Street at Glenwood Avenue
Moran Drive at Gordon Drive, N
Moran Drive at Gordon Drive, S
Moran Drive at Thomaston Street
Moran Drive at Merrill Drive
Mountain Road at Bog Road
Mountain Road at West Meadow Road
Mountain Road Extension at Lakeview Terrace, N
Mountain Road Extension at Lakeview Terrace, S
Museum Street at Union Street
Myrtle Street at Main Street
Myrtle Street at Union Street

Eff: 11/10/89

Eff: 11/12/93

Eff: 11/10/89

Eff: 11/10/89

Eff: 11/10/89

Eff: 11/10/89

Eff: 11/10/89

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14. -N-

New County Road at Route 1
North Main Street at Birch Street
North Main Street at Main Street
North Main Street at Maverick Street
North Main Street at South Main Street
North Street at Water Street

15. -O-

Oak Street at Union Street
Ocean Street at South Main Street
Ocean Street at Water Street
Ocean View Avenue at Main Street
Old County Road at Maverick Street, N
Old County Road at Maverick Street, S
Oliver Street at Limerock Street
Oliver Street at Park Street
Olympic Avenue at Acadia Drive
Olympic Avenue at Pen Bay Avenue
Orange Street at Holmes Street
Orange Street at Pleasant Street
Orient Street at Union Street
Orchard Street at Traverse Street, E
Orchard Street at Traverse Street, W
Otis Street at South Main Street
Otis Street at Suffolk Street

Eff: 11/10/89

16. -P-

Pacific Street at Mechanic Street
Pacific Street at Ocean Street
Park Drive at Tillson Avenue
Park Street at Payne Avenue, E
Park Street at Payne Avenue, W
Payson Lane at Main Street
Pen Bay Avenue at Camden Street
Perry Street at Camden Street
Perry Street at Front Street
Pheasant Drive at Lakeview Terrace
Philbrick Avenue at Camden Street
Pine Street at Cedar Street, N
Pine Street at Cedar Street, S
Pine Street at Maverick Street
Pine Street at Warren Street
Pleasant Street at Broadway, E
Pleasant Street at Broadway, W
Pleasant Street at Main Street
Pleasant Street at New County Road
Pleasant Street at Route 1, N
Pleasant Street at Route 1, S
Pleasant Street Extension at Pleasant Street
Prescott Street at Broadway
Prescott Street at Orange Street
Prospect Street at Holmes Street
Public Landing (Exit) at Main Street
Purchase Street at Holmes Street
Purchase Street at Pleasant Street

Eff: 11/10/89

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17. -Q- (Reserved)

18. -R-

Rankin Street at Broadway, E
Rankin Street at Broadway, W

Rankin Street at Old County Road
Rankin Street at Union Street
Robinson Street at Main Street
Robinson Street at State Street
Rockland Street at Main Street
Rockland Street at North Main Street
Rocky Hill Avenue at Bayview Square
Rocky Hill Avenue at Philbrick Avenue

19. -S-

Samoset Road at Waldo Avenue
School Street at Main Street
Schooner Drive at Waldo Avenue
Scott Street at Crescent Street
Sea Street Place at Tillson Avenue
Shaw Avenue at Beech Street, N
Shaw Avenue at Beech Street, S
Shaw Avenue at Limerock Street
Shaw Avenue at Summer Street
Sherer's Lane at Old County Road
Simmons Street at Cedar Street
Simmons Street at North Main Street
Snow Street at Mechanic Street
South Street at Atlantic Street
South Street at Pacific Street, E
South Street at Pacific Street, W
Spruce Street at Cedar Street
Spruce Street at Maverick Street
Stanley Lane at North Main Street
State Street at Holmes Street
State Street at Pleasant Street
Suffolk Street at Crescent Street, N
Suffolk Street at Crescent Street, S
Suffolk Street at Ocean Street
Summer Street at Broadway, E
Summer Street at Broadway, W
Summer Street at Lincoln Street, E
Summer Street at Lincoln Street, W
Summer Street at Union Street, E
Summer Street at Union Street, W
Sweetland Street at Gay Street
Sweetland Street at Rankin Street

Eff: 11/10/89

Eff: 11/10/89

Eff: 06/07/95

Eff: 06/07/95

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20. -T-

Talbot Avenue at Broadway, E
Talbot Avenue at Broadway, W
Talbot Avenue at Main Street
Talbot Avenue at Old County Road
Talbot Avenue at Union Street
Tea Street at Leland Street
Temple Street at Willow Street
Thomaston Street at South Main Street
Thompson Street at Old County Road
Tolman Road at West Meadow Road
Transfer Station Access at Limerock Street
Traverse Street at Rankin Street

Eff: 11/10/89

Eff: 11/10/89

Traverse Street at Talbot Avenue
Trinity Street at Camden Street
Trinity Street at Front Street

21. -U-

Ulmer Street at Limerock Street
Union Lane at Lovejoy Street
Union Street at Pleasant Street

Eff: 11/10/89

22. -V-

Valley View Street at Broadway
Valley View Street at Lovejoy Street

Eff: 11/10/89

23. -W-

Waldo Avenue at Camden Street
Walker Place at Broadway
Walnut Street at Park Street
Warren Street at Main Street
Warren Street at North Main Street
Washington Street at Camden Street
Water Street at Ocean Street
Weeks Street at Tillson Avenue
West Meadow Road at Sherer's Lane, N
West Meadow Road at Sherer's Lane, S
West Meadow Road at Lake Avenue
Wharf Street at Tillson Avenue
White Street at Beech Street
White Street at Limerock Street
Willow Street at Broadway
Willow Street at Main Street
Willow Street at Union Street
Willow Street Extension at Broadway
Winter Street at Main Street
Winter Street at Park Drive, E
Winter Street at Park Drive, W
Winter Street at Weeks Street
Woodland Road at Beech Street
Woodland Road at Summer Street

Eff: 11/10/89

Eff: 04/13/94

Eff: 04/13/94

Eff: 11/10/89

Eff: 11/10/89

24. - X -

(Reserved)

25. - Y -

(Reserved)

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26. - Z -

(Reserved)

Sec. 17-807 Schedule VII. Yield Signs

1. Main Street. Main Street at Rankin Street.
2. New County Road. New County Road at Park Street.
3. Olympic Avenue. Olympic Avenue at Pen Bay Avenue.
4. Park Drive. Park Drive at Winter Street.
5. Upper Pleasant Street. Upper Pleasant Street at Park Street.

6. Water Street. Water Street at Main Street.

Sec. 17-808 Schedule VIII. Special Traffic Restrictions

1. Right Turn Only.

A. Trinity Street. Vehicles exiting Trinity Street onto Camden Street may only turn right onto Camden Street's northbound lane. Left turns are prohibited.

B. North Main Street. Vehicles traveling south on North Main Street may only turn right onto Main Street. Left turns onto Main Street are prohibited at that intersection. Eff: 12/14/11

2. Weight Limits.

For the purpose of avoiding unsafe conditions or excessive damage to the affected streets, vehicular travel over the following streets shall be limited to vehicles under twenty thousand (20,000) pounds in gross registered weight, with the exception of emergency vehicles; school buses; vehicles used in the repair and maintenance of utilities, streets, and sidewalks; vehicles used in the delivery of home heating oil and operating in accordance with a permit issued by the Maine Department of Transportation; non-commercial vehicles owned or leased by a resident of such streets; and vehicles used in the collection of municipal solid waste from, the delivery of goods to, or the construction, maintenance, or repair of buildings accessed by said streets within Rockland city limits whose drivers present to the investigating police officer or his designee a delivery order or other documentation that such vehicle or equipment is traveling to or from such a property.

- A. Luce Avenue.
- B. Crescent Street.
- C. Scott Street.
- D. Field Street. Eff: 7/14/93
- E. Pleasant Street. Pleasant Street easterly from Pleasant Street Extension to Main Street. Eff: 12/14/18
- F. Waldo Avenue. Eff: 08/13/03
- G. Samoset Road. Eff: 06/08/05
- H. Glen Street Eff: 11/12/10
- I. Oliver Street Eff: 09/07/16
- J. Bog Road Eff: 12/14/18

3. No vehicle weighing more than 20,000 pounds, Gross Vehicle Weight (GVW) (vehicle and load combined) shall be permitted on the streets/roads of Rockland listed below, between the dates of March 1st and May 31st of each year, except when the surface of the road is solidly frozen, or is exempt in Rockland City Ordinance section 17-808, in which case permission from the Public Services Director or designee shall be obtained: Eff: 12/14/18

- A. Limerock Street (from Old County Road to Broadway)
- B. Mountain Road
- C. Sherer's Lane
- D. Thomaston Street
- E. Tolman Road
- F. West Meadow Road

Eff:

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4. Trucks Prohibited.

No trucks with a gross vehicle weight rating in excess of twenty-thousand (20,000) pounds may enter or exit Tillson Avenue at its intersection with Main Street. Eff: 8/9/06

5. Enforcement.

A violation of this section is a traffic infraction in violation of Title 29-A, Maine Revised Statutes, Section 2395, punishable by a fine, which may not be suspended, in the amount established by the State of Maine Violations Bureau pursuant to Title 29-A, Section 2395(7) and Title 4, Section 164(12) of the Maine Revised Statutes. State Law Ref.: 29-A M.R.S. § 2395; 4 M.R.S. § 164(12). Eff: 11/12/10

Sec. 17-809 Schedule IX. Handicapped Parking Spaces

Handicapped parking spaces shall be established and clearly designated and maintained as such in the following areas:

1. Orient Street Municipal Parking Lot - Two (2) handicapped parking spaces.
2. Public Landing - One (1) handicapped parking space.
3. 481 Main Street - One (1) handicapped parking space. Eff: 2/9/00
4. Maple Street – Two (2) handicapped parking spaces (south side at intersection of White Street). Eff: 2/9/00
5. 389 Main Street - One (1) handicapped parking space.
6. Public Library - One (1) handicapped parking space (south side).
7. Recreation Center - Two (2) handicapped parking spaces (rear, east side). One (1) handicapped parking space adjacent to Limerock Street entrance to parking lot. Eff: 10/12/94
8. Custom House Municipal Parking Lot - One (1) handicapped parking space. Eff: 2/9/00
9. Granite Street - One (1) handicapped parking space (south side).
10. Public Safety Building - One (1) handicapped parking space.
11. City Hall – Two (2) handicapped parking space. Eff: 2/9/00
12. Park Street – Two (2) two-hour handicapped parking spaces (north side, twelfth space west of the intersection of Park and High Streets, north side, third space west of the intersection of Park and Union Streets). Eff: 11/18/09
13. Elm Street - One (1) handicapped parking space (north side, fourth space west of intersection of Elm and Main Streets). Eff: 08/10/16
14. Thorndike Parking Lot (so-called) – Three (3) handicapped spaces, one (1) space on the southerly side of the lot, one (1) space at the southwest corner of the lot, and one (1) space at the northeast corner of the lot. Eff: 1/10/07
15. Tillson Avenue – One (1) handicapped parking space, north side 40 feet east of the Thorndike Parking entrance. Eff: 7/8/15
16. 256 Main Street – One (1) handicapped parking space. Eff: 10/11/17
17. Rankin Center Parking Lot – One (1) handicapped parking space, first space on the southerly side from North Main Street. Eff: 12/14/18
18. Middle Pier – One (1) handicapped parking space, first space on the south side. Eff: 12/14/18

ARTICLE IX Establishment of Fire Lanes

Sec. 17-901 Purpose

Eff: 3/18/85

Fire Lanes are established for the purpose of promoting the public health, safety and welfare by recognizing that there exists and in the future will exist buildings and other areas within the City within which and to which the public will be invited, served or housed. These buildings or other areas must be provided prompt and adequate emergency services including access by firefighters and fire-fighting equipment and other emergency personnel and equipment in order to accomplish said purposes and affect the savings of life and property in emergency situations.

Sec. 17-902 Definitions

(a) A "fire lane" is defined for the purposes of this article as a designated unobstructed passageway at least twenty (20) feet in width with an outside turning radius of fifty (50) feet and constructed and maintained in a manner to permit free passage of fire apparatus and other emergency equipment and personnel from a public way to all necessary areas, regardless of season of year or weather conditions, around buildings, in areas or in developments or subdivisions as may be required elsewhere in this article.

(b) "Parking area" as defined in this article means lots, areas or other accommodations for the parking of vehicles off the street, alley or other way, which said lots, areas or other accommodations are available for use by the public either with or without charge.

Ch. 17, Sec. 17-809

Sec. 17-903 Applicability

The provisions of this article shall, in order to accomplish the stated purpose, be applicable to all proposed and existing developments, subdivisions, buildings, and other premises which are included within the following:

- (a) Nonresidential subdivisions or developments;
- (b) Residential subdivisions or developments;
- (c) Any proposed construction requiring site plan review;
- (d) All schools whether public or private;

- (e) Hospitals;
- (f) Convalescent homes, rest homes, free-standing clinics and nursing homes;
- (g) In addition to the foregoing, all other places of public assembly used for gathering together of fifty (50) or more persons.

Sec. 17-904 Establishment of Fire Lanes in the City

(a) Each application for residential or nonresidential subdivision approval and each application for site plan review submitted to the Planning Board shall be reviewed by the Chief of the Rockland Fire Department. The said Fire Chief shall review each such application to determine the location of such fire lanes as are necessary under this article and report his findings, recommendations and suggested designation of fire lanes to the Planning Board in writing, which findings, recommendations, and suggested designations of fire lanes shall be made a part of the record of proceedings before the Planning Board on each such subdivision site plan review application. In such cases, the decision of the Planning Board shall govern the requirements and designation of said fire lanes.

(b) In any application for a building permit, occupancy or change of use permit not requiring subdivision of site plan review and approval but otherwise included within section 17-903 above, the building inspector shall notify the Fire Chief of the application for permit and the Fire Chief shall designate directly to the owner, owners or agent of the premises for which permit application is made the location of required fire lanes.

(c) Within existing developments and premises to which this article is applicable, the Fire Chief shall designate fire lanes by written order and shall notify in writing both the Rockland Planning Board and the owner, owners or agents of such development or premises by certified mail of such designation and of any specific requirements for compliance with this article and, shall publish notice of such establishment of such fire lanes once in a newspaper having general circulation within the City of Rockland. The Fire Chief shall file one copy of any order of designation of any such fire lanes with the City Clerk. Any person aggrieved by such order may file with the clerk within fifteen (15) days after the date of the receipt of such order written notice of appeal, setting forth therein reasons for aggrievement. A public hearing shall be held by the Rockland Planning Board after which the Board must affirm, modify or rescind such order within thirty (30) days of the public hearing. The board shall notify the Fire Chief, as may be applicable, by written communication, any and all action taken relative to the establishment of a fire lane.

Sec. 17-905 Maintenance and Identification of Fire Lanes

Fire lanes established under this article shall be kept free of ice and snow and rubbish containers or other obstructions. The owner, owners, agent or occupant of any premises to which this article is applicable shall cause to be erected, installed and maintained at their own expense, permanent, adequate signs bearing the words "FIRE LANE -- NO PARKING -- VEHICLES WILL BE TOWED AT OWNERS EXPENSE" in or adjacent to said fire lanes. Such owner, owners, agent or occupant shall cause such other and further designations as are reasonably required by the Fire Chief to warn persons to keep said fire lanes unobstructed. Failure to maintain a fire lane in accordance with this section shall render the owner, owners, agent or occupant of said development liable to a fine in accordance with the general penalty provision of this Code, with each continuing day of such violation constituting a separate offense.

Sec. 17-906 Compliance

Notice of establishment of fire lanes shall prescribe a reasonable time for compliance. If compliance is not obtained within said time, then such owner, owners or agent shall be subject to a fine in accordance with the general penalty provision of this Code. Each day following such specified time for compliance shall constitute a new and separate offense.

Sec. 17-907 Parking Prohibited

No person shall park or permit to stand, a motor vehicle in any fire lane established in accordance with Ch. 17, Sec. 17-903 except when actually picking up or discharging passengers or actively engaged in loading or unloading a motor vehicle. Violations of this section are subject to the provisions for violations of the parking ordinance set forth in Article IV, Sections 17-420. Eff: 03/13/13

Sec. 17-908 Separability

Any provision of any city ordinance in conflict herewith is hereby repealed. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this article, or any part thereof, is held to be ineffective by any Court of competent

jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this article.

Sec. 17-909 Table of Location of Fire Lanes

The Council shall establish by order a schedule of "Fire Lanes" and kept on file in the office of the City Clerk. Said schedule may be amended from time to time by Council order.

Ch. 17, Sec. 17-907

Ch. 17, Sec. 17-908

CHAPTER 18 Utilities

ARTICLE I Utility Facilities; Location Permits

Sections

- 18-101 Purpose
- 18-102 Definitions
- 18-103 Conduit Districts
- 18-104 Location Permits and Requirements

ARTICLE II General

- 18-201 Agreement to Ordinance Provisions
- 18-202 Information
- 18-203 Liability
- 18-204 No Bond Requirement
- 18-205 No Permanent Rights
- 18-206 Ordinances
- 18-207 Shut Off Electric Current
- 18-208 Penalty

CHAPTER 18
Utilities

ARTICLE I Utility Facilities; Location Permits

Sec. 18-101 Purpose

The purpose of this ordinance is to protect the public health, safety, and welfare by assuring the proper placement of utility facilities in public ways and on City property, in such manner as to improve and avoid the impairment of, vehicular and pedestrian access to and passage over and along streets and sidewalks or the use of City property, and as otherwise required or deemed appropriate in the best interests of public safety and travel.

Sec. 18-102 Definitions

Utility Facility. "Utility Facility" means:

- A. If under the surface of the public way, any pipe, cable, or conduit; and
- B. If on or over the surface of the public way, any pole, guy, hydrant, cable, wire, or any other plant or equipment located or proposed to be located on or over the surface of the public way.

State Law Ref.: 35-A M.R.S. § 2502(3).

Sec. 18-103 Conduit Districts

Conduit Districts. The City Manager is authorized to effect agreements with public utility companies using the streets of the City relative to conduit districts, subject to the approval of the City Council; thereafter no person shall set any additional electric power, telegraph or telephone poles within the conduit districts thus established, subject to such reasonable exceptions as may be contained in such agreements. Such agreements shall provide, free of cost to the City, one duct in each conduit excavation for the use of the City.

Sec. 18-104 Location Permits and Requirements

1. Permit Required. No person, firm or corporation shall place, maintain, or change the location of or cause to be placed, maintained or the location changed, of any utility facility under, on, or above any public right-of-way, including streets and sidewalks, or property of the City without first applying in writing for and obtaining a permit therefor from the City. No such permit shall be required (A) when, pursuant to Title 35-A, Maine Revised Statutes, Section 2502 or other Maine statute the City is not the primary licensing authority, or (B) for any facility installed by or on behalf of the City, or serving any building or facility of the City. The location of underground utility facilities may be permitted in the street opening permit issued pursuant to Article IV of this chapter, so long as such permission is not inconsistent with any applicable provision of this Article.

2. Permit Terms. The terms of the permit, which shall be included in the application and agreed to therein by the applicant over his signature, shall include:

A. One Gain Reserved for Municipal Use. Agreement that one gain on each pole, below the electric power company's wires and above the telephone company's lines or cables shall be reserved on all new and reconstructed pole plant for municipal purposes free of cost to the City;

B. No Permanent Rights. Agreement that no permanent rights shall be obtained in the streets or public grounds by reason of such erection or other action for which permit is requested, or by reason of continuous use of streets, or for any other reason;

C. Subject to Removal. Agreement that such utility facilities shall be subject to change of location or removal when deemed necessary for the public interests by the City Council;

D. Fire Fighting. Agreement that in case of fire, if necessary, such poles and wires may be cut or removed by order of the Fire Chief without claim upon the City therefor;

E. Height; Finish. Agreement that all poles and other facilities, as applicable, shall be of such height, and be finished and painted in such manner as the City may prescribe;

F. Compliance With Ordinance. Agreement and assent to all of the applicable provisions of this Chapter;

G. Indemnification. Agreement to indemnify and save harmless the City of Rockland against all liability, judgments, costs and expenses which may in any manner accrue against the City because of any negligence or alleged negligence in the

performance of the work for which the permit is granted, or because of any negligence or alleged negligence in connection with the maintenance and use of such poles and wires, or in consequence of the granting of this permission;

H. Compliance With Conditions of Permit. Agreement that the applicant will in all things comply strictly with all the conditions of the permit.

I. Location. Agreement that utility facilities will be placed only at the specific locations identified in the permit. Utility poles shall be placed at the outer edge of the right-of-way except where such placement is precluded by existing principal structures or underground utilities, in which instances the poles shall be placed next to but outside the street and any paved or unpaved shoulder if such location is not otherwise prohibited hereunder. When sidewalks are substantially repaired, or reconstructed, when any curb shall be replaced or realigned, and when any new sidewalks are constructed, utility poles and other facilities within the sidewalk area shall be relocated, at the utility's expense, to between the proposed edge of the sidewalk and the property line upon thirty (30) days' notice by the City of Rockland of the proposed sidewalk installation. In no event shall any utility pole or other facility be placed, replaced, or remain, in any sidewalk in such a manner as to reduce the useable sidewalk width below the minimum appropriate width for passage by the disabled and others pursuant to the Americans with Disabilities Act.

J. Poles; Identification. All poles placed or maintained by any public utility company shall be designated, by stencil, with the name of the company owning the same.

K. Poles; Maintenance and Replacement. Whenever from any cause any of the poles get out of an upright position, so that they become unsightly and disfigure any street, alley, lane or court, the owner thereof shall right the same as soon as possible, and shall keep the same at all times in good appearance. Whenever the utility shall install a replacement pole, such utility shall (1) size and equip the pole as to accommodate all existing and proposed above-ground utilities located in or above the street in the vicinity of the replacement pole; (2) locate the pole outside the area of the street and sidewalk; (3) immediately remove the replaced pole; and (4) fully restore the condition of the street, sidewalk, or soil, as may be applicable, at the location of the replaced pole, to the satisfaction of the Public Works Director.

5. City Wires; No interference. All persons and corporations are prohibited from affixing or attaching any wire or cable to any pole in the gain or space provided and maintained for the wire of police signal and communication lines of and/or other uses by the City, which, in the judgment of the City Electrician may interfere in any manner with the City's wire operations.

State Law Reference: 35-A M.R.S. §§ 2301-2309, 2509-2515.

6. Administration. The City Clerk may not issue a location permit for any utility facility until the City Manager shall have reviewed and indicated his assent to the same, listing any additional conditions that, in the best interests of the City and to assure unobstructed vehicular and pedestrian travel, may be reasonably required. The City Council shall, in conformance with 35-A M.R.S. § 2503, hear and rule upon any objection to a location permit application and, upon the applicant's written application therefor within 30 days, of any appeal by an applicant of the denial, or conditional grant, of a location permit. The City Manager shall order the removal of utility facilities installed in any street, sidewalk, or public place without a permit.

ARTICLE II General

Sec. 18-201 Agreement To Ordinance Provisions

The erection by any person or corporation of any wire, pole or other fixture for the purposes aforesaid in the City of Rockland, or the installation of any new underground structure or facility, after the passage of this Chapter, shall be held to be an agreement, on the part of such person or corporation, to all of the requirements, rules, conditions and provisions contained in this Chapter.

Sec. 18-202 Information

All public utilities operating in the City shall file with the City Manager whenever so requested by him, details of their underground structures within the public street or alleys and likewise file copies of their general layout maps insofar as public streets, alleys and other public property are affected, including information as to location of poles, number of wires thereon, and such other information as the City Manager may deem necessary and require to comply with the requirements of any ordinance.

Sec. 18-203 Liability

Every person or corporation erecting, maintaining or using any such poles or wires shall, in case of loss or damage, indemnify and save harmless the City of Rockland its officers, agents and servants from and against all claims and demands for

injuries to persons or property, occasioned or alleged to be occasioned by the existence or use of such poles, wires, or the transmission of electric currents by means thereof; and the City, its officers, agents and servants, exercising the rights and powers given to them by any ordinance, shall not be held liable by such person or corporation on account thereof, by reason of any injury or damage caused thereby.

State Law Reference: 14 M.R.S. §§ 8101 *et seq.*

Sec. 18-204 No Bond Requirement

No recognized public utility company shall be required by the City to furnish a bond or insurance in connection with any of its operations in the City.

State Law Reference: 14 M.R.S. § 871.

Sec. 18-205 No Permanent Rights

No permanent rights shall be obtained in the streets or any public grounds by reason of erection of any poles, placing of any wires or poles, or by reason of continuous use of streets, or for any other reason.

Sec. 18-206 Ordinances

All public utility companies operating in the City shall be subject to the provisions of all ordinances of the City, with regard to all portions of their operations carried on in the public streets.

Sec. 18-207 Shut Off Electric Current

The Fire Chief in case of fire, if in his opinion necessary, and the City Electrician, whenever in his opinion the public safety so requires, shall have authority to direct any person or corporation using or operating any wires strung anywhere in the City for purposes of carrying electric current, to shut off the electric current from such wires as he knows or believes are dangerous to life or property for such a period of time as he may deem necessary. Any such person or corporation who shall refuse to shut off such current in accordance with such order shall be liable to a penalty of fifty dollars (\$50) for each and every hour during which such order shall be disregarded. It shall be the duty of all power companies to post a rule in their power houses and elsewhere as they may deem necessary to insure instruction of their employees of this Section and their compliance therewith.

Sec. 18-208 Penalty

Any person violating the provisions of this Chapter, except as otherwise provided, shall be subject to a fine or penalty of not exceeding five hundred dollars (\$500) for each offense, to be recovered by complaint before the Maine District Court, for the use of the City.

Eff: 07/10/13

CHAPTER 19
Zoning and Planning

ARTICLE I Planning Board

Sections:

- 19-101 Establishment of Board
- 19-102 Organization; Term
- 19-103 Director of Planning
- 19-104 City Council; Planning and Zoning Powers
- 19-105 Platting Approval
- 19-106 Official Maps

ARTICLE II Board of Appeals

- 19-201 Board Established; Membership
- 19-202 Powers and Duties; Conduct of Appeals

ARTICLE III Zoning Ordinance

- 19-301 Zones Authorized, Bounded, and Defined; Rules of Construction
- 19-302 Words and Phrases Defined
- 19-303 General Provisions
- 19-304 Zone Regulations
- 19-305 Regulations of Mobile Homes; House Trailers; and Mobile Home Parks
- 19-306 Clustered Housing
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- 19-311 Change of Use
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ARTICLE IV Comprehensive Plan

- 19-401 Comprehensive Planning
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- 19-404 Duties of Comprehensive Planning Commission
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ARTICLE V Energy Advisory Committee

- 19-501 Establishment of Committee
- 19-502 Organization; Term
- 19-503 Duties of the Energy Advisory Committee

ARTICLE VI Floodplain Management Ordinance

CHAPTER 19
Zoning and Planning

ARTICLE I Planning Board

Sec. 19-101 Establishment of Board

A Planning Board is hereby established as authorized by and in accordance with the terms of the Revised Statutes of Maine and by any subsequent amendments thereto.

Sec. 19-102 Organization; Term

The Board shall consist of five (5) members who shall be appointed by the Mayor and confirmed by the City Council, none of whom shall hold any other public office or position in the City. The City Manager (or designee) and Mayor (or designee) shall serve as ex-officio non-voting members of the Board. The Board shall elect annually, in January of each year, its Chair and Secretary from among its appointive members, except that after the appointment of a Director of Planning he such Director may be designated to serve as Secretary. Should the position of Chair become vacant during such year, the Board shall elect another of its member to serve as Chair for the remainder of that year. The term of the appointive members shall be three (3) years, except that of the five (5) first appointed, one (1) shall be appointed for a term of one (1) year, two (2) for two (2) years, and two (2) for three (3) years. Such terms shall expire December 31 of each year as designated. As of the effective date of this section, no member shall be elected as chair of the Board more than six (6) consecutive times; and as of the effective date of this section no member shall serve more than five (5) consecutive terms on the Board. Service on the Board prior to the effective date of this section shall not be included in such calculations. The secretary shall be responsible for taking minutes at each meeting of the Board, and shall forward copies of the minutes to the City Manager for distribution once such minutes are accepted by the Board. There shall also be one (1) alternate member of the Board who shall serve a term of three (3) years. The alternate member shall attend all meetings of the Board, may participate in any discussions or hearings, but shall only vote on Board matters if a full quorum is not present at such meeting. When a vacancy occurs on the Board, the alternate member may be appointed to fill such vacancy. Eff: 11/09/18

Sec. 19-103 Director of Planning

The City Manager may appoint a Director of Planning, to be confirmed by the City Council, who shall be the regular technical advisor to the Board, may also be designated its Executive Secretary, and shall have such other authority, duties and responsibilities under the direction and control of the City Manager as the City Manager may require and establish. Eff: 4/14/88

Sec. 19-104 City Council; Planning and Zoning Powers

To provide for the preparation by the Comprehensive Planning Commission of coordinated plans for the development of the City and for their enforcement, the City Council may, in such measure as is deemed reasonably necessary in the interest of health, safety, or the general welfare, regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence or other purpose; the height, number of stories, area, bulk, and construction of buildings and other structures; the size and width of lots and of yards and other open spaces thereon; the density of population; the setback of buildings along streets, parks, or public waters; the subdivision and development of land; and the erection of buildings within the lines of streets, ways, or parks shown on an official map or not abutting on approved streets. For the purpose of any such regulation it may adopt a zoning plan dividing the City into zones of such number, shape, and extent, and may establish an official map or maps and development plans of the whole or any portion of the area of the City, as may be deemed best suited to carry out the purpose of this Section. Such regulations may include requirements as to the extent to which and the manner in which streets shall be improved and drainage and utilities shall be installed or assured as a condition precedent to the approval of a plat or subdivision. Eff: 1/11/95

All such regulations shall be worked out as parts of a comprehensive plan for the development of the City, and shall be designed, among other things, to encourage the most appropriate use of land throughout the City; to lessen traffic accidents and congestion; to secure safety from fire and other dangers; to provide adequate light and air; to prevent overcrowding of land and population; to promote a wholesome and agreeable home environment; to prevent the development of unsanitary areas for housing purposes; to secure a well-articulated and adequate street system; to promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve natural resources; or to facilitate the adequate provision of transportation, water, sewerage, and other public utilities, services, and requisites.

The City Council may rezone property under this Chapter pursuant to the provisions for conditional and contract zoning outlined in 30-A M.R.S. § 4352(8). The following requirements must be met:

Ch. 19, Sec. 19-101

- a. All conditional or contract rezoning must be consistent with the comprehensive plan established under Article IV of this Chapter, and not incompatible with existing and permitted uses within the original zones.
- b. Only conditions and restrictions relating to the physical development or operation of the property may be imposed under this section.
- c. The Planning Board must conduct a public hearing before any property is rezoned by the City Council under this section, and the notice of this hearing must be posted in the municipal office at least 13 days before the public hearing.
- d. Notice of this hearing must also be published at least two times in a newspaper having general circulation in Rockland, the first publication to be at least 7 days before the hearing.
- e. Notice must be sent to the owners of all property to be rezoned and to the owners of all property abutting the property to be rezoned, which notice shall contain a copy of the proposed conditions and restrictions, and a map indicating the property to be rezoned.
- f. The Planning Board shall have reported back its recommendations in regard to the proposed rezoning under this section or be deemed to have approved the rezoning pursuant to Section 19-107, before the City Council shall take final action.
- g. Fees – Applicants seeking conditional or contract rezoning shall pay an application fee to be established by Order of the City Council to defray the expense associated with publication of the required notices, and pay the City for legal services provided by the City Attorney for drafting the proposed ordinance amendment, representing the City at Planning Board and/or Comprehensive Planning Commission reviews of the proposed ordinance amendment, and other necessary legal services necessitated by the application, at the hourly rate established for the City Attorney by Order of the City Council. Eff: 08/10/11

Regulations enacted under the provisions of this section shall not apply to structures and the use thereof existing at the time they are enacted but shall apply to alterations in structure or use made thereafter.

Sec. 19-105 Platting Approval

Land subdivisions within the City of Rockland shall be governed by the provisions of Title 30-A § 4401 et seq. of the Maine Revised Statutes and the Rockland Subdivision Ordinance. Eff: 9/12/90

Sec. 19-106 Official Maps

The City Council may establish an official map of the City showing the location of the public streets and parks and ways used in common by more than two (2) owners, and the boundaries of zones, theretofore established. The lines of public streets and parks and the boundaries of zones thereafter established and the lines of streets, ways, and parks there after approved under the provisions of Section 19-105 of this Article shall by such actions become parts of the official map. Eff: 9/12/90

After the City Council shall have adopted a master plan prepared under the provisions of Section 19-105, the City Council may place on the official map, the lines of planned new streets, parks and street and park extensions and widenings. The placing of any street, park, or line upon the official map shall not be deemed to constitute the opening or establishment of any street or park or the taking or acceptance of any land for street or park purposes. No permit shall be issued for any building or structure, except as authorized under the provisions of the Revised Statutes of Maine, or part thereof on any land located between the mapped lines of any street, way or park as shown on the official map except on appeal under the provisions of Article II of this Chapter.

No pavement, public water facility, sewer, or other public utility or improvement shall be constructed along any street not on such map. No permit for the erection of any dwelling, or of any other building requiring access from a street, shall be issued unless a street or way giving access thereto appears on such map or is approved for such purpose by the City Council.

ARTICLE II Zoning Board of Appeals

Sec. 19-201 Board Established; Membership

A Zoning Board of Appeals is hereby created, consisting of five (5) members to be appointed by the Mayor and confirmed by City Council for a term of three (3) years. Such terms shall expire December 31 of each year as designated. This Board shall annually elect, in January of each year, its own Chair and Secretary from among its members and determine its own rules of procedure. Should the position of Chair become vacant during such year, the Board shall elect another of its member to serve as Chair for the remainder of that year. As of the effective date of this section, no member shall be elected as chair of the Board more than six (6) consecutive times; and as of the effective date of this section no member shall serve more than five (5) consecutive terms on the Board. Service on the Board prior to the effective date of this section shall not be included in such calculations. The secretary shall be responsible for taking minutes at each meeting of the Committee, and shall forward copies of the minutes to the City Manager for distribution once such minutes are accepted by the Committee. The alternate shall also be one (1) alternate member of the Board who shall serve a term of three (3) years. The alternate

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meetings of the Board, may participate in any discussions or hearings, but shall only vote on Board matters if a full quorum is not present at such meeting. When a vacancy occurs on the Board, the alternate member may be appointed to fill such vacancy.

A Municipal Officer may not be a member or alternate of the Zoning Board of Appeals. Such Board, by vote of not less than a majority of its full membership after a public hearing in each case, is hereby authorized to interpret the details of the application of ordinances and regulations enacted under such sections in accordance with general rules set forth in such ordinances or regulations including the power to determine appeals from the erroneous refusal of building permits and to permit exceptions to, or variations from, regulations in the classes of cases or situations and in accordance with the principles, conditions, and procedure specified therein and so as to grant reasonable use of property where necessary to avoid confiscation and without substantially departing from the intent of plans and regulations made under such sections. Eff: 11/09/18

State Law Reference: 30-A M.R.S. §§ 2691, 4353.

Sec. 19-202 Powers and Duties; Conduct of Appeals, Variances

The Zoning Board of Appeals shall have the following powers and duties exercised by vote of not less than a majority of its full membership, after public notice and hearing:

1. Administrative Appeals. To hear and decide appeals arising from a zoning determination or interpretation of a zoning regulation, the issuance or failure to issue a permit by the Code Enforcement Officer or his authorized agent, the issuance of a notice of violation under Ch. 4 and/or 7, a determination regarding the application of the Floodplain Management Ordinance under Ch. 19, Art. VI, the denial, suspension, or revocation of a solid waste license by the City Council pursuant to Ch. 14, Art. I, Sec. 14-112(7), a decision of the Water Pollution Control Facility Director or a Local Plumbing Inspector pursuant to Ch. 14, Art. IV, Sec. 14-423, or other appeal authorized by law or ordinance and assigned to the jurisdiction of the Zoning Board of Appeals.

A. Standing For Appeals Under Chapters 4, 7, or 19. Any person having a potential particularized injury as a result of, and any owner or lessee of abutting property or of parcels located entirely or partially within 300 feet of property that is the subject of any decision, action, or inaction of the Code Enforcement Officer or other authorized official under Chapter 4, 7, or 19, has standing to appeal such decision, action, or failure to act to the Zoning Board of Appeals.

B. Appeal Procedure. Except when a person having standing to appeal demonstrates good cause, an appeal must be filed with the Code Enforcement Office within thirty (30) days of the decision that is the subject of the appeal. The person taking the appeal shall file with the Code Enforcement Office a notice of appeal on a form provided for that purpose by the Code Enforcement Office, and pay to the City the administrative appeal fee as prescribed by Order of the City Council, which fee is calculated to cover the various costs to the City including, but not limited to, publishing notice of hearing, notifying land owners, and reviewing the appeal. The Code Enforcement Officer shall forthwith transmit to the Board a copy of the notice of appeal. The Zoning Board of Appeals shall hear such appeal within ninety (90) days ~~six months~~, which deadline may be extended by the Chair upon the agreement of the parties. A failure by the Board to decide the appeal within six months of the date of a completed notice of appeal shall be deemed a denial of the appeal. The Chair may require that the parties submit a narrative summary, a list of witnesses to be called at the hearing, and copies of exhibits to be submitted to the Board for its consideration; and, at least one (1) week prior to the hearing, shall give public notice of such hearing by publication in at least one (1) issue of a newspaper of general circulation in the City, and, with respect to appeals brought pursuant Chapter 4, 7, or 19, by mailing notification to land owners within 300 feet of the subject property. The appellant and applicant may appear in person, or by attorney or other agent.

C. Standard of Review; Burden of Proof. When acting in this appellate capacity, the Zoning Board of Appeals shall review the matter *de novo*. That is, the Board shall hold a hearing at which it may receive and consider all relevant evidence, either written or oral. The party that filed the appeal shall have the burden of proof as to all matters in the appeal.

D. Decisions. Upon the conclusion of the hearing, the Zoning Board of Appeals shall vote to affirm, modify, or reverse the decision that is the subject of the appeal. The decision of the Board shall not be final until the earlier of (1) the approval of a written notice of decision by the Board at a public meeting, which decision shall whenever feasible include findings of fact and conclusions of law, shall be signed by the Chair, and shall be served on the parties, or (2) the passage of six months following the date of the completed notice of appeal.

2. Variances. To hear and decide applications for variances when the Code Enforcement Officer shall have denied an application for a building permit or otherwise determined that a dimensional requirement in the applicable zoning regulations precludes a proposed development or an element thereof.

A. Standard of Review; Burden of Proof. A variance from a dimensional requirement or limitation imposed in Chapter 19, Section 19-304 may be granted by the Board only where strict application of the Article, or a provision thereof, to the petitioner and his property would cause undue hardship. A variance may not be granted to p Ch. 19, Sec. 19-202 or conditionally permissible under Section 19-304. The phrase “undue hardship” as used in this subs

(1) That the land in question cannot yield a reasonable return unless a variance is granted;

- (2) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- (3) That the granting of a variance will not alter the essential character of the locality; and
- (4) That the hardship is not the result of action taken by the applicant or a prior owner.

B. Procedure. The person requesting a variance shall file with the Code Enforcement Office a Variance Application on a form provided for that purpose by the Code Enforcement Office, and pay to the City the variance application fee as prescribed by Order of the City Council, which fee is calculated to cover the various costs to the City including, but not limited to, publishing notice of hearing, notifying land owners, and reviewing the variance application. A detailed and scaled site plan showing the shape and dimensions of the lot, the dimensions and location of existing and proposed buildings and additions, any natural or topographic peculiarities of the lot, the location of any water body adjacent to the property, and the distances to the nearest principal and accessory structures on abutting properties must be included with the variance application. The Code Enforcement Officer shall determine when a variance application is complete, and forthwith transmit to the Board a copy of the completed application. Though determined to be complete by the Code Enforcement Officer, the Chair may request additional information relating to the application. The Zoning Board of Appeals shall hear and grant, grant with conditions, or deny the application within ninety (90) days of the date of the completed application, which deadline may be extended by the Chair upon the agreement of the parties. A failure by the Board to issue a decision on the application within six months of the date of the completed application shall be deemed a denial of the application. The Board, at least one (1) week prior to the hearing, shall give public notice of such hearing by publication in at least one (1) issue of a newspaper of general circulation in the City, and by mailing notification to land owners within 300 feet of the subject property. The applicant may appear in person, or by attorney or other agent. The decision of the Board of Appeals shall be in writing, and shall be effective as of the earlier of the date of such written notice of decision or the date the decision is announced by the Board Chair at a meeting of which the applicant was provided notice. The written notice of decision shall include, as conditions, the time limitations set forth in Subsection 19-202(2)(F).

C. Floodplain Variances. Variances from requirements of the Floodplain Management Ordinance of the City of Rockland, Maine shall be subject to procedures set forth in Article VI of that Ordinance.

D. Disability Variances. The Board also may hear, grant, grant with conditions, or deny applications for disability variances pursuant to 30-A M.R.S. § 43534-A).

E. Evidence of Recordation. If granted, the approved variance shall be set forth in a certificate that shall be recorded by the applicant on the Knox County Registry of Deeds within ninety (90) days. The Code Enforcement Officer may not issue a building permit for work authorized by a variance until and unless he is provided with evidence of its recordation.

F. Commencement, Completion of the Work. The work authorized by the variance shall be commenced within six (6) months and shall be substantially completed within one (1) year of the date on which the variance is effective, unless the Board grants an extension of either period. The variance shall provide by its terms that rights thereunder will cease unless work is thus commenced and substantially completed.

3. Administration. To make the following determinations and grant the following permits:
Determine precise zone boundary lines to the extent authorized by Section 19-301(4).

4. Appeals to Superior Court. Pursuant to Title 30-A, Maine Revised Statutes, Section 2691(3)(G) and Maine Rule of Civil Procedure 80B, any party who participated in a proceeding before the Zoning Board of Appeals and who has a particularized injury may appeal the decision of the Board to Superior Court within 45 days of the date of the vote on the original decision.
Eff: 02/11/15

ARTICLE III Zoning Ordinance

Sec. 19-301 Zones Authorized, Bounded, And Defined; Rules of Construction

1. Short Title. This Article shall be known and may be cited as the "Zoning Ordinance"; it shall be, and be cited as,

Chapter 19, Article III of the Revised Ordinances of the City of Rockland (1983), and be included ~~as such in the "General Code"~~ Ch. 19, Sec. 19-301

2. Zone Divisions.

In accordance with the laws of the State of Maine and for the purpose of promoting the health, comfort, safety, and general welfare of the community, the City of Rockland is hereby divided into the following classes of zones:

- (1) Residential A Zone
- (2) Residential AA Zone
- (3) Residential B Zone
- (4) Elderly Residential B-1 Zone

- (5) Rural Residential Zone 1 RR1 Zone
- (5A) Rural Residential Zone 2 RR2 Zone
- (6) Transitional Business 1 TB1 Zone
- (7) Transitional Business 2 TB2 Zone
- (8) Transitional Business 3 TB3 Zone
- (8A) Transitional Business 4 TB4 Zone
- (9) Resort RT Zone
- (10) Commercial C1 Zone
- (11) Commercial C2 Zone
- (12) Commercial C3 Zone
- (13) Plaza Commercial PC Zone
- (14) Downtown DT Zone
- (15) Neighborhood Commercial NC Zone
- (16) Business Park BP Zone
- (17) Industrial I Zone
- (18) Woodland & Wildlife G Zone
- (19) Recreation R Zone
- (20) Shoreland Zone
- (21) Chickawaukie Watershed Regulations
- (22) Waterfront Zones (7/11/90)
- (23) Tillson Avenue Area Overlay Zone
- (24) Commercial Corridor Overlay Zone

3. Zoning Map.

A. Establishment of Zoning Map. The location and boundaries of the designated zones as established by the City Council are indicated on a map or maps entitled "Zoning Map of the City of Rockland". The map may also be cited as the "Zoning Map". The zoning map, with all explanatory material thereon and all subsequent amendments thereto, is hereby incorporated by reference and declared to be a part of this Ordinance. The original reproducible map shall be drawn to scale on durable, permanent material and shall be kept on file in the office of the Assessor. The original reproducible map shall be signed and dated by the City Council members who approved it. It shall be certified by the City Clerk.

B. Copies. Copies of the original map shall be on display and available at all reasonable times for public inspection in the office of the Assessor, in the office of the Code Enforcement Officer and in the City Council Chambers. Copies shall also be available for sale to the public.

C. File of Zone Boundaries. The location and boundaries of the designated zones as shown on the "Zoning Map" are more particularly described in records maintained in a special file by the City Clerk.

D. Amendments. All amendments to the "Zoning Map" shall entered upon the City of Rockland geographic information system database by a person designated by the City Manager, and a Zoning Map thus amended printed on durable, permanent material within thirty (30) days of the effective date of the amendment. Each zone location or boundary shall be identified on the Zoning Map and the effective date of each amendment shall be recorded on a ledger appearing on or affixed to the Zoning Map for that purpose. The City Clerk shall certify each amendment on the map or the affixed ledger, after the map has been amended. New copies of the amended "Zoning Map" shall be displayed in the location named in paragraph B. Eff: 2/13/08

E. Establishment of New Zoning Map. The City Council may cause a new original reproducible map to be created when it deems necessary. This new original shall incorporate all amendments made since the last original map was established. It shall be signed and dated by the Councilors who approved it and certified by the City Clerk as described above. Eff: 9/12/90

4. Zone Boundary Lines

The boundaries of the zones as provided in this Section and as shown on the "Zoning Map" are intended in most cases to follow property and lot lines, as they exist at the effective date of this Article. Where a boundary of a zone is not designated by dimension or otherwise definitely on the Zoning Map, it shall be located one hundred twenty (120) feet back from the nearest street line parallel to which it is drawn. Questions concerning the exact location of a zone boundary line shall be determined by the Zoning Board of Appeals in accordance with rules and regulations which the Board may adopt subject to the zone boundary descriptions on file with the City Clerk.

5. Rules of Construction.

A. Minimum Requirements. In their interpretation and application, the provisions of this Article shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare. Whenever any provision of this Article imposes greater restrictions than are imposed by another ordinance of the City of Rockland, the provisions of this Article shall govern. Where, however, the provisions of any other ordinance of the City of Rockland imposes greater restrictions than are imposed by this Article, the provisions of the other ordinance shall govern.

B. Limited Applicability. It is not intended by this Article to repeal, abrogate, annul or in any way impair or interfere with the provisions contained in any other Chapter of this Code or any lawful regulations issued thereunder.

C. Word Tenses. Words used in the present tense include the future.

D. Singular, Plural References. The singular number includes the plural and the plural the singular.

E. Mandatory "Shall". The word "shall" is used in the mandatory and not in the discretionary sense.

F. Statutory References. Whenever the Statutes of Maine are cited, such citation includes all acts additional thereto and amendatory thereof.

G. Separability. If any portion of this Article shall be held to be invalid, the intent of the City Council is that such decision does not affect the validity of the remaining portions thereof.

State Law Reference: 30-A M.R.S. § 2691, § 2342(9), § 4452

Eff: 01/13/10

Sec. 19-302 Words and Phrases Defined

(Updated: May, 2006)

For the purpose of this Article certain words and phrases are defined as follows:

Accessory Apartment: A second dwelling unit within or attached to a single-family residence. The accessory apartment shall not be considered an additional dwelling unit for purposes of the minimum lot size zoning standards. The accessory apartment will be approved only if the applicant has demonstrated that the proposed unit meets the following criteria:

- a. The principal unit and the accessory apartment shall remain under common ownership and one of the units shall be owner-occupied at all times.
- b. The accessory apartment shall not alter the basic character of the building as a single-family dwelling.
- c. Off-street parking for both units must be provided with two (2) on-site spaces for the principal dwelling unit and one (1) on-site space for the accessory apartment. Impervious surface area of the driveways shall be minimized to the greatest extent practical and still meet the parking requirements. Eff: 7/9/14
- d. The accessory apartment shall include its own kitchen, three (3) fixture bath, and no more than one (1) bedroom. The floor area of the apartment must be at least four hundred and twenty-five (425) square feet and cannot exceed eight hundred (800) square feet and thirty-three (33) percent of the floor area of the existing home.
- e. The accessory apartment shall comply with all applicable codes and ordinances.

Eff: 05/10/06

Accessory Buildings. An "accessory building" is a building subordinate to the main building on a lot, and used for purposes customarily incidental to those of the main building.

Accessory Use. An "accessory use" is a use subordinate and incidental to a principal use located on the same lot.

Adult Amusement Store. Any establishment having as a portion of its stock in trade, whether for sale, rental, or other use, or that derives any revenue from the sale, rental, or other use of, any "sexual device," or any live or filmed, animated, printed, or digitized depiction or description of "specified sexual activity" or "specified anatomical area;" provided however that an establishment that sells any "sexual device" or sells or rents any filmed, animated, printed, or digitized depiction or description of any "specified sexual activity" or "specified anatomical area" and whose inventory for such purposes does not exceed 10% of total inventory wholesale value or generate in excess of 10% of the revenue of the establishment shall not constitute an "adult amusement store." For the purposes of this definition, a "sexual device" shall mean a device or object the primary purpose of which is to provide direct sexual stimulation to male or female genitals or anus, but shall not include a device primarily intended for preventing pregnancy or for protection against sexually transmitted diseases; "specified sexual activity" shall mean any sexual act including intercourse or other sexual contact as defined under Maine law, masturbation, sodomy, fondling or touching of human genitals, pubic region, breast, buttocks, or anus, or any depiction of human genitals in a state of sexual stimulation or arousal; and "specified anatomical area" shall mean less than completely and opaquely covered human genitals, pubic region, female breast below a point immediately above the top of the areola, buttocks, or anus not depicted for a legitimate medical, educational, or scientific purpose. Eff: 10/01/14

Agriculture. The cultivation of land, raising of crops, feeding, breeding, and raising of animals traditionally associated with farming. Eff: 10/09/13

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Agricultural Market. A facility used for retail marketing of agricultural output of local farms. In addition such use shall permit retail sales of articles of home and farm manufactured products such as jams and jellies, maple products, cheese, cider, herbs/spices, baked goods, wreathes and flower arrangements as well as soaps, candles, pottery and similar products. Eff: 10/09/13

Alter. That which is rebuilt, reconstructed, rehabilitated, restored, removed, or demolished. Eff: 01/10/18

Assisted Living Facility. A residential facility consisting of dwelling units occupied by elderly or disabled persons in buildings that include a common dining area, where licensed assisted living services are provided to such occupants as needed, irrespective of the level of licensure obtained by the service provider. Assisted living services may include, without limitation, housing, on-site assistance with activities of daily living, personal supervision, protection from environmental hazards, diet and nutritional care, food preparation, supervision and assistance in the administration of medications, diversional or motivational activities, bathing and hygiene care, physical exercise, and/or nursing services. Such assisted

living services must be provided at the Assisted Living Facility either directly by the Facility or indirectly through contracts with persons, entities, or agencies. Eff: 04/11/12

Automobile Body Shops. Any premises where motor vehicle repair activities such as motor vehicle painting and body and fender work is conducted.

Automobile Repair. The maintenance and repair of motor vehicles, including such activities as engine overhauls and tune-ups, transmission and drive train repairs, exhaust system repairs, carburetor cleaning, brake work, glass replacement, and incidental motor vehicle services including oil changes, lubrication, tire repairs, sales, mounting, and rotations, and alignments, including Automobile Service Stations. Automobile repair shall not include activities performed at automobile body shops. Eff: 05/11/16.

Automobile Sales, Small-Scale Used. Any facility where twelve (12) or fewer vehicles are kept on premises for sale.

Automobile Service Stations. Any premises where the primary use is the retail supply, installation and/or dispensing of gasoline and/or other motor fuels, lubricants, batteries, tires, and motor vehicle accessories.

Bed and Breakfast Establishments. Except as permitted pursuant to Ch. 11, Art. II, Sec. 11-210(2), the following definition shall apply:

- a. Any dwelling in which two (2) or more bedrooms for transient lodging or boarding and lodging are provided and offered to one or more persons or families by the owner for compensation for less than one week. Except as otherwise provided, this property shall also be the full-time, permanent residence of its owner during periods of operation. There shall be no provisions for cooking in any individual guest room. The maximum guest occupancy shall be 16 / night.
- b. No food or drink of any kind shall be sold to the general public.
- c. For a Bed and Breakfast in a residential zone, no more than eight (8) rooms may be rented unless the property has multiple buildings existing prior to April 10, 2002. In that case, additional rooms may be rented in the additional building or buildings up to a total of twelve (12) rooms on the property. The expansion must be made wholly within the building existing as of April 10, 2002.

Unless presented together initially, each multiple existing building being opened as a Bed and Breakfast Inn will require its own Site Plan Review and approval from the Planning Commission. Eff: 05/11/16

Building. A "building" is any structure having a roof supported by columns or walls intended for the support, shelter, or enclosure of persons, animals, goods or property of any kind, together with attached or free standing decks, platforms and similar structures. Buildings separated only by party walls, without openings, shall be deemed to be separate buildings. Eff: 10/10/90

Building Coverage. The horizontal area measured at the outside of the exterior walls of all principal and accessory buildings on a lot.

Building or Structure Height. The "height" of a building or structure is the vertical distance from the mean elevation of the original grade or existing street level, whichever is higher, around the perimeter of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or the mean height level between eaves and ridges for gable, hip and gambrel roofs. Height limitations shall not apply to chimneys, steeples, water stand-pipes, or spires, but these structures shall be set back from all lot lines a distance of not less than the height (from the finished grade) of such building or structure. For the purposes of this paragraph, the following shall be the meaning of "original grade" and "average original grade":

a. Original Grade. The grade of the land that exists prior to the beginning of the proposed construction; provided, however, that if the grade has been altered in the twelve months prior to the application for a building permit for the proposed construction, the original grade shall be the average grade of the land that existed prior to the alteration.

b. Average Original Grade. Shall be calculated by taking the original grade elevations every ten (10) feet along the perimeter of the foundation or proposed foundation, beginning at the lowest point. The average of all of these elevations shall be the average original grade from which the height of the building is measured.

Business Services. An establishment furnishing services to businesses including advertising, c Ch. 19, Sec. 19-302 agencies, mercantile reporting agencies, and adjustment and collection agencies; mailing, reproduction, commercial art and photography, and stenographic services; news syndicates; employment services; and computer and data processing services.

Café, Incidental Retail: An area within a retail establishment where patrons can consume beverages, snacks and sandwiches, but which is incidental and subordinate to the retail business. An incidental retail café may provide no more than 10 total seats for customers within the retail establishment. There shall be no consumption of alcohol, no live entertainment and no drive-through windows associated with an incidental retail café. Eff: 06/10/09

Camping Area. Camping area shall have the meaning provided in Title 22 § 2491 of the Maine Revised Statutes Annotated.

Car Wash. Any area or building with equipment for washing cars, trucks, and/or other motor vehicles. Eff: 05/11/16

Clinic. An establishment primarily engaged in the provision of personal health services on an outpatient basis ranging from prevention, diagnosis and treatment, or rehabilitation services provided by physicians, dentists, nurses, and other health personnel as well as the provision of medical testing and analysis-services, including human health services, but excludes sole source pharmacy. It is the intention of the City Council that this ordinance amendment shall apply to applications pending or permitted on or after November 29, 2004. Eff: 01/12/05

Community-Based Renewable Energy Project. An electricity generating facility that generates electricity from an eligible renewable resource as defined in 35-A M.R.S. § 3210 at least 51% of which is owned by one or more qualifying local owners. Eff: 08/10/16

Community and Civic Buildings and Uses. A facility for a public purpose, such as an auditorium, library, museum, or government building, which is operated by a non-profit organization or a governmental agency.

Construction Services. An establishment furnishing construction services including general building contractors; highway and street construction contractors; heavy construction contractors; plumbing, heating and air conditioning contractors; painting, paper hanging, and decorating contractors; electrical contractors; masonry, stonework, tile setting, and plastering contractors; flooring contractors; roofing and sheet metal contractors; concrete work contractors; water well drilling, and miscellaneous special trade contractors.

Container Restaurant. A prefabricated, shipping or storage type structure that has either been converted for use as, or built for use as, a take-out restaurant. Container Restaurants do not have wheels or axles attached but are built on skids or a frame and are not affixed to the ground. Eff: 3/11/15

Corner Lot, and/or Through Lot: A lot that abuts more than one street. Front setbacks apply to those lot lines abutting streets, side setbacks apply to the other lot lines. Corner lots have no rear setback.

Daycare Business. A facility in which more than three (3) clients at one time receive care, maintenance, and supervision by other than their relative(s) or legal guardian(s) for less than 24 hours per day. Eff: 11/13/09

Daycare Home, Small. A daycare business in which not more than three (3) clients at one time receive care, maintenance, and supervision by other than their relative(s) or legal guardian(s) within a dwelling unit. A *small daycare home* shall not be regulated as a home occupation. Eff: 11/13/09

Daycare Home. A daycare business in which more than three (3), but not more than twelve (12), clients at one time receive care, maintenance, and supervision by other than their relative(s) or legal guardian(s) within a dwelling unit. Eff: 11/13/09

Distributed Power Generation Facility. Electric power generation equipment, including power generation equipment with thermal energy recovery, which is designed and will be operated to provide or to offset the base or peak power consumed at the site where the power generation equipment is located, or the base or peak power consumed at other sites either in Rockland or in an adjacent municipality that are under the same or affiliated ownership as the site where the power generation equipment is located. At least 50% of the thermal energy must be consumed at the site where the power generation equipment is located or at other sites that are under the same or affiliated ownership as the site where the power generation equipment is located. The remainder of the thermal energy may be distributed to third parties under contract. Eff: 08/10/16

Dwelling Unit: A room or suite of rooms that are arranged, designed, used, or intended for use as a self-contained housekeeping unit, separated from other such rooms or suites of rooms, and contains living, kitchen, and sleeping facilities for one person; or one family, including single-family homes and the separated units in a duplex, apartment house, multi-family dwelling, and residential condominium. Eff: 05/11/16

Dwelling, One-Family or Dwelling, Single-Family: The use, for zoning purposes, of a single-family structure by its owner or the owner's tenant as a residence for a person or a family for a term of at least one month, except as otherwise provided under Title 30-A, Maine Revised Statutes, Section 4357-A – Community Living Arrangements, as amended. Eff: 05/11/16

Dwelling, Two-Family: The use, for zoning purposes, of each dwelling unit in a two-family structure by its owner or the owner's tenant as a residence for one person or a family for a term of at least one month. Eff: 05/11/16

Dwelling, Multi-Family. The use, for zoning purposes, of each dwelling unit in a multi-family structure by its owner or the owner's tenant as a residence for one person or a family for a term of at least one month, including apartment houses and apartment hotels, but excluding boarding houses, inns, lodging houses, hotels, motels, and short term rental units. Eff: 05/11/16

Family. Two or more persons related by blood, marriage, civil union, or adoption who reside in a dwelling unit as a housekeeping unit, sharing common kitchen and bathroom facilities. A "family" for zoning purposes may also consist of (1) two or more persons related by blood, marriage, civil union, or adoption and no more than three additional persons who are not so related, or (2) no more than three unrelated persons, who occupy a dwelling unit as a single housekeeping unit, sharing common kitchen and bathroom facilities. Eff: 05/11/16

Farm Stand. A temporary or permanent structure used for the display and sale of agricultural related products where at least 85% of the products offered for sale were either produced on the property on which the farm stand is located or on land in the Rural Residential 2 Zone farmed by the owner of the farm stand. Eff: 10/09/13

Fence. "Fence" means an enclosing structure about a field or other space, or about any object, composed of wood, iron or other material, and intended to prevent intrusion from without or straying from within.

Financial Services. An establishment furnishing services including banking, other credit agencies, security and commodity brokers and services, insurance, real estate, and investment offices.

Food Wagon. A stand, trailer, or other small mobile structure outfitted for selling or for serving light meals and snacks to the public. The term "food wagon" does not include push carts that are removed daily or vehicles selling food from the street in accordance with Chapter 15, Article I, Section 15-109. Eff: 3/11/15

Fowl. "Fowl" means any large, edible bird, including chickens, turkeys, and game birds, but excluding pigeons and birds commonly kept as household pets.

Frontage. Frontage, as used in this Article, is that portion of a lot which extends along a public street. Only one (1) side of a lot that extends along more than one (1) street shall be considered frontage for the purpose of frontage requirements in this Article. Eff: 2/10/90

Frontage, Street: That continuous portion of a lot along one (1) street. The minimum street frontage dimension shall be maintained as far back as the front setback requirement for a structure. Eff: 05/10/06

Garage, Private. A "Private Garage" is an accessory building used for automobile storage purposes, in which no automobile repairing or any other business is conducted, and in which no more than four automobiles or other motor vehicles may be stored.

Grid-Scale Power Generation Facility. Any electrical power generation facility that is designed or will be operated to sell either base load or the peak demand electricity generated under one or more power purchase agreement(s) or other contractual arrangements for consumption by others via the local utility and/or the ISO New England, Inc.-managed transmission and distribution systems, not including a Distributed Power Generation Facility. Eff: 08/10/16

Half Story. "Half Story" means that portion of a building immediately beneath a sloping roof and in which is less than four (4) feet vertically between the floor and the intersections of the bottoms of the rafters at the plate with the interior faces of the walls. A half story may be as completely used for any purpose as a full story.

Handicap Ramp. A "Handicap Ramp" is a ramp with a running slope greater than 1:20, designed and constructed solely for the purpose of allowing safe access to buildings by people who are unable to use stairs. Such ramps, along with necessary attached landings, railings and curbs shall be constructed in such a way that those using the structure for its intended purpose shall not be in danger of injury. Any part of a handicap ramp which extends into the yard requirements of this Chapter shall be limited in size to the minimum dimensions required by the Building Code or other regulations. Eff: 10/10/90

Health and Fitness Facility: A facility used for the purpose of personal training, sports conditioning, and/or fitness. Such facilities may include, but are not limited to, basketball, tennis, racquetball, and squash courts, indoor swimming pool, indoor track, exercise studio, and strength training equipment. These facilities may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use. Eff: 05/10/06

Home Occupations: The purpose of the home occupation provisions is to allow the conduct of those businesses that are compatible with the zones in which they are allowed. A permit is required for a home occupation. Home occupations are limited to those uses that may be conducted within a residential dwelling or accessory structure without substantially changing the appearance or condition of the residence or accessory structure. Home occupations shall be situated in the dwelling in which the proprietor of the business resides or in a building accessory thereto and located on the same lot. Eff: 05/10/06

Home Occupation Level 1 shall have no visible outdoor evidence of the occupational use. Occupations might include the offices and workspace for resident authors, people involved with telecommunications, computer programming, single-pupil instruction or the like. There shall be no employees outside the immediate family-in-residence, no face-to-face sales or services conducted on the premises except for single-pupil instruction. Single-pupil instruction shall be limited to 9 a.m. to 5 p.m. Any deliveries shall be made by mail, UPS, or similar services. Noise limitations contained in Sec. 19-316.D. pertaining to residential zones shall apply. No signs are allowed. Eff: 05/10/06; Amended 12/13/06, 10/10/12

Home Occupation Level 2 shall have very low impacts. Occupations might include any uses allowed in Home Occupation Level 1 as well as the offices of a single physician, realtor, insurance broker, accountant, artist, beautician, lawyer, or other professional. There may be one (1) onsite employee from outside of the immediate family-in-residence. Noise limitations contained in Sec. 19-316.D. pertaining to residential zones shall apply. The home occupation shall be limited to twenty (20) percent of the combined floor area of the principal and accessory structures. Hours of operation shall be limited to 9 a.m. to 5 p.m. No more than three (3) parking spaces dedicated to the home occupation shall be allowed. Employee parking shall be provided onsite only. Lighting and fencing shall be residential in character. No outdoor storage shall be allowed. Clients may come to the home for face-to-face interaction, however, only incidental sales shall be allowed. Deliveries shall be made by mail, UPS, or similar services. One (1) sign not exceeding four (4) square feet shall be allowed. One (1) commercially registered vehicle, related to the home occupation, with a Gross Vehicle Weight Rating or Gross Combination Weight Rating not exceeding seven thousand (7,000) pounds shall be allowed onsite, including for example a van, minivan, SUV, pickup truck, small utility trailer or the like. Eff: 05/10/06; Amended 11/10/06, 10/10/12

Home Occupation Level 3 shall have moderate impacts of use. Occupations might include any uses allowed in Home Occupation Levels 1 and 2 as well as a daycare home, tradesmen shops, studios, or minor repair excluding motor vehicle repair. There may be up to three (3) onsite employees from outside the immediate family-in-residence. Noise limitations contained in Sec. 19-316.D. pertaining to residential zones shall apply. The home occupation shall be limited to thirty (30) percent of the combined floor area of the principal and accessory structures. Hours of operation shall be limited to 8 a.m. to 6 p.m. Hours of operation shall not apply to daycare homes except that the use of exterior play areas associated with daycare homes shall be limited to 8 a.m. to 6 p.m. No more than six (6) parking spaces shall be allowed and they shall be dedicated to the home occupation. Lighting and fencing shall be residential in character. Employee parking shall be provided onsite only. Clients may come to the home for face-to-face interaction, however, except for items produced as part of the home

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occupation, only incidental sales shall be allowed. One (1) sign not exceeding four (4) square feet shall be allowed. Outdoor storage is restricted to small areas that are screened so that the materials stored are not visible from other lots or roadways. Two (2) commercially registered vehicles related to the home occupation shall be allowed onsite: one (1) with a Gross Vehicle Weight Rating or Gross Combination Weight Rating not exceeding seven thousand (7,000) pounds and the other commercially registered vehicle with a Gross Vehicle Weight Rating or Gross Combination Weight Rating not exceeding ten thousand (10,000) pounds. Vehicles include for example a van, minivan, SUV, pickup truck, small utility trailer or the like. Eff: 05/10/06; Amended 11/10/06, 11/13/09, 10/10/12

Hotel: A commercial establishment offering sleeping accommodations for seventeen (17) or more travelers and others on a transient or semi-permanent basis, sometimes including varying levels of accessory services for occupants and/or the general public such as restaurants, shops, and meeting rooms. Eff: 05/11/16

Human Health Services. An out-patient establishment furnishing medical and fitness services, including the offices of physicians, dentists, and other health care professionals and practitioners, clinics, medical laboratories and blood banks, but excludes sole source pharmacy. It is the intention of the City Council that this ordinance amendment shall apply to applications pending or permitted on or after November 29, 2004. Eff: 01/12/05

Light Assembly. The assembly, packaging, or processing of finished products which is part of an allowed use and performed predominantly by hand and the accessory equipment thereto. Eff: 01/13/99

Light Industrial Uses. Industrial activities involving the manufacturing, fabricating, packaging, processing, or assembly of finished products from previously prepared materials, including by way of example: wholesale bakery products, bottling, printing and publishing and allied industries, pharmaceutical preparations, machine shops, precision tools and instruments, watch-making, musical instruments, toys and sporting goods, pottery and ceramics using only previously pulverized clay, wood products, jewelry, assembly of electrical or electronic components, canteen services, tool and die shops. Light industrial uses shall not include the processing of raw materials or salvaging operations. The processing and packaging of food for off premises consumption shall also be allowed.

Lodging, Rooming, or Boarding House: A building other than single-, two-, or multi-family structure in which a licensed operator provides, for a fee, sleeping accommodations for sixteen (16) or fewer persons on either a transient or permanent basis, with or without meals served to occupants only, but without separate kitchen facilities for individual occupants; provided however that the building may include a separate, additional dwelling unit occupied by the owner or manager that includes kitchen facilities for such owner or manager's personal use. Eff: 05/11/16

Lot: "Lot" means a parcel of land, not divided by streets, which is devoted or to be devoted to a particular use and occupied or capable of being occupied by a building and its accessory buildings together, including any required open space. Eff: 2/10/90

A lot shall have frontage on a public street, with exceptions for back lots and flag lots, as noted in the definitions for those types of lots. Eff: 05/10/06

Structures to be used for commercial or industrial purposes shall be built only on lots with frontage on a public street, nor shall a change of use be granted allowing a single-family dwelling served only by a right-of-way to be converted to commercial or industrial use. This prohibition shall not apply to dwellings in which a home occupation or profession, as defined above, is carried out. Eff: 8/9/95

Land within the lines of a public road or private road or right-of way shall not be counted as part of a lot for the purpose of meeting the area requirements of this Article even though fee title may be in the owner of the lot. N Ch. 19, Sec. 19-302 size of a lot upon which structures served by subsurface waste disposal systems are located to a Ch. 19, Sec. 19-302 allowed in the applicable zone under this Article. Contiguous lots in the same ownership shall be considered as one lot. Wherever possible, newly created lots should be rectangular in shape, with side lot lines perpendicular to the street. Eff: 05/10/06

Kitchen Facility(ies). "Kitchen Facility," both in its singular or plural form, shall mean an area that contains any, some, or all of the following facilities for food preparation, storage, and/or sanitation: a stove, oven, convection oven, microwave, hotplate or other cooking or food warming equipment; any size refrigerator or freezer; and/or any type of sink, including a bar sink or wet-bar but not including a bathroom sink. Eff: 05/11/16

Lot, Flag: A lot located generally to the rear of another lot, but with a narrow access portion of the lot extending to the public street. The narrow access portion of the lot and the interior portion of the lot shall be in common ownership or permanently deeded right of way, and shall be suitable for ingress and egress. Flag lots shall not be required to meet minimum street frontage. Eff: 07/14/10.

Lot Coverage. That portion of the lot that is covered by buildings, structures, and built improvements on the ground surface such as paving, driveways, parking areas, walkways and other improvements similar in nature.

Lot Line: A line that forms a boundary of a property dividing one lot from another, or from a street or water body or other public space. Eff: 05/10/06

Manufacturing. "Manufacturing" means converting processed raw materials into a finished product, complete and ready for final use for which it is intended, or so completed that in the ordinary course of business of the concern it is ready to be put on the market for sale to any person wishing to buy it.

Marijuana. The leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake or sterilized seed of the plant which is incapable of germination. Eff: 11/09/18

Marijuana extraction. Marijuana extraction means the process of extracting marijuana with solvents or gases. Eff: 01/10/18

Measurement. The distance from a building to a lot line is always measured in right angles to such line. A basement or cellar shall not be counted as a story for the purpose of height measurement.

Medical marijuana: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

Medical marijuana: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient's medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification in accordance with state law. Eff: 11/09/18

Medical marijuana caregiver. A person or an assistant of that person that provides care for a qualifying patient in accordance with applicable state law. Eff: 11/09/18

Medical marijuana land uses. Any of land uses, defined in this section, that cover the full range of options for lawful cultivating of medical marijuana. Eff: 11/09/18

Medical marijuana home production. Cultivation of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. Marijuana extraction using butane is prohibited. Medical marijuana home production shall be considered an accessory use. Eff: 11/09/18

Medical marijuana production facility. A facility used for cultivation of medical marijuana at a location which is not the medical marijuana registered primary caregiver's primary residence, approved in accordance and in conformance with Section 19-313, the Maine Medical Use of Marijuana Act, and the Maine Medical Use of Marijuana State Administrative Rules. Marijuana extraction is prohibited. A medical marijuana production facility shall be considered a commercial use. Eff: 11/09/18

Mixed Use. The co-existence in one building or structure of a residential use and one or more non-residential uses. Eff: 05/08/13

Mobile Home. "Mobile Home" shall have the meanings provided in Section 19-305(4) Definitions. A mobile home shall not include a self-propelled recreational vehicle, commonly known as a motor home, of whatever size.

Neighborhood Retail Establishment. An establishment in a Neighborhood Commercial Zone that occupies less than 2,000 square feet of total floor space, of which at least sixty percent (60%) is dedicated to retail sales of groceries and within which no alcoholic beverages are consumed.

Non-Conforming Lot. A "non-conforming lot" is a single lot of record which, at the effective date of adoption or amendment to this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located. Eff: 9/11/96

Non-Conforming Structure. A "non-conforming structure" is a structure which does not meet following dimensional requirements: setback, height, or lot coverage, but which is allowed solely existence at the time this Ordinance or subsequent amendments took effect. Eff: 9/11/96

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Non-Conforming Use. A "non-conforming use" is the use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect. Eff: 9/11/96

Nursing Home. A facility which is operated in connection with a hospital, or in which nursing care and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery in this State, for the accommodation of convalescent or other persons who are not acutely ill and not in need of hospital care, but who do require skilled nursing care and related medical services. The term "nursing home" or "nursing facility" is restricted to those facilities, the purpose of which is to provide skilled nursing care and related medical services for a period of not less than 24 hours per day to individuals admitted because of illness, disease or physical or mental infirmity and which provides a community service. Eff: 04/11/12

Office Building. A building used for the providing of business services, financial services, human health services, professional services or social services.

Parking Lot. A "Parking Lot" is a parcel of land designed for the parking of motor vehicles and for such accessory uses as are for the immediate comfort and convenience of motorists, not including, a trailer camp.

Personal Services. An establishment furnishing services including by way of example: laundry and cleaning services, photography studios, shoe repair shops, barber shops and beauty salons, pet grooming services, health and fitness facilities, and similar services to the general public. Eff: 8/9/06

Private Non-Medical Institutes and Residential Care Facilities, Large. A house or other place that, for consideration, is maintained wholly or partly and licensed for the purpose of providing more than six (6) residents with assisted housing services or assisted living services. Residential care facilities provide housing and services to residents in private or semi-

private bedrooms in buildings with common living areas and dining areas. The term does not include a nursing home or a supported living arrangement licensed or certified as such by the Maine Department of Health and Human Services. Eff: 04/11/12

Private Non-Medical Institutes and Residential Care Facilities, Small. A house or other place that, for consideration, is maintained wholly or partly and licensed for the purpose of providing no more than six (6) residents with assisted housing services or assisted living services. Residential care facilities provide housing and services to residents in private or semi-private bedrooms in buildings with common living areas and dining areas. The term does not include a nursing home or a supported living arrangement licensed or certified as such by the Maine Department of Health and Human Services. Eff: 04/11/12

Processing. "Processing" means that phase of a manufacturing operation which produces a chemical or physical change in a raw material to enable that material to be used to manufacture a finished product. In certain instances, processing and manufacturing may be synonymous.

Professional Services. An establishment furnishing services other than health care or financial services requiring a professional degree such as engineering, architectural, and surveying services; non-commercial educational, scientific, and research organizations; accounting, auditing, and bookkeeping services; and similar services.

Public Street. A public street for the purposes of Chapter 19 is a street or road which has been accepted by the City as a public street, or a private way which is located in an approved subdivision, or a private road in existence prior to December 1, 1989. This does not include undeveloped roads reserved in unapproved subdivisions or undeveloped roads reserved in deeds or other conveyances. Eff: 12/10/90

Public Service Corporations. "Public Service Corporation" is a corporation which is regulated by the Public Utilities Board.

Public Utility. "Public Utility" includes facilities such as, but not limited to substations, pumping stations, sewer treatment facilities, water treatment facilities, transmission lines, pipelines, studios, transmitters, receivers, signal towers, and other buildings, structures or uses necessary or accessory to the operation, or conduct of activities regulated by the Public Utilities Board and businesses or activities which are not so regulated but which provide a public service to the City of Rockland, including voice, image or data transmission, radio, television and cable television that are available for use by the general public.

Quasi-Public Uses: Those essential public services, such as, but not limited to, water, electricity, telephone, natural gas, and transportation, whether publicly or privately owned, which are regulated by the Maine Public Utilities Board, the Maine Department of Transportation, or Federal Communications Board, except Grid-Scale and Distributed Power Generation Facilities. Eff: 08/10/16

Residence Quarters. "Residence quarters" means those quarters on a business premises where the proprietor or caretaker and members of his or her family reside as their principal residence for the purpose of carrying out the duties of the caretaker or business proprietor.

Retail Business. The selling of goods or merchandise to the general public for personal or household consumption or to businesses which will be customers or end-users of the goods. A retail business may offer incidental goods, including but not limited to the sale of prepared food for consumption off the premises, and a retail business does not include motor vehicle sales and service or motor vehicle service station, restaurants or lodging facilities. Eff: 06/10/09

Ch. 19, Sec. 19-302

Riding Stable. A facility and contiguous land under common ownership used for the art or practice of horsemanship. Eff: 10/09/13

Roll-off container. A box container that can be left on site, separate from a truck. Usually available in several sizes, from 10 cubic yards to 40 cubic yards. Eff: 1/8/03

Semi-trailer. Truck trailer equipped with one or more axles and constructed so that the front end rests upon a truck tractor. Eff: 1/8/03

Setback (in non-shoreland zones): The minimum horizontal distance between the front, side, or rear lot line and the nearest point of the building, including decks or any covered projections thereof, of the lot. Eff: 09/12/18

Setback, Front: The distance from the property line bordering any street frontage extending the width of the frontage to the nearest part of any principal or accessory building on the lot measured from overhangs or other permanent protrusions. Front setback and front yard are synonymous. Note: Handicapped ramps are exempt from setback calculations. Eff: 05/10/06; amended 09/12/18

Setback, Rear: The distance from the rear line of the lot, extending the full width of the lot to the nearest part of any principal or accessory building on the lot measured from overhangs or other permanent protrusions. Back or rear setback and back or rear yard are synonymous. Note: Corner lots have no rear setback. Eff: 05/10/06; amended 09/12/18

Setback, Side: The distance from the side property line to the nearest part of any principal or accessory building on the lot measured from overhangs or other permanent protrusions. Any lot line not a rear lot line or a front lot line shall be deemed a side lot line. Side setback and side yard are synonymous. Eff: 05/10/06; amended 09/12/18

Short Term Rental ("STR"). The use of all or part of a legally-existing dwelling unit for short-term rental to a person or family unrelated to the owner or lessee of the unit, for consideration, for periods of less than one month. Eff: 05/11/16

Sign. "Sign" means any structure, display, picture, logo, symbol, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity or place and is visible from any public way. It does not include the flag, pennant or insignia of any nation, state or town.

Signs Measurement. All signs shall be measured by the outside area required to place the complete sign. In the case of a protruding sign, both sides shall be considered as sign area.

Signs on Premises Advertising. On premises advertising shall mean to include identify of the firm or advertising of services or products for sale or produced on the premises.

Social Services. An establishment furnishing services including individual and family social services, job training and vocational rehabilitation services, child care services, residential care services, and miscellaneous social services.

Sole Source Pharmacy. A facility where the primary purpose is to dispense or sell a single source of medication that has been recommended by a physician. These facilities have no retail sales component associated with the use and are not engaged in selling multiple goods or merchandise to the general public for personal or household consumption. Typical uses include methadone clinics and other similar facilities. It is the intention of the City Council that this ordinance amendment shall apply to applications pending or permitted on or after November 29, 2004. Eff: 01/12/05

Start of Construction, Substantial Start of Construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, replacement, substantial improvement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on the site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Eff: 9/11/96

Story. "Story" means that portion of a building other than a basement, included between the surface of any floor and the surface of any floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

Structure: Any structure, including a building, maintained, or intended for use as shelter or enclosure of persons, animals, goods or property of any kind. This term is inclusive of any use thereof. Eff: 05/10/06

Structure, Accessory: A structure, other than a dwelling unit, including a building, which (1) is subordinate in area, extent and purpose to the principal structure or use served, (2) is located on the same lot as the principal structure or use served except as otherwise expressly authorized by the provisions of this Ordinance, and (3) is customarily incidental to the principal structure or use. Any portion of a principal structure devoted or intended to be devoted to an accessory use is not an accessory structure. Eff: 05/10/06

Structural Alterations. By "Structural alterations" is meant change in the supporting members of a building, such as supporting walls, columns, beams and girders.

Structure, Principal: A structure, including a building, in which is conducted or in which is intended for main or primary use of the lot on which it is located. Eff: 05/10/06

Ch. 19, Sec. 19-302

Structure, Multi-Family: A building containing three (3) or more dwelling units. Eff: 05/11/16

Structure, Single-Family: A building containing not more than one (1) dwelling unit. Eff: 05/11/16

Structure, Two-Family: A building containing two (2) dwelling units. Eff: 05/11/16

Studio. Workroom or rooms of a painter, sculptor, photographer, other artist, crafts-person or musician. Room or rooms in which a music teacher, dramatic coach or other artist or crafts-person gives lessons.

Substantial Renovation. "Substantial renovation" means any reconstruction, rehabilitation, addition or other improvement of a structure within any five year period of time, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction within the same five year period. "Market value", for the purposes of this definition, shall be estimated by the Rockland City Assessor, and appeals of the value set by the Assessor before the start of construction shall be heard by the Rockland Board of Assessment Review. For the purpose of this definition, the start of construction shall mean the date the building permit was issued provided the actual start of construction or the alteration of any wall, ceiling, floor or structural part of the building was commenced within six months of the date of the permit. Substantial renovation includes work on structures which have sustained damage of any origin in which the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred, regardless of the actual repair work performed. This term does not, however, include either:

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

(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure. Eff: 4/10/91

Swimming Pool. "Swimming pool" means an outdoor body of water enclosed in an artificial receptacle or other container, whether in or above the ground, used or intended to be used for swimming or bathing and designed for a water depth of 24 inches or more. Eff: 11/28/85

Tradesman's or Craftsman's Offices, Shops, and Showrooms. The shop of a person in a skilled trade or craft, including by way of example: artisans, plumbing, heating, and air conditioning contractors; painting, paper hanging, and decorating contractors; electrical contractors; masonry, stonework, tile setting, and plastering contractors; carpeting and flooring

contractors; roofing and sheet metal contractors; drilling, and miscellaneous special trade contractors. The total office, shop, and showroom space shall not exceed four thousand (4,000) square feet of total floor area.

Use. The purpose for which land or structures thereon are designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented, or leased. Eff: 05/11/11

Veterinarian. A person trained and authorized to practice veterinary medicine and surgery; a doctor of veterinary medicine. Eff: 10/09/13

Veterinary Clinic. A place for the provision of medical care to animals. Eff: 10/09/13

Yard. A "yard" is an existing or required open space on the same lot with the main building and lying along the adjacent lot line, open and unobstructed from the ground upwards except as indicated for a rear yard, and of uniform depth or width measured horizontally at right angles to such lot lines.

Yard; Front. A "front yard" is a yard between the front lot line and the nearest part of any building on the lot, extending the full width of the lot. A handicap ramp, even if attached to a building, shall not be accounted "part of any building" for the purpose of front yard setback requirements. Eff: 12/14/01

Yard; Rear. A "rear yard" is a yard between the rear lot line and the nearest part of any building on the lot (other than an accessory building not over eighteen (18) feet high (to its highest point) which does not occupy more than twenty-five percent (25%) of the yard), and further provided that such accessory building be setback a minimum of five (5) feet from the rear property line and that it also meet the required side yard setback within the rear yard, extending the full width of the lot. A handicap ramp, even if attached to a building, shall not be accounted "part of any building" for the purposes of rear yard setback requirements. Eff: 01/07/04

Yard; Side. A "side yard" is a yard between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear yard. A handicap ramp, even if attached to a building, shall not be accounted "part of any building" for the purposes of side yard setback requirements.

Sec. 19-303 General Provisions

1. Amendments. All proposed amendments to the zoning map or one or more zoning regulations shall be referred by the City Council to the Comprehensive Planning Commission for report within thirty (30) days. The Comprehensive Planning Commission shall report an advisory opinion to the City Council as to whether the proposed amendments are consistent with the Comprehensive Plan. No amendments shall be enacted into law until the Comprehensive Planning Commission has reported or until thirty (30) days has elapsed, whichever ever first occurs. If the Comprehensive Planning Commission fails to report within thirty (30) days after submission to it of a proposed action, it shall be deemed to have approved such action. Eff: 4/10/96

2. Corner Clearance.

A. Residence & Transitional Zones. Between the line of intersecting streets and a line joining points on such lines twenty (20) feet distant from their point of intersection or in the case of a rounded street corner the point of intersection of their tangents no building or structure may be erected and no vegetation other than shade trees may be maintained above a height of three (3) feet above the plane through their curb grades. Notwithstanding anything to the contrary herein, the Police Chief and Public Works Director, or one of them may order or cause to be removed any non-structural obstruction that they determine creates an unsafe condition for the public in an adjacent right of way.

B. Commercial Zones. Between the lines of intersecting streets and a line joining points on such lines ten (10) feet distant from their point of intersection or in the case of a rounded street corner the point of intersection of their tangents no building or structure may be erected and no vegetation may be maintained above a height three (3) feet above the plane through their curb grades. Notwithstanding anything to the contrary herein, the Police Chief and Public Works Director, or one of them may order or cause to be removed any non-structural obstruction that they determine creates an unsafe condition for the public in an adjacent right of way.

3. Height Exceptions. Chimneys, elevators, cupolas, poles, tanks, towers, monuments, domes, spires, parapet walls, and other projections not used for human occupancy, and necessary mechanical appurtenances, may be erected to any height not exceeding 75 feet, if approved by the Planning Board applying the conditional use standards for that zone. Towers higher than 75 feet that house equipment for voice, image, or data transmissions or radio, television, cable television, or wireless internet signals or broadcasts that are available for use by the general public may be permitted pursuant to the procedures for special exceptions set forth in Section 19-309. Eff: 08/08/01.

4. Parking of trailers and motor vehicles on residential properties. Parking of any semi-trailer or roll-off container or POD on residential properties where residential uses are permitted as a primary use shall be prohibited except for the following purposes:

A. A semi-trailer or container shall be permitted to be placed on any such residential property for a limited time (up to 60 days with the option to renew) with a building permit from the Code Enforcement Officer where new construction or

renovations necessitates storage of materials or household items or demolition and construction materials during such construction or renovation. The Code Enforcement Officer shall supervise the placement of the trailer or container to ensure that it does not create a safety hazard or adversely affect abutting properties.

B. Temporary parking of a semi-trailer shall be permitted when making a delivery or moving furniture and household items to or from the residence, for not more than 48 hours.

C. Other regulations notwithstanding, any motor vehicle or trailer other than a semi-trailer or roll-off container parked on residential property where residential uses are permitted as a primary use and which is used for storage, shall be subject to the setback and yard requirements of the zone in which the property is located. Such motor vehicle or trailer shall be registered, maintained in good condition and inspected if applicable.

The provisions of this section shall be retroactive. Eff: 2/12/03

5. Nuisance. As provided by, and subject to the terms of the Revised Statutes of Maine, any building or structure or part thereof, constructed, altered, maintained, repaired, or used, and any equipment therein, thereon, or in connection therewith, installed, altered, maintained, repaired or used contrary to the provisions of this Article, is a nuisance.

6. Prohibited Acts. No person shall erect, alter or use any building, structure or land for any use except as permitted in the zone in which it is located; nor shall any person, except as otherwise provided in this Article, put any existing building or land to a use substantially different from the use of such building or land at the time of the effective date of this Article except in a zone where in such new use is permitted nor shall any person so reduce the setback or other open space of any lot that they shall be smaller than prescribed by this Article.

7. Restoring Unsafe Buildings. Nothing in this Article shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Building Inspector or the Fire Chief, or from complying with the lawful requirement of either such public official.

8. Transition Zoning Provisions; Use.

Where a zone boundary line divides a lot in a single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet in the more restricted portion, provided that the major portion of the lot is located in, and the lot has at least twenty (20) feet of frontage on a street in, the less restricted zone. Such extended use shall be deemed to be conforming. Eff: 01/13/10

9. Flag Lots.

Where permitted by the applicable zone regulations, the development or redevelopment of existing lots shall adhere to the following requirements, in addition to any conditions imposed by the Planning Board upon review pursuant to Chapter 16:

Ch. 19, Sec. 19-303

A. Development Standards. The access road of flag lots must contain a minimum depth of fifteen (15) inches of bank-run gravel, and must have drainage, ditches and culverts at all appropriate points. If a flag lot is used for residential purposes, only a single-family detached dwelling shall be allowed on the flag lot; if for commercial purposes, only a single commercial use and occupant shall be permitted. The access portion of flag lots used for commercial purposes shall be landscaped and buffered from adjacent residential parcels and residential zones and shall also provide access to the adjacent parcel behind which the flag lot is primarily located (the "Front Lot"), either through common ownership or deeded right of way, and such Front Lot shall not have other access to or from the street. The person proposing the flag lot may submit a name for the access road for City review. In order avoid confusion; the name of the access road shall not be similar to the name of other streets or locations in the City. The City reserves the right to designate any name for the road and name and number it in accordance with E-911 standards. The Department of Public Services shall provide and install the sign. The owner of the flag lot shall be responsible for the cost of the sign and post. Eff: 01/09/17

B. Dimensional Standards. The narrow access portion of the lot shall be at least twice the length of the front setback required in the district, and shall not be included in the calculation of the minimum lot area. The access road constructed on the right-of-way must be a minimum width of:

(1) twelve (12) feet, provided that a turn-around for ambulances is established near the home, and, if the access road extends one hundred (100) feet or more from the public street, that either (a) the home is sprinkled, or (b) if not sprinkled, one bump out is provided for emergency vehicles every one hundred and fifty (150) feet, which bump out(s) shall be at least fifteen (15) feet wide and twenty (20) feet long; or

(2) eighteen (18) feet for other uses;

The plan for the access road must be approved by the Fire Chief or his designee with regard to the safe passage of fire-fighting and other emergency equipment over it. The minimum lot area of a flag lot exclusive of the narrow access portion of the lot used for ingress and egress shall be the minimum lot size of the district in which the lot is located. No part of the narrow access portion of the lot shall be less than thirty (30) feet in width or greater than fifty (50) feet in width for residential uses, and no less than fifty (50) feet in width for commercial uses. No buildings or structures shall be constructed within the narrow access portion of the lot and such portion shall not be considered in determining required setbacks. The front setback requirement shall apply to all setbacks (side and rear) of a flag lot used for residential purposes, unless such side or rear setback is greater than the front setback in that zone, in which case the setback shall be the greater of the three. On a single family residential flag lot, the minimum setback for no more than two (2) accessory structures with a combined area of

up to seven hundred (700) square feet and a maximum height of eighteen (18) feet shall be five (5) feet. Eff: 07/14/10; Amended 04/09/14; 01/10/18.

10. Purpose.

The purpose of this section is to protect the public health, safety and welfare, provide for the protection and maintenance of public ways and ensure that waste is adequately disposed of.

A. Definitions.

Recreational Vehicle (RV): Any of the following excluding Manufactured Housing Board Certified Homes:

Camper A separate vehicle designed for human habitation and which can be attached or detached from a motor vehicle, whether manufactured or homemade.

Camper-Trailer A vehicular, portable dwelling structure designed to be used for recreational purposes, whether manufactured or homemade. This includes a travel trailer, so identified by the manufacturer; a pickup camper; a folding tent trailer; and a motorized camper where the camping portion is an integral part of the self-propelled vehicle.

Motor Home A self-contained vehicle, designed for human habitation, with its own motive power and with a passageway from the body of the home to the front seat.

Occupy for living purposes: Includes, but is not limited to:

- a. Sleeping;
- b. Connecting to electricity, water, gas or a sanitary sewer to make ready for habitation; and
- c. Using as a dwelling place, as a substitute for or in addition to a customary dwelling unit.

Trailer A vehicle, without motive power, designed for carrying persons or property on its own and to be drawn by a vehicle with motive power. The term "trailer" shall include, but shall not be limited to, horse trailers, boat trailers and skimobile trailers.

B. Occupation Prohibited;

It shall be unlawful to occupy any RV for living purposes anywhere within the City except in a campground, campsite or RV Park all of which must be approved and/or permitted under applicable zoning regulation and maintained in accordance with City Ordinances.

Ch. 19, Sec. 19-303

C. Exceptions.

1. When a building permit has been issued for the construction or alteration of a building, the Code Enforcement Officer may issue a temporary permit, valid for six months, for the placement and occupation of one RV in connection with the construction or alteration of such building. Such permit may be extended for an additional six-month period if he/she finds that construction or alteration has been diligently pursued and that justifiable circumstances require the extension.

Standards for permits under this subsection are as follows:

- a. The applicant has submitted a plan showing the specific proposed location.
- b. The proposed location is on the same lot as the building being constructed or altered.
- c. The proposed location will not violate any private covenants attached to the property.
- d. Adequate provision is made for disposal of all waste.

2. A single RV may be occupied on private property outside of an approved campsite, campground or RV park for not more than one (1) week if it meets the following standards:

- a. The RV is occupied by visitors or relatives of the owner of the property.
- b. Neither an RV nor an RV site shall be rented.
- c. The RV must have self-contained sewage disposal, potable water and electrical service. Records of proper wastewater disposal must be available. Alternatively the occupant must have ongoing access to a principle structure on the same premises, containing bathroom facilities and electricity.
- d. The RV must be currently registered for over-the-road travel.
- e. If not located at an approved campsite, an RV may not be occupied or stored on a vacant lot. RVs shall not be stored on residential property not belonging to the owner of the RV. The Code Enforcement Officer may order such RV to be immediately removed.
- f. External electrical generators used in association with the recreational vehicles permitted under this section are prohibited.

3. Between May 1 and October 31, the owner of an RV may themselves occupy, or allow immediate family members to occupy such RV for periods of longer than a week on their own property on which they reside in a single or two-family dwelling.

4. RVs may be temporarily parked and occupied on private property where there is no principle structure for periods not exceeding 48 hours during festivals licensed by the City.

E. Violations. Any use contrary to this section shall be considered a land use violation.

Eff: 08/09/17

11. Non-Permitted Uses. Uses that are not expressly listed as either permitted uses or conditional uses in a zone are prohibited in that zone. Eff: 05/11/11

12. Yard Sales.

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

1. Goods means secondhand or used personal property which is owned, utilized and maintained by an individual or members of his residence, and acquired in a normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

2. Yard sales, lawn sales, garage sales and moving sales are synonymous and mean all general sales of goods, open to the public, conducted from or on a lot in a residential zone or on a lot used for residential purposes.

B. Sale of new goods: It shall be unlawful for new goods to be sold at any yard sale.

C. Termination of sale as fire or traffic hazard: The chief of police or his designee shall have the authority to terminate any yard sale which creates a traffic hazard. The fire chief shall have the authority to terminate any sale which creates a fire hazard.

D. Restricted to daylight hours: Yard sales shall be conducted during daylight hours only.

E. Removal of goods: Upon completion of the yard or garage sale, all goods not sold must be lawfully removed from the yard of the premises where the sale was held.

F. Frequency: A yard sale shall not be permitted at any one location, lot, or parcel of land, more than four times within a 12-month period. A yard sale shall not be continuous for more than three days.

G. Penalty: A yard sale not in compliance with this section shall be considered a land use violation. Eff: 7/12/17

Sec. 19-304 Zone Regulations

1. RESIDENTIAL ZONE "A"

Purpose: The purpose of this district is to protect the existing density and character of residential limited home based businesses, while providing an area of the community for similar development.

Ch. 19, Sec. 19-303

A. Permitted Uses

RESIDENTIAL ZONE "A" PERMITTED USES	
(1)	One-family dwelling;
(2)	Two-family dwelling;
(3)	Accessory Apartments
(4)	Home Occupations, Level 1 and Level 2, and home occupations similar in scale and impact to Level 1 and Level 2 Home Occupations.
(5)	Parcel 22-D-2 on the Assessor's Map on Summer Street and owned by Regional School Unit #13 may be used for any school purpose now enjoyed by the RSU #13 system on the adjacent property but only as long as the parcel also known as the Bradford Lot, is owned by the school system. If the parcel is ever sold, conveyed, given, or otherwise disposed of or if the school system ceases to exist, then the use of the parcel would revert back to the other permitted uses in the zone in which it is located.
(6)	Accessory uses customarily incident to other permitted uses including private garages, and Level 1 home occupations, provided, however, that such home occupations shall be situated in the dwelling in which the proprietor of the business resides, or in a building accessory thereto and located on the same lot. Eff: 11/10/89

B. Conditional Uses

The following conditional uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II):

RESIDENTIAL ZONE "A" CONDITIONAL USES	
(1)	<p>Bed and Breakfast Establishments.</p> <p>(a) Parking and Buffering. Off-street parking shall be provided for all vehicles of both owners and guests in either the side or rear yards of the lot. Where the lot of a bed and breakfast borders on a lot used solely for residential purposes, a buffer strip shall be maintained. The desired effect of the buffer planting is visual screening of the activity on the bed and breakfast lot. Landscaping of the lot and any buffer strips shall be reviewed and approved by the Planning Board.</p> <p>(b) Owner Occupancy. Notwithstanding anything to the contrary in Sec. 19-302, the owner of an existing Bed and Breakfast Establishment may be authorized to reside in a residence on a parcel that is immediately contiguous to the Bed and Breakfast Establishment parcel where the property line separating the parcels is uninterrupted. The owner of a new Bed and Breakfast Establishment may be authorized by the Planning Board to reside in a residence on a parcel that is immediately contiguous to the Bed and Breakfast Establishment parcel where the property line separating the parcels is uninterrupted. Eff: 03/11/15</p>

RESIDENTIAL ZONE “A” CONDITIONAL USES	
(2)	Churches, Expansion of Existing, and Uses Accessory to Existing Churches. (a) For the purposes of this section, uses accessory to existing churches shall be limited to the following: (i) Meetings of church organizations. (ii) Religious education classes and child development programs. (iii) Food pantries. (b) In its review, the Planning Board shall take into consideration the following factors and impose conditions accordingly: location; character and natural features of the site and adjoining property; fencing and screening; landscaping; topography and natural drainage; traffic hazards, vehicular access, circulation and parking; lighting; hours of operation.
(3)	Flag Lots
(4)	Funeral Homes, Expansion of Existing, and Uses Accessory to Existing Funeral Homes. (a) The Planning Board shall take into consideration the following factors and impose conditions accordingly in its review of any proposed expansion of an existing funeral home and/or uses accessory to an existing funeral home: location; character and natural features of the site and adjoining property; fencing and screening; landscaping; topography and natural drainage; traffic hazards, vehicular access, circulation and parking; lighting; and hours of operation. Eff: 11/14/97
(5)	Golf Courses, Expansion of existing onto contiguous property with the following conditions: (a) No building(s) may be erected; (b) No parking space(s) may be created that are associated with the golf course use. Ch. 19, Sec. 19-304 (c) No artificial lighting may be installed or otherwise created for the use of the golf course. Eff: 4/23/76
(6)	Home Occupation, Level 3, and home occupations similar in scale and impact to Level 3 Home Occupations
(7)	Private Non-Medical Institutes and Residential Care Facilities, Small. Eff: 04/11/12
(8)	Public school buildings, discontinued, used for cultural and educational purposes; public access or local governmental affairs television studios and local non-profit community radio stations and studios broadcasting at no more than 100 watts horizontal radiated power, provided that broadcasting equipment, if any, shall be either remote or via one roof-mounted whip antenna not exceeding 35 feet in height, provided that the total height of the discontinued school building and roof-mounted antenna does not exceed the total height limit set forth in Section 19-313(4); and/or elderly assisted living housing of no more than 30 units. The above-referenced use is permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is involved. In granting, denying, and/or imposing conditions, the Planning Board shall undertake a review applying the process and standards outlined in Chapter 16, Sections 16-201 through 16-206 for site plan review and shall take into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; sign, and lighting; compatibility with existing uses; availability of necessary public services; compliance with applicable requirements of all City Ordinances. Eff: 07/09/08

Notice Required. All property owners within 300 feet of the lot lines of any proposed conditional use shall be notified in writing at least 10 days prior to consideration of the conditional use by the Planning Board. Eff: 4/24/94; Amended 6/8/94

C. Prohibited Uses

RESIDENTIAL ZONE “A” PROHIBITED USES	
(1)	Any use which is obnoxious, annoying, unsightly, detrimental to the character of the neighborhood, or offensive to a neighborhood by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration is prohibited.
(2)	Animal Restriction: Except domesticated chickens kept in accordance with Chapter 3, Article III, no person shall keep any farm animals including but not limited to fowl, mule, donkey, sheep, goat, cattle, swine, or non-domesticated animal, and no person shall keep any dogs or rabbits for breeding or commercial purposes, on any premises in this zone. Eff: 12/09/15

D. Standards

(1). The following space and bulk standards shall apply to all lots and/or parcels of land:

RESIDENTIAL ZONE “A” STANDARDS	
Minimum Lot Size	10,000 square feet sewered lots; 20,000 square feet for non-sewered lots
Maximum Building Coverage	40% (includes Principal and Accessory structures)

Minimum First Floor Area (Principal Structure)	750 square feet
Minimum Continuous Street Frontage along one street	100 feet (Excludes Cul-de-sacs)*
Minimum Front Setback (Principal and Accessory Structures)**	25 feet**
Minimum Rear Setback	25 feet (Excludes Corner Lots, see definition)
Minimum Rear Setback – Exception (For no more than 2 accessory structures with a combined area of up to 700 square feet and a maximum height of 18 feet)	5 feet
Minimum Side Setback (Principal Structure)	8 feet
Minimum Side Setback (Accessory Structures)	5 feet
Maximum Building Height	35 feet and 2 ½ stories

Notes:

*See Subdivision Review in Chapter 16 for Cul-de-sac frontage standards.

** In the case of an infill lot, the minimum front setback may be less than 25 feet if the front setback matches one or the other of the existing adjacent front setbacks of abutting lots.

For purposes of setback calculations, Principal and Accessory Structures include attached porches, decks and any other attached structures excluding steps only if the steps do not exceed 25 square feet in size. Ramps for handicapped access are exempted from setback calculations. Eff: 05/19/06

2. RESIDENTIAL ZONE "AA"

Purpose: The purpose of this district is to protect the existing density and character of residential development, as well as limited home based businesses, while providing an area of the community for similar development.

A. Permitted Uses

RESIDENTIAL ZONE "AA" PERMITTED USES	
(1)	One-family dwelling
(2)	Accessory Apartments
(3)	Home Occupation, Level 1, and home occupations similar in scale and impact to a Level 1 Home Occupation.
(4)	Accessory uses customarily incident to other permitted uses including private garages.

B. Conditional Uses

RESIDENTIAL ZONE "AA" CONDITIONAL USES	
(1)	Flag Lots

C. Prohibited Uses

RESIDENTIAL ZONE "AA" PROHIBITED USES	
(1)	Any use which is obnoxious, annoying, unsightly, detrimental to the character of the neighborhood, or offensive to a neighborhood by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration is prohibited.
(2)	Home Occupation, Level 2 and Level 3
(3)	Home Occupation similar in scale and impact to Level 2 and Level 3 Home Occupations
(4)	No person shall keep any farm animals including but not limited to fowl, sheep, goat, cattle, swine, horses, mule, donkey or other non-domesticated animal except domestic house pets, and no person shall keep any dogs or rabbits for breeding or commercial purposes, on any premises in this zone.

D. Standards

(1). The following space and bulk standards shall apply to all lots and/or parcels of land:

RESIDENTIAL ZONE "AA" STANDARDS	
Minimum Lot Size	20,000 square feet sewered lots; 20,000 square feet for non-sewered lots

RESIDENTIAL ZONE “AA” STANDARDS	
Maximum Building Coverage	40% (includes Principal and Accessory Structures)
Minimum First Floor Area (Principal Structure)	750 square feet
Minimum Continuous Street Frontage along one street	125 feet (Excludes Cul-de-sacs)*
Minimum Front Setback (Principal and Accessory Structures)	35 feet**
Minimum Rear Setback	25 feet (Excludes Corner Lots, see definition)
Minimum Rear Setback – Exception (For no more than 2 accessory structures with a combined area of up to 700 square feet and a maximum height of 18 feet)	5 feet
Minimum Side Setback (Principal Structure)	10 feet
Minimum Side Setback (Accessory Structures)	5 feet
Maximum Building Height	35 feet and 2 ½ stories **

Notes:

*See Subdivision Review in Chapter 16 for Cul-de-sac frontage standards.

** In the case of an infill lot, the minimum front setback may be less than 35 feet if the front setback matches one or the other of the existing adjacent front setbacks of abutting lots.

For purposes of setback calculations, Principal and Accessory Structures include attached porches, decks and any other attached structures excluding steps only if the steps do not exceed 25 square feet in size. Ramps for handicapped access are exempted from setback calculations. Eff: 05/19/06

3. RESIDENTIAL ZONE "B"

Purpose: The purpose of this district is to protect the existing density and character of residential development, as well as limited home based businesses, while providing an area of the community for similar development.

A. Permitted Uses

RESIDENTIAL ZONE “B” PERMITTED USES	
(1)	One-family dwellings, two-family dwellings, multi-unit dwellings
(2)	Accessory Apartments
(3)	Home Occupation, Level 1 and Level 2, or a home occupation similar in scale and impact to a Level 1 or Level 2 Home Occupation
(4)	Churches, convents
(5)	Flag Lots
(6)	Golf courses, parks, playgrounds, municipal recreation use
(7)	Trailer parks Eff: 7/12/87
(8)	Accessory uses customarily incident to other permitted uses

B. Conditional Uses

The following are permissible with the approval of the Planning Board. In granting, denying, and/or imposing conditions, the Planning Board shall undertake a review, applying the process and standards outlined in Chapter 16-201 through 16-206 for site plan review and shall take into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography, and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; signage, and lighting; compatibility with existing uses; availability of necessary public services; and compliance with applicable requirements of all City ordinances. All property owners within 300 feet of the lot lines of any proposed conditional use shall be notified in writing, at the applicant’s expense, at least 7 days prior to consideration of the conditional use by the Planning Board. Eff: 09/09/09

RESIDENTIAL ZONE “B” CONDITIONAL USES	
(1)	Bed and Breakfast Establishments
(2)	Home Occupation, Level 3
(3)	Home Occupation similar in scale and impact to Home Occupation Level 3
(4)	Lodging or Rooming houses;
(5)	Nurseries or commercial greenhouses shall be allowed north or west of Old County Road only, and provided that no greenhouse heating plant shall be located within 60 feet of any front lot line or within 25 feet of any other lot line
(6)	Farming
(7)	Private Non-Medical Institutes and Residential Care Facilities, Small. Eff: 04/11/12
(8)	Schools and Day Care Facilities Eff: 07/11/07
(9)	Quasi-Public Uses
(10)	Any public utility building, if constructed to conform and harmonize with the buildings in this zone, provided further that the proposed use does not include a storage or service yard or repair shop, or outside storage of supplies
(11)	On lots served by public sewerage, Assisted Living Facilities, and multi-family dwellings th Ch. 19, Sec. 19-304 Living Facility. Eff: 09/09/09
(13)	Agricultural Markets on parcels fronting on Old County Road operated by a parcel owner and/or by a person whose primary residence is located on the parcel. Eff: 11/14/14

(Amended 07/09/14)

C. Prohibited Uses

RESIDENTIAL ZONE “B” PROHIBITED USES	
(1)	Any use which is obnoxious, annoying, unsightly, detrimental to the character of the neighborhood, or offensive to a neighborhood by reason of odor, fumes, vapor, dust, smoke, gas, noise or vibration is prohibited

D. Standards

(1). The following space and bulk standards shall apply to all lots and/or parcels of land:

RESIDENTIAL ZONE “B” STANDARDS	
Minimum Lot Size	6,400 square feet for sewered lots 20,000 square feet for non-sewered lots
Required Lot Area for Dwellings with two or more units	Sewered lots, except Assisted Living Facilities: 5,000 square feet for each unit; Non-sewered lots: 20,000 square feet for the first unit, plus 10,000 for each additional unit. Eff: 8/9/06
Maximum Building Height	35 feet and 2½ stories
Maximum Building Coverage	60% (includes Principal and Accessory Structures)
Minimum Floor Area (Principal Structure Total Floor Area)	750 square feet Eff: 04/11/12
Minimum Continuous Street Frontage along one street	80 feet (Excludes cul-de-sacs)*
Minimum Front Setback (Principal and Accessory Structures)**	15 feet**
Minimum Rear Setback	20 feet (Excludes Corner Lots, see definition)
Minimum Rear Setback – Exception (For no more than 2 accessory structures with a combined area of up to 700 square feet and a maximum height of 18 feet)	5 feet
Minimum Side Setback (Principal Structure)	5 feet
Minimum Side Setback (Accessory Structures)	5 feet

Notes:

* See Subdivision Review in Chapter 16 for Cul-de-sac frontage standards.

** In the case of an infill lot, the minimum front setback may be less than 15 feet if the front setback matches one or the other of the existing adjacent front setbacks of abutting lots.

For purposes of setback calculations, Principal and Accessory Structures include attached porches, decks and any other attached structures excluding steps only if the steps do not exceed 25 square feet in size. Ramps for handicapped access are exempted from setback calculations. Eff: 05/19/06

4. ELDERLY RESIDENTIAL ZONE "B-1"

Purpose: The purpose of this district is to protect and provide for affordable elderly housing development.

A. Uses and Standards

(1). The following space and bulk standards shall apply to all lots and/or parcels of land:

RESIDENTIAL ZONE "B-1" USES AND STANDARDS		Ch. 19, Sec. 19-304
Elderly Residential Zone "B-1" shall be governed by all standards, uses, restrictions and criteria presently governing residential zone "B", except that the following restrictions and criteria shall specifically apply to Elderly Residential Zone "B-1" and shall supersede those applicable to residential zone "B" where they are in conflict		
Minimum Floor Area.	Multiple dwellings which provide housing solely for the elderly and/or the handicapped shall provide not less than 600 square feet of the lot area per family where such a family shall consist of no more 2 individuals.	
Minimum Setbacks	The corner setback on Park Street and Broadway shall be not less than 25 feet each. The side and rear setbacks may be less than 25 feet, providing that no building shall be erected closer than 50 feet from any existing building on an adjoining lot.	
Maximum Building Height.	55 feet and 5 stories	

Eff: 05/19/06

5A. RURAL RESIDENTIAL 1 ZONE "RR1"

Purpose: The purpose of the Rural Residential 1 Zone is to protect sensitive natural resources and the rural nature of this area. Since this area is largely non-sewered, nor is sewer extension likely in the near future, the area should allow residential uses and limited commercial activities, including only limited merchandizing. The area is presently mixed residential with some commercial. Outdoor storage and motor vehicle repair should be allowed with screening. Large lots should be retained to maintain the rural character of the area.

A. Permitted Uses

In a Rural Residential 1 Zone "RR1" no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided for in this Article.

RESIDENTIAL ZONE "RR1" PERMITTED USES	
(1)	Residential uses, single, 2-family and multifamily
(2)	Accessory Apartments
(3)	Home occupations, all levels
(4)	Agriculture, including but not limited to: cattle, sheep, goats, swine, fowl, or horses kept for commercial or personal purposes
(5)	Bed and breakfast Establishments
(6)	Churches
(7)	Flag Lots
(8)	Funeral homes
(9)	Monument and stone works
(10)	Nurseries, greenhouses and landscaping businesses
(11)	Office buildings Eff: 3/24/99

(12)	Personal Services	
(13)	Public utilities Eff: 9/11/96	
(14)	Schools and Day care centers	
(15)	Service clubs and fraternal or veterans' organizations	
(16)	Small engine repair	
(17)	Social Service building, existing on 5/14/97, may be expanded up to 2,000 square feet in area	
(18)	Tradesmen's offices, shops, and showrooms	Ch. 19, Sec. 19-304
(19)	Veterinarians	
(20)	Accessory uses	

B. Conditional Uses

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is involved. In granting, denying, and/or imposing conditions, the Planning Board shall undertake a review, applying the process and standards outlined in Chapter 16, Sections 16-201 through 16-206 for site plan review and shall take into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; sign, and lighting; compatibility with existing uses; availability of necessary public services; compliance with applicable requirements of all City Ordinances, including the Performance Standards of Section 19-316.

RESIDENTIAL ZONE “RR1” CONDITIONAL USES	
Automobile Body Shops, Automobile Repair and Farm Equipment businesses must not keep outdoors, or on a regular basis, any more than 12 vehicles or pieces of machinery awaiting repair, undergoing repair, or awaiting pick up after repair. These vehicles must be screened as required by Section 19-316.H & I. This number may be increased to 20 vehicles if the site plan which is presented shows that the additional vehicles, machinery or equipment will not be visible from other properties.	
(1)	Automobile Body Shop, new or expanded
(2)	Automobile Sales, Small-Scale Used, new or expanded. The Planning Board may allow the number of vehicles displayed on any lot in a RR1 zone to be increased up to a maximum of 30 vehicles according to the following: <ul style="list-style-type: none"> (i) 1 additional vehicle can be displayed for each 10,000 square feet of undeveloped lot size which exceeds the minimum required lot size in this zone; and (ii) 1 additional vehicle can be displayed for each 10 feet of street frontage (on a public street) exceeding the minimum required frontage in this zone.
(3)	Automobile Repair businesses, new or expanded
(4)	Commercial outdoor recreational uses Eff: 9/9/98
(5)	Farm Equipment sales, new or expanded Eff: 3/11/98
(6)	Schools

C. Prohibited Uses

RESIDENTIAL ZONE “RR1” PROHIBITED USES	
(1)	Any use which is obnoxious, annoying, unsightly, detrimental, injurious or dangerous to the health, comfort, or property of individuals, or of the public, by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration
(2)	Ammonia, bleaching powder, or chlorine manufacturing or refining, hydrochloric, nitric, picric, sulfuric, or sulfurous acid manufacture
(3)	Asphalt manufacture, heating, mixing, or refining, creosote manufacture
(4)	Blast furnace; melting or ore reduction or smelting; hot rolling mill

RESIDENTIAL ZONE “RR1” PROHIBITED USES	
(5)	Cement, gypsum, or plaster of Paris manufacture or rock crushing
(6)	Dextrin, glucose, or starch manufacture
(7)	Drive-up windows and drive-throughs
(8)	Dye, or match manufacture
(9)	Explosives or fireworks manufacture, or storage in excess of five hundred (500) pounds
(10)	Fat, grease, lard, or tallow manufacture, refining, or rendering
(11)	Fish rendering
(12)	Incineration, reduction, or dumping of dead animals, garbage, offal, or refuse
(13)	Linoleum or oilcloth manufacture, production or refining of petroleum or other inflammable liquids
(14)	Rubber manufacture, or treatment involving offensive odor
(15)	Slaughtering, or operation of stock yards
(16)	Tanning or curing of raw hides or skins
(17)	Tar distillation or manufacture, turpentine or varnish manufacture
(18)	Any process similar in character to any of the uses specified above or those uses which have been declared a nuisance in any court record

Ch. 19, Sec. 19-304

D. Standards

(1) The standards of Section 19-316 shall be observed.

RESIDENTIAL ZONE “RR1” STANDARDS		
	SEWERED USE	NON-SEWERED USE
Minimum Lot Size	20,000 square feet	43,560 square feet
Required Lot Area for each Additional Dwelling Unit	20,000 square feet	43,560 square feet
Minimum First Floor Area Per Building	600 square feet	
Minimum Continuous Street Frontage along one street	200 feet (Excludes Cul-de-sacs)*	
Minimum Setbacks**		
Front	35 feet	50 feet
Side (Principal Structure)	25 feet	25 feet
Rear	20 feet (Excludes corner lots, see definition)	30 feet (Excludes corner lots, see definition)
Minimum Rear Setback – Exception (For no more than 2 accessory structures with a combined area of up to 700 square feet and a maximum height of 18 feet)	10 feet	
Side and rear setbacks for commercial or mixed use abutting a residential zone or use	40 feet	
Minimum Side Setback (Accessory Structures)	10 feet	
Maximum Building Coverage	East of Old County Road 40% West of Old County Road 20%	
Maximum Lot Coverage	East of Old County Road 60%	

RESIDENTIAL ZONE “RR1” STANDARDS	
	West of Old County Road 30%
Maximum Building Height	35 feet and 2½ stories
Minimum Distance Between Curb Cuts	200 feet along a public way or 100 feet along an internal private road, but at least one allowed per lot. These provisions may be waived if compliance is physically impossible or would create a safety hazard; the intent is to maximize distance between cuts.

Notes:

Eff: 12/13/17

*See Subdivision Review in Chapter 16 for Cul-de-sac frontage standards.

Ch. 19, Sec. 19-304

** For purposes of setback calculations, Principal and Accessory Structures include attached porches, decks and any other attached structures excluding steps only if the steps do not exceed 25 square feet in size. Ramps for handicapped access are exempted from setback calculations. Eff: 05/19/06

5-B. RURAL RESIDENTIAL 2 ZONE “RR2”

Eff: 10/09/13

A. Purpose: The purpose of the Rural Residential 2 Zone is to permit agriculture, animal husbandry, low-density residences, and other appropriate uses in the City’s rural areas; to protect sensitive natural resources; and to preserve the rural character of this area. Only uses and development standards that are consistent with these purposes are permitted, in order to maintain the rural character of the area for current and future residents.

B. Permitted Uses

In the Rural Residential 2 Zone, no building or land shall be used, and no building shall hereafter be erected or structurally altered, except as provided herein, unless otherwise authorized in this Article.

RURAL RESIDENTIAL 2 ZONE “RR2” PERMITTED USES	
(1)	Agriculture
(2)	Single- And Two-Family Dwellings
(3)	Accessory Apartments
(4)	Home Occupations, Levels 1 and 2
(5)	Bed and Breakfast Establishments
(6)	Nurseries, greenhouses and landscaping businesses
(7)	Veterinarians and Veterinary Clinics
(8)	Riding Stables
(9)	Farm Stands
(10)	Accessory uses

C. Conditional Uses

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is used. In granting, denying, and/or imposing conditions, the Planning Board shall undertake a review, applying the process and standards outlined in Chapter 16, Sections 16-201 through 16-206 for site plan review and shall take into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; signage, and lighting; compatibility with existing uses; availability of necessary public services; compliance with applicable requirements of all City Ordinances, including the Performance Standards of Section 19-316.

RURAL RESIDENTIAL 2 ZONE “RR2” CONDITIONAL USES	
(1)	Agricultural Markets
(2)	Campgrounds
(3)	Cemeteries
(4)	Home Occupations, Level 3
(5)	Direct or magnetic drive wind turbines with a rated generation capacity of less than 110 kw where the electricity produced is to be utilized at the owner’s permitted home, farm, or business, or to offset the electricity consumed at the owner’s permitted home, business, or farm.

Ch. 19, Sec. 19-304

D. Prohibited Uses

RURAL RESIDENTIAL 2 ZONE “RR2” PROHIBITED USES	
(1)	Drive-up windows and drive-throughs
(2)	Wind turbines with 110 kw or greater generation capacity
(3)	Flag Lots
(4)	Other uses not listed as permitted or conditional uses, or subsequently authorized by contract or conditional zoning.

E. Standards

(1) The standards of Section 19-316 shall be observed.

(2) RURAL RESIDENTIAL 2 ZONE “RR2” STANDARDS	
Minimum Lot Size	Two acres, or legally existing lots less than two acres on record as of the effective date of this ordinance amendment
Minimum First Floor Area Per Primary Structure	400 square feet
Minimum Continuous Street Frontage along one street	200 feet
Minimum Setbacks Front Side (Principal Structure) Rear	25 Feet 25 Feet 20 Feet (excludes corner lots, see definition)
Minimum Rear Setback – Exception (For no more than 2 accessory structures with a combined area of up to 700 square feet and a maximum height of 18 feet)	10 feet
Side and rear setbacks for commercial or mixed uses abutting a residential zone or use	40 feet
Minimum Side Setback (Accessory Structures)	10 feet
Maximum Building Coverage by Primary Structures	20% (includes principal and accessory buildings)
Maximum Lot Coverage	40% (includes impervious surfaces)
Maximum Building Height	35 feet and 2½ stories, except barns, silos, sheds, other structures used for agricultural purposes, and wind power generation towers accessory to on-site use

Ch. 19, Sec. 19-304

(2) RURAL RESIDENTIAL 2 ZONE “RR2” STANDARDS	
Minimum Distance Between Curb Cuts	200 feet along a public way or 100 feet along an internal private road, but at least one allowed per lot. These provisions may be waived if compliance is physically impossible or would create a safety hazard; the intent is to maximize distance between cuts.

Notes:

- * For purposes of setback calculations, Principal and Accessory Structures include attached porches, decks and any other attached structures excluding steps only if the steps do not exceed 25 square feet in size. Ramps for handicapped access are exempted from setback calculations.

6. TRANSITIONAL BUSINESS 1 ZONE “TB1”

Purpose: The purpose of the Transitional Business 1 Zone is to offer the opportunity for nonresidential uses while protecting adjoining residential neighborhoods and zones. Consequently, the permitted and conditional uses and the development standards for this zone are intended to encourage small-scale operations and uses that are compatible with residential uses. This Zone should be used as a buffer between residential areas and adjoining commercial or industrial zones. Eff: 05/08/13

A. Permitted Uses

TRANSITIONAL BUSINESS 1 ZONE “TB1” PERMITTED USES	
(1)	Single, two family and multifamily residential uses
(2)	Accessory Apartments
(3)	Assisted Living Facilities Eff: 04/11/12
(4)	Home occupations, all levels
(5)	Accessory uses
(6)	Art galleries
(7)	Bed and Breakfast Establishments
(8)	Business services
(9)	Churches
(10)	Community and civic buildings and uses
(11)	Financial services
(12)	Funeral homes
(13)	Health and fitness
(14)	Human health services
(15)	Museums
(16)	Nursing homes
(17)	Office buildings
(18)	Parks and playgrounds
(19)	Personal services
(20)	Professional service
(21)	Private Non-Medical Institutes and Residential Care Facilities, Small Eff: 04/11/12
(22)	Private Non-Medical Institutes and Residential Care Facilities, Large Eff: 04/11/12
(23)	Publishing of newspapers, magazines, and books (excluding printing plants)
(24)	Restaurants of not more than 1,500 square feet (including all space utilized for the Restaurant); with hours of operation limited to between 7 AM and 10 PM; that do not include drive-through service; and that do not offer live entertainment with amplified music. Eff: 08/10/16
(26)	Quasi-public uses
(26)	Retail sales in space under 1,200 square feet; (The collective floor area of showroom, office, sales floor, storage, etc., used to conduct the sale of goods directly to the consumer)
(27)	Schools and day care center
(28)	Social Services
(29)	Tradesmen's offices, shops and showrooms

B. Conditional Uses

The following conditional uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II). In granting, denying, and/or imposing conditions, the Planning Board shall follow

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the process and apply the standards set forth in Chapter 16, Sections 16-201 through 16-206 for site plan review, and shall include a review of the following factors: location, character and natural features of the side and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; signage, and lighting; compatibility with existing uses; availability of necessary public services; compliance with application requirements of all City Ordinances, including the Performance Standards of Section 19-316. Eff: 05/08/13

TRANSITIONAL BUSINESS 1 ZONE “TB1” CONDITIONAL USES	
(1)	Change of use of an existing structure from an exclusively residential use to a Mixed Use, on an existing lot of record as of March 11, 2013, which lot does not meet the dimensional standards for Mixed Uses.

Eff: 05/08/13

C. Prohibited Uses

TRANSITIONAL BUSINESS 1 ZONE “TB1” PROHIBITED USES	
(1)	Any use which is obnoxious, unsightly, annoying, dangerous, detrimental or injurious to the health, comfort, or property of individuals, or of the public, by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration
(2)	Any use specifically named in Residential Zone “RR1” Prohibited Uses
(3)	Flag Lots
(4)	Outdoor sales or display

D. Standards

- (1) The standards of Section 19-316 shall be observed.
- (2) The following space and bulk standards shall apply to all lots and/or parcels of land:

TRANSITIONAL BUSINESS 1 ZONE “TB1” STANDARDS	
Minimum Lot Size Non-Residential and Mixed Use ¹	10,000 square sewered; 20,000 square feet non-sewered
Minimum Lot Size Residential Use	5,000 square feet sewered; 20,000 square feet non-sewered
Required Lot Area per Dwelling Unit	2,500 square feet for sewered lots (Eff: 4/11/18) 10,000 square feet for non-sewered lots
Minimum First Floor Area Per Building	600 square feet
Minimum Continuous Street Frontage along one street	80 feet (Excludes Cul-de-sacs) ^{2*}
Minimum Setbacks ^{3**}	
Front	10 feet (Eff: 4/11/18)
Side	15 feet
Rear	20 feet (Excludes Corner Lots, see definition)
Side and rear setbacks for nonresidential or mixed use abutting a residential zone or use	30 feet
Minimum Rear Setback for an Accessory Structure over 700 square feet or portion thereof over 700 square feet)	20 feet
Minimum Rear Setback – Exception (For no more than 2 accessory structures with a combined area of up to 700 square feet and a maximum height of 18 feet)	5 feet
Maximum Building Coverage	40%
Maximum Lot Coverage	60%
Maximum Building Height	35 feet and 2½ stories
Minimum Distance Between Curb Cuts	50 ft. along a public street, but at least one allowed per lot. Property access shall be from side streets when possible. These provisions may be waived if compliance is physically impossible or would create a safety hazard

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TRANSITIONAL BUSINESS 1 ZONE “TB1” STANDARDS

maximize distance between cuts

Notes:

¹ Except as provided in B. Conditional Uses (above).

²*See Subdivision Review in Chapter 16 for Cul-de-sac frontage standards.

³** In the case of an infill lot, the minimum front setback may be less than 20 feet if the front setback matches one or the other of the existing adjacent front setbacks of abutting lots. Eff: 05/08/13

For purposes of setback calculations, Principal and Accessory Structures include attached porches, decks and any other attached structures excluding steps only if the steps do not exceed 25 square feet in size. Ramps for handicapped access are exempted from setback calculations. Eff: 05/19/06

7. TRANSITIONAL BUSINESS 2 ZONE “TB2”

Purpose: The purpose of the Transitional Business 2 Zone is to offer the opportunity for non-residential uses while protecting the adjoining residential neighborhoods and zones. Consequently, the permitted and conditional uses and development standards for this zone are intended to encourage small-scale operations and uses which are compatible with residential uses. This Zone should be used as a buffer between residential areas and adjoining commercial or industrial zones. Retail (except incidental sales) is not allowed in order to minimize additional traffic congestion and improve traffic safety, to protect the viability of Downtown, and to protect adjacent residential neighborhoods. Eff: 05/08/13

A. Permitted Uses

TRANSITIONAL BUSINESS 2 ZONE “TB2” PERMITTED USES

- | | |
|-----|--|
| (1) | Uses allowed in Transitional Business 1 Zone, excluding retail sales (except incidental sales) |
|-----|--|

B. Conditional Uses

The following conditional uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II). In granting, denying, and/or imposing conditions, the Planning Board shall follow the process and apply the standards set forth in Chapter 16, Sections 16-201 through 16-206 for site plan review, and shall include a review of the following factors: location, character and natural features of the side and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; signage, and lighting; compatibility with existing uses; availability of necessary public services; compliance with application requirements of all City Ordinances, including the Performance Standards of Section 19-316. Eff: 05/08/13

TRANSITIONAL BUSINESS 2 ZONE “TB2” CONDITIONAL USES

- | | |
|-----|---|
| (1) | Existing automobile dealerships (including outdoor sales and display). |
| (2) | Change of use of an existing structure from an exclusively residential use to a Mixed Use, on an existing lot of record as of March 11, 2013, which lot does not meet the dimensional standards of Mixed Use. Eff: 05/08/13 |

C. Prohibited Uses

TRANSITIONAL BUSINESS 2 ZONE “TB2” PROHIBITED USES

- | | |
|-----|---|
| (1) | Any use specifically named in Residential Zone “RR1” Prohibited Uses |
| (2) | Any use which is annoying, detrimental, obnoxious, unsightly, injurious or dangerous to the health, comfort, or property of individuals, or of the public, by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration |
| (3) | Drive-up windows and drive-throughs |
| (4) | Flag Lots |
| (5) | Outdoor sales or display |

D. Standards

- (1) The standards of Section 19-316 Performance Standards shall be observed.
 (2) The following space and bulk standards shall apply to all lots and/or parcels of land:

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TRANSITIONAL BUSINESS 2 ZONE “TB2” STANDARDS	
Minimum Lot Size Non-Residential and Mixed Use ¹	10,000 square feet sewerded; 20,000 square feet non-sewerded
Minimum Lot Size Residential Use	5,000 square feet sewerded; 20,000 square feet non-sewerded
Required Lot Area per Dwelling Unit	2,500 square feet for sewerded lots (Eff: 4/11/18) 10,000 square feet for non-sewerded lots
Minimum First Floor Area Per Building	600 square feet
Minimum Continuous Street Frontage along one street	80 feet (Excludes Cul-de-sacs) ^{2*}
Minimum Setbacks ^{3**}	
Front	30 feet
Side	15 feet
Rear	20 feet (Excludes Corner Lots, see definition)
Side and rear setbacks for nonresidential or mixed use abutting a residential zone or use	20 feet
Minimum Rear Setback – Exception (For no more than 2 accessory structures with a combined area of up to 700 square feet and a maximum height of 18 feet)	5 feet
Maximum Building Coverage	40%
Maximum Lot Coverage	60%
Maximum Building Height	35 feet and 2½ stories
Minimum Distance Between Curb Cuts	150 ft. along a public street, but at least one allowed per lot. Property access shall be from side streets when possible. These provisions may be waived if compliance is physically impossible or would create a safety hazard; the intent is to maximize distance between cuts

Notes:

Eff: 05/08/13

¹ Except as provided in B. Conditional Uses (above)

^{2*} See Subdivision Review in Chapter 16 for Cul-de-sac frontage standards.

^{3**} In the case of an infill lot, the minimum front setback may be less than 30 feet if the front setback matches one or the other of the existing adjacent front setbacks of abutting lots. Eff: 05/08/13

For purposes of setback calculations, Principal and Accessory Structures include attached porches, decks and any other attached structures excluding steps only if the steps do not exceed 25 square feet in size. Ramps for handicapped access are exempted from setback calculations. Eff: 05/19/06

8. TRANSITIONAL BUSINESS 3 ZONE “TB3”

Purpose: The purpose of the Transitional Business 3 Zone is to offer the opportunity for non-residential uses while protecting adjoining residential neighborhoods and zones. This Zone is different from the Transitional Business 2 Zone in that it is mostly made up of larger parcels which should be preserved to encourage planned development.

A. Permitted Uses

TRANSITIONAL BUSINESS 3 ZONE “TB3” PERMITTED USES	
(1)	Residential uses, single, two-family and multifamily
(2)	Accessory Apartments
(3)	Assisted Living Facilities Eff: 04/11/12
(4)	Home occupations, all levels
(5)	Accessory uses
(6)	Art galleries
(7)	Churches

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TRANSITIONAL BUSINESS 3 ZONE “TB3” PERMITTED USES	
(8)	Elderly housing
(9)	Funeral homes
(10)	Human health services
(11)	Libraries;
(12)	Lodging facilities (hotels, motels, and B&B’s);
(13)	Museums
(14)	Nurseries and greenhouses
(15)	Nursing homes
(16)	Office buildings
(17)	Professional services
(18)	Private Non-Medical Institutes and Residential Care Facilities, Small Eff: 04/11/12
(19)	Private Non-Medical Institutes and Residential Care Facilities, Large Eff: 04/11/12
(20)	Public Parks and playgrounds
(21)	Restaurants; sit down
(22)	Schools and day care centers

B. Conditional Uses

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is involved

TRANSITIONAL BUSINESS 3 ZONE “TB3” CONDITIONAL USES	
(1)	Commercial outdoor recreational uses. Eff: 09/09/98

C. Prohibited Uses

TRANSITIONAL BUSINESS 3 ZONE “TB3” PROHIBITED USES	
(1)	Any use specifically named in Residential Zone “RR1” Prohibited Uses
(2)	Any use which is annoying, detrimental, obnoxious, unsightly, injurious or dangerous to the health, comfort, or property of individuals, or of the public, by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration
(3)	Drive-up windows and drive-throughs
(4)	Flag Lots
(5)	Outdoor sales or display

D. Standards

- (1). The standards of Section 19-316 shall be observed.
- (2). The standards of 19-304-22-K shall apply to properties in this zone on the east side of Camden Street.
- (3). The following space and bulk standards shall apply to all lots and/or parcels of land:

TRANSITIONAL BUSINESS 3 ZONE “TB3” STANDARDS	
Minimum Lot Size Non-Residential and Mixed Use	43,560 square feet
Minimum Lot Size Residential Use	5,000 square feet for sewerred lots (Eff: 4/11/18) 20,000 square feet for non-sewerred lots
Required Lot Area per Dwelling Unit	2,500 square feet for sewerred lots (Eff: 4/11/18) 10,000 square feet for non-sewerred lots
Minimum First Floor Area Per Building	750 square feet
Minimum Continuous Street Frontage along one street	150 feet (Excludes Cul-de-sacs)* Ch. 19, Sec. 19-304
Minimum Setbacks**	
Front	30 feet
Side	15 feet
Rear	Single family unit 20 feet; All other 30 feet

TRANSITIONAL BUSINESS 3 ZONE “TB3” STANDARDS	
	(Excludes Corner Lots, see definition)
Side and rear setbacks for nonresidential or mixed use abutting a residential zone or use	75 feet side and rear setbacks which shall not be used for off-street parking or outdoor storage.
Minimum Rear Setback (Accessory Structure over 700 square feet or portion thereof over 700 square feet)	20 feet
Minimum Rear Setback – Exception (For no more than 2 accessory structures with a combined area of up to 700 square feet and a maximum height of 18 feet)	5 feet
Maximum Building Coverage	30%
Maximum Lot Coverage	60%
Maximum Building Height	35 feet
Minimum Distance Between Curb Cuts	150 ft. along a public street, but at least one allowed per lot. Property access shall be from side streets when possible. These provisions may be waived if compliance is physically impossible or would create a safety hazard; the intent is to maximize distance between cuts

Notes:

*See Subdivision Review in Chapter 16 for Cul-de-sac frontage standards.

** In the case of an infill lot, the minimum front setback may be less than 30 feet if the front setback matches one or the other of the existing adjacent front setbacks of abutting lots.

For purposes of setback calculations, Principal and Accessory Structures include attached porches, decks and any other attached structures excluding steps only if the steps do not exceed 25 square feet in size. Ramps for handicapped access are exempted from setback calculations. Eff: 05/19/06

8A. TRANSITIONAL BUSINESS 4 ZONE “TB4”

Purpose: The purpose of the Transitional Business 4 Zone is to offer the opportunity for non-residential uses while protecting adjoining residential neighborhoods and zones. This Zone is different from the Transitional Business 3 Zone in that it creates greater buffers between this zone and residential zones and imposes stricter requirements for development.

A. Permitted Uses

TRANSITIONAL BUSINESS 4 ZONE “TB4” PERMITTED USES	
(1)	Residential uses, single, two-family and multifamily
(2)	Home occupations, all levels
(3)	Assisted Living Facilities Eff: 04/11/12
(4)	Accessory Apartments
(5)	Accessory uses
(6)	Art galleries
(7)	Churches
(8)	Congregate housing
(9)	Financial services
(10)	Funeral homes
(11)	Human health services
(12)	Libraries
(13)	Lodging facilities (hotels, motels, and B&B’s)
(14)	Museums
(15)	Nurseries and greenhouses
(16)	Nursing homes
(17)	Office buildings
(18)	Private Non-Medical Institutes and Residential Care Facilities, Small Eff: 04/11/12

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TRANSITIONAL BUSINESS 4 ZONE “TB4” PERMITTED USES	
(19)	Private Non-Medical Institutes and Residential Care Facilities, Large Eff: 04/11/12
(20)	Professional services
(21)	Public Parks and playgrounds
(22)	Restaurants; sit down
(23)	Retail Sales
(24)	Schools and day care centers
(25)	Tradesman’s offices, shops and showrooms

B. Conditional Uses: None

C. Prohibited Uses

TRANSITIONAL BUSINESS 4 ZONE “TB4” PROHIBITED USES	
(1)	Any use specifically named in Residential Zone “RR1” Prohibited Uses
(2)	Any use which is annoying, detrimental, obnoxious, unsightly, injurious or dangerous to the health, comfort, or property of individuals, or of the public, by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration
(3)	Flag Lots
(4)	Restaurant drive-up windows and drive-throughs

D. Standards

- (1) The following space and bulk standards shall apply to all lots and/or parcels of land:
- (2) The standards of Section 19-316 shall be observed with the following increases in those standards:
 - (a) Buffering - The required side and back setbacks of nonresidential uses that abut properties in residential zones shall be retained in their natural vegetated state to the maximum extent possible to provide a visual screen between uses. The buffer may be part of the setback. Where natural buffering does not exist, or is not possible to be retained, or is not sufficient to achieve an effective, complete visual screen, the required side and back yards shall be landscaped to provide a visual screen between uses. It may be interrupted only by a single pedestrian pathway at each abutting property line no more than five (5) feet wide. In the Transitional Business 4 the landscaped strip shall be at least sixty (60) feet wide and shall be planted with at least six (6) canopy trees, twenty four (24) evergreen trees, eight (8) understory trees, and sixty (60) shrubs per one hundred (100) linear feet of length exclusive of the width of the pathway. The number of trees for frontages of less than one hundred (100) feet shall be in proportion with the above specifications. For every mature canopy or evergreen tree existing prior to development and retained within the buffer area, the required number of new trees may be reduced by two (2). If any such retained tree dies within five (5) years of the date of the building permit issued for the development, it shall be replaced by two (2) similar trees meeting the standard of this ordinance.
 - (b) Lighting - Direct or indirect illumination shall not exceed two-tenths (.2) footcandles upon abutting residential properties.
 - (c) Slope - In order to create the least potential for erosion, and to maintain a natural appearance, 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 minimized wherever reasonably possible. In areas where steep slopes and/or cuts and fills are necessary, erosion control measures shall be incorporated in accordance with the *Maine Erosion and Sediment Control Handbook for Construction and Best Management Practices* as published by the Maine Department of Environmental Protection, latest revision.

TRANSITIONAL BUSINESS 4 ZONE “TB4” STANDARDS		Ch. 19, Sec. 19-304
Minimum Lot Size Non-Residential and Mixed Use	43,560 square feet	
Minimum Lot Size Residential Use	10,000 square feet sewerded; 20,000 square feet non-sewerded	
Minimum Lot Area for each Additional Dwelling Unit	5,000 square feet for sewerded lots; 10,000 square feet for non-sewerded lots	
Minimum First Floor Area Per Building	600 square feet	

TRANSITIONAL BUSINESS 4 ZONE “TB4” STANDARDS	
Maximum First Floor Area Per Building	140,000 square feet
Minimum Continuous Street Frontage along one street	150 feet (Excludes Cul-de-sacs)*
Minimum Setbacks** Front Side Rear	30 feet 15 feet Single family unit 20 feet; All other 30 feet (Excludes Corner Lots, see definition)
Side and rear setbacks for nonresidential or mixed use abutting a residential zone or use	75 feet side and rear setbacks which shall not be used for off-street parking or outdoor storage.
Maximum Building Coverage	30%
Maximum Lot Coverage	60%
Maximum Structure Height	40 feet
Minimum Distance Between Curb Cuts	150 ft. along a public street, but at least one allowed per lot. Property access shall be from side streets when possible. These provisions may be waived if compliance is physically impossible or would create a safety hazard; the intent is to maximize distance between cuts

Notes:

*See Subdivision Review in Chapter 16 for Cul-de-sac frontage standards.

** In the case of an infill lot, the minimum front setback may be less than 30 feet if the front setback matches one or the other of the existing adjacent front setbacks of abutting lots.

For purposes of setback calculations, Principal and Accessory Structures include attached porches, decks and any other attached structures excluding steps only if the steps do not exceed 25 square feet in size. Ramps for handicapped access are exempted from setback calculations. Eff: 05/19/06

9. RESORT ZONE “RT”

Purpose: The purpose of the Resort Zone is to offer the opportunity for resort and lodging uses while protecting adjoining residential neighborhoods and zones. Traffic issues through existing neighborhoods should be carefully considered.

A. Permitted Uses

RESORT ZONE “RT” PERMITTED USES	
(1)	Hotels
(2)	Residential uses, single family and cluster developments in accordance with Section 19-306
(3)	Home occupations, all levels
(4)	Accessory Apartments
(5)	Accessory uses to any allowed use
(6)	Public and private parks, and golf courses
(7)	Restaurant, sit down, accessory to an allowed non-residential use

B. Conditional Uses: None

C. Prohibited Uses

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RESORT ZONE “RT” PROHIBITED USES	
(1)	Any use specifically named in Residential Zone “RR1” Prohibited Uses
(2)	Any use which is annoying, detrimental, obnoxious, unsightly, injurious or dangerous to the health, comfort, or property of individuals, or of the public, by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration
(3)	Drive-up windows and drive-throughs
(4)	Flag Lots

D. Standards

- (1) The standards of Section 19-316 shall be observed.
- (2) The following space and bulk standards shall apply to all lots and/or parcels of land:

RESORT ZONE "RT" STANDARDS	
Minimum Lot Size	Single family 20,000 sq. ft.; All Other Allowed Uses - 43,560 sq. ft.
Minimum Lot Area per Dwelling Unit and per Transient Dwelling Unit (e.g. lodging room, hotel room, inn room)	Single family - 20,000 sq. ft. All Other Allowed Uses - 40,000 sq. ft. for the first Transient Dwelling unit plus 1,000 sq. ft. for each additional Transient Dwelling.
Minimum First Floor Area Per Dwelling	1,000 sq. ft. (Not applicable to Transient Dwelling units)
Minimum Continuous Street Frontage along one street	150 ft. (Excludes Cul-de-sacs)*
Minimum Setbacks**:	
Front	Single Family Dwelling - 50 ft. All Other Allowed Uses - 75 ft. plus the height equivalent of the (proposed) building
Side	Single Family Dwelling 30 ft.; All Other Allowed Uses 100 ft.
Rear	Single Family Unit - 25 ft.; All other uses – 75 feet plus the height of the (proposed) building (Excludes Corner Lots, see definition)
Minimum Rear Setback (Accessory Structure over 700 square feet or portion thereof over 700 square feet)	25 feet
Minimum Rear Setback – Exception (For no more than 2 accessory structures with a combined area of up to 700 square feet and a maximum height of 18 feet)	15 feet
Maximum Building Coverage	30%
Maximum Lot Coverage	50%
Maximum Building Height	55 feet
Minimum Distance Between Curb Cuts	150 ft. along a public street, but at least one allowed per lot. No commercial driveway shall be allowed to Samoset Road, except for emergency ingress or egress.

Notes:

*See Subdivision Review in Chapter 16 for Cul-de-sac frontage standards.

** In the case of an infill lot, the minimum front setback may be less than 50 feet if the front setback matches one or the other of the existing adjacent front setbacks of abutting lots.

For purposes of setback calculations, Principal and Accessory Structures include attached porches, decks and any other attached structures excluding steps only if the steps do not exceed 25 square feet in size. Ramps for handicapped access are exempted from setback calculations. Eff: 05/19/06

10. Commercial 1 Zone "C1" Regulations

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A. Purpose. The purpose of the Commercial 1 Zone is to accommodate general highway-oriented business uses on large parcels.

B. Use Regulations. In a Commercial 1 Zone "C1" no building or land shall be used, and no building shall hereafter be erected or structurally altered, except as provided herein, unless otherwise provided for in this Article.

(1) Permitted Uses

(a) New dwelling units are allowed where at least seventy-five percent (75%) of the street level floor space shall be used primarily for those uses set forth in subparagraphs (B)(1)(b) et seq. Single-family dwellings may be repaired or rebuilt as provided at Section 19-308;

- (b) Automobile sales and service (excluding motor vehicle body and motor vehicle repair except as incidental to licensed new and used motor vehicle sales);
- (c) Business services;
- (d) Churches;
- (e) Community and civic buildings and uses for philanthropic reasons;
- (f) Eating and drinking places;
- (g) Financial services;
- (h) Funeral homes;
- (i) Human health services;
- (j) Home occupations, all levels;
- (k) Light industrial uses limited to that portion of the Commercial “C1” Zone along Route 1, Payne Avenue and Park Street, on lots adjacent to an existing railroad right of way. Eff: 12/09/98
- (l) Lodging facilities;
- (m) Newspaper and job printing;
- (n) Office buildings;
- (o) Outdoor storage and sales shall be permitted as an accessory use to uses permitted in this zone;
- (p) Parking facilities, commercial;
- (q) Personal services;
- (r) Professional services;
- (s) Quasi-public uses;
- (t) Retail or wholesale businesses (any generally recognized), including manufacturing or processing incidental thereto, provided that no more than five (5) operatives shall be employed in such manufacturing or processing;
- (u) Schools and day care centers;
- (v) Social services;
- (w) Theaters and other places of entertainment and assembly;
- (x) Trademen's or craftsmen's offices, shops, and showrooms;
- (y) Veterinaries;
- (z) Health and fitness facilities; and
- (aa) Accessory uses; and

Eff: 03/08/10

(2) Conditional Uses.

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is involved. The Planning Board shall review and grant, grant with conditions or deny permission for a conditional use by applying the process and standards for site plan review and shall take into consideration the following factors: the location, character and natural features of the site and adjoining property; fencing, screening; landscaping; topography, natural drainage, and provisions for storm and ground water; traffic hazards, vehicular volume, access, impact on public ways and intersections, on-site circulation and parking; pedestrian access, safety and circulation; signage, and lighting; noise; hours of operations; availability of necessary public services; compliance with applicable requirements of all City Ordinances. The Planning Board Chair, subject to challenge and motion by the Board at a meeting duly noticed, may agree to accept for the Board's review fewer than all the mandatory submission requirements set forth in Chapter 16, Article II, except that a site plan shall be required of every applicant. Eff: 03/08/10

- (a) Automobile Repair; Eff: 05/11/16
- (b) Car Wash; Eff: 05/11/16
- (c) Commercial outdoor recreational uses; Eff: 09/09/98
- (d) Manufacturing, at parcels fronting on New County Road;
- (e) Warehousing;
- (f) Interior boat storage and repair, at parcels fronting on New County Road;
- (g) Light industrial uses, at parcels fronting on New County Road.
- (h) Adult amusement stores. Eff: 10/01/14
- (i) Medical marijuana production facilities. Incidental storage and distribution of medical marijuana to qualifying patients is permitted at the facility, provided that cultivation of medical marijuana is the primary use. Incidental distribution shall not include sale of medical marijuana through a storefront. Eff: 11/09/18

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(3) Prohibited Uses.

- (a) Any use which is annoying, dangerous, detrimental, injurious, obnoxious, or unsightly to the comfort, health, or property of individuals, or of the public, by reason of dust, fumes, gas, noise, odor, smoke, vapor, or vibration;
- (b) No use that unduly increases the danger from fire or explosion, or is otherwise dangerous, or that produces or emits noxious gases, fumes, odors, dust, smoke, noise, vibration or otherwise which may constitute a nuisance shall be allowed until and unless the Zoning Board of Appeals after public hearing rules that such use under such conditions and in such buildings as it may prescribe will not be detrimental or injurious to the health, comfort or property of individuals, or of the public;
- (c) Ammonia, bleaching powder, or chlorine manufacture or refining; hydrochloric, nitric, picric, sulfuric, or sulphurous acid manufacture;
- (d) Asphalt manufacture, heating, mixing, or refining, creosote manufacture;
- (e) Blast furnace; melting or ore reduction or smelting; hot rolling mill;
- (f) Cement; gypsum, or plaster of Paris manufacturing or rock crushing;
- (g) Dextrin, glucose, or starch manufacture;
- (h) Dye, lamp black, or match manufacture;
- (i) Explosive or fireworks manufacture, or storage in excess of five hundred (500) pounds;
- (j) Fat, grease, lard, or tallow manufacture, refining, or rendering;
- (k) Incineration, reduction, or dumping of dead animals, garbage, offal, or refuse;
- (l) Linoleum or oilcloth manufacture, production or refining of petroleum or other inflammable liquids;
- (m) Rubber manufacture, or treatment involving offensive odor;
- (n) Slaughtering, or operation of stock yards;
- (o) Tanning or curing of raw hides or skins;
- (p) Tar distillation or manufacture, turpentine or varnish manufacture;
- (q) Any process similar in character to any of the uses specified above or those uses which have been declared a nuisance in any court record.

C. Standards.

- (1) The standards of Section 19-316 shall be observed.
- (2) The following space and bulk standards shall apply to all lots and/or parcels of land:

Table 304-10

"C1" ZONE

	COMMERCIAL AND MIXED USE
MINIMUM LOT SIZE	30,000 sq. ft.
MINIMUM LOT AREA PER DWELLING	1,200 sq. ft.
MINIMUM STREET FRONTAGE	200 ft. along a public street
MINIMUM SETBACKS	
Front	50 ft., provided that the 30 ft. closest to the lot line shall be landscaped, remain unpaved except for sidewalk and access drives, and not to be used for off-street parking or outdoor storage in each yard abutting a street or if such plan is approved by the Planning Board, the minimum front yard shall be 30 ft.
Side	20 ft.
Back	30 ft.
Side and back yard for nonresidential or mixed use abutting a residential zone or use	30 ft. Ch. 19, Sec. 19-304
MAXIMUM BUILDING COVERAGE	40%
MAXIMUM LOT COVERAGE	80% Eff: 8./11/99
MAXIMUM BUILDING HEIGHT	45 ft.
MINIMUM DISTANCE BETWEEN CURB CUTS	175 ft. along a public street, but at least one allowed per lot. Property access shall be from side streets when possible. These provisions may be waived if compliance is physically impossible or would create a safety hazard; the intent is to maximize distance between cuts.
MINIMUM DISTANCE BETWEEN CERTAIN USES	No adult amusement store may be located closer than 300 feet from any residence, inn, bed and breakfast establishment, lodging house, assisted living facility, school, daycare, place of

	religious worship, recreational facility or park, playing field or playground, or business holding a liquor, special amusement, or entertainment license (measured as a line between the public entrance of the adult amusement store and the closest point on the property line of the incompatible use). Eff: 10/01/14
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11. Commercial 2 Zone "C2" Regulations

A. Purpose. The purpose of the Commercial 2 Zone is to accommodate general business uses on smaller parcels that are increasingly pedestrian-oriented as the areas approach Downtown.

B. Use Regulations. In a Commercial 2 Zone "C2" no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided for in this Article.

(1) Permitted Uses

Parcels in "C2" used solely for residential purposes as of July 2, 2018 may be rebuilt and expanded in accordance with Table 304-11 MINIMUM LOT AREA PER DWELLING. Eff: 09/12/18

Uses allowed in Commercial 1 Zone, excluding:

- (a) Compartmentalized storage buildings; and
- (b) Veterinaries.

(2) Conditional Uses

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is involved. In granting, denying, and/or imposing conditions, the Planning Board shall undertake a review, applying the process and standards outlined in Chapter 16, Sections 16-201 through 16-206 for site plan review and shall take into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; sign, and lighting; compatibility with existing uses; availability of necessary public services; compliance with applicable requirements of all City Ordinances.

- a. Commercial outdoor recreational uses. Eff: 09/09/98
- b. Automobile Repair; Eff: 05/11/16
- c. Car Wash; Eff: 05/11/16
- d. Medical marijuana production facilities. Incidental storage and distribution of medical marijuana to qualifying patients is permitted at the facility, provided that cultivation of medical marijuana is the primary use. Incidental distribution shall not include sale of medical marijuana through a storefront. Eff: 11/09/18

(3) Prohibited Uses

- (a) Any use which is annoying, dangerous, detrimental, injurious, obnoxious, or unsightly to the comfort, health, or property of individuals, or of the public, by reason of dust, fumes, gas, noise, odor, smoke, vapor, or vibration;
- (b) Any use specifically named in Section 19-304-10-B (2).

C. Standards.

- (1) The standards of Section 19-316 shall be observed.
- (2) The following space and bulk standards shall apply to all lots and/or parcels of land:

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Table 304-11 "C2" ZONE

	NEW COMMERCIAL AND MIXED USE
MINIMUM LOT SIZE	21,780 sq. ft.
MINIMUM LOT AREA PER DWELLING	1,200 sq. ft.
MINIMUM FLOOR AREA PER DWELLING	300 sq. ft.
MINIMUM STREET FRONTAGE	100 ft. along a public street
MINIMUM SETBACKS	
Front	20 ft. except 30 ft. on Route 1 north of Main St.
Side	10 ft. Eff: 09/12/18
Back	10 ft. Eff: 09/12/18
Side and back yard for non-residential or mixed use abutting	30 ft.

a residential zone or use	
MAXIMUM BUILDING COVERAGE	50%
MAXIMUM LOT COVERAGE	80% Eff: 6/9/99
MAXIMUM BUILDING HEIGHT	35 ft. Eff: 6/9/99
MINIMUM DISTANCE BETWEEN CURB CUTS	100 ft. along a public street, but at least one allowed per lot. Property access shall be from side streets when possible. These provisions may be waived if compliance is physically impossible or would create a safety hazard; the intent is to maximize distance between cuts.

12. Commercial 3 Zone "C3" Regulations.

A. Purpose. The purpose of the Commercial 3 Zone is to accommodate general highway-oriented business uses on large parcels.

B. Use Regulations. In a Commercial 3 Zone "C3" no building or land shall be used, and no building shall hereafter be erected or structurally altered, except as provided herein, unless otherwise provided for in this Article.

(1) Permitted Uses

- (a) Uses allowed in Commercial 1 Zone,
- (b) Sole source pharmacy (It is the intention of the City Council that this ordinance amendment shall apply to applications pending or permitted on or after November 29, 2004.) Eff: 02/09/05
- (c) Storage buildings, compartmentalized with individual cubicles less than four thousand (4000) cubic feet per cubicle. Eff: 2/12/97
- (d) Boat storage facility. Eff: 10/11/00
- (e) Automobile repair. Eff: 05/11/16
- (f) Construction Services, provided that there shall be no processing of raw materials on site nor shall there be stockpiling of products other than for retail sales. Eff: 03/14/01
- (g) Automobile Service Stations. Eff: 03/14/01

(2) Conditional Uses. The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), whether or not the institution of the use requires the construction, renovation, or addition to a structure. The Planning Board shall review and grant, grant with conditions, or deny permission for a conditional use by applying the process and standards for site plan review and shall take into consideration the following factors: the location, character and natural features of the site and adjoining property; fencing, screening; landscaping; topography, natural drainage, and provisions for storm and ground water; traffic hazards, vehicular volume, access, impact on public ways and intersections, on-site circulation and parking; pedestrian access, safety and circulation; signage, and lighting; noise; hours of operations; availability of necessary public services; compliance with applicable requirements of all City Ordinances. The Planning Board Chair, subject to challenge and motion by the Board at a meeting duly noticed, may agree to accept for the Board's review fewer than all the mandatory submission requirements set forth in Chapter 16, Article II, except that a site plan shall be required of every applicant. Eff: 10/01/14

a. Medical marijuana production facilities. Incidental storage and distribution of medical marijuana for patients is permitted at the facility, provided that cultivation of medical marijuana is the primary use. Eff: 11/09/18 Ch. 19, Sec. 19-304

(3) Prohibited Uses.

- (a) Any use which is annoying, dangerous, detrimental, injurious, obnoxious, or unsightly to the comfort, health, or property of individuals, or of the public, by reason of dust, fumes, gas, noise, odor, smoke, vapor, or vibrations;
- (b) Any use specifically named in Section 19-304-10 B (2).

C. Standards.

- (1) The standards of Section 19-316 shall be observed.
- (2) The following space and bulk standards shall apply to all lots and/or parcels of land:

Table 304-12

"C3" ZONE

	COMMERCIAL AND MIXED USE
MINIMUM LOT SIZE	43,560 sq. ft.

MINIMUM LOT AREA PER DWELLING	
MINIMUM FIRST FLOOR AREA PER BUILDING	600 sq. ft.
MINIMUM STREET FRONTAGE	200 ft. along a public street
MINIMUM SETBACKS	
Front	50 ft.
Side	25 ft.
Back	30 ft.
Side and back yard for nonresidential or mixed use abutting a residential zone or use	40 ft.
MAXIMUM BUILDING COVERAGE	20%
MAXIMUM LOT COVERAGE	60%
MAXIMUM BUILDING HEIGHT	Either 2½ stories or 35 feet Eff: 9/12/01
MINIMUM DISTANCE BETWEEN CURB CUTS	200 ft. along a public street or 100 ft. along an internal private road, but at least one allowed per lot. Property access shall be from side street when possible. These provisions may be waived if compliance is physically impossible or would create a safety hazard; the intent is to maximize distance between cuts.
FLAG LOTS	Subject to Planning Board Review. Eff: 07/14/10
MINIMUM DISTANCE BETWEEN CERTAIN USES	No adult amusement store may be located closer than 300 feet from any residence, inn, bed and breakfast establishment, lodging house, assisted living facility, school, daycare, place of religious worship, recreational facility or park, playing field, or playground, or business holding a liquor, special amusement, or entertainment license (measured as a line between the public entrance of the adult amusement store and the closest point on the property line of the incompatible use). Eff: 10/01/14

13. Plaza Commercial Zone "PC" Regulations.

A. Purpose. The purpose of the Plaza Commercial Zone is to accommodate commercial centers for highway-oriented businesses.

B. Use Regulations. In a Plaza Commercial Zone "PC" no building or land shall be used, and no building shall hereafter be erected or structurally altered, except as provided herein, unless otherwise provided for in this Article.

(1) Permitted Uses

- (a) Business services;
- (b) Financial services;
- (c) Human health services;
- (d) Lodging facilities;
- (e) Automobile service stations; Eff: 05/11/16
- (f) Car Wash; Eff: 05/11/16
- (g) Movie theaters and other places of entertainment;
- (h) Office buildings;
- (i) Personal services;
- (j) Professional services;
- (k) Restaurants;
- (l) Retail and/or auxiliary wholesale business, any generally recognized;
- (m) Social services;
- (n) Accessory uses; and

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(2) Conditional Uses. The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), whether or not the institution of the use requires the construction, renovation, or addition to a structure. The Planning Board shall review and grant, grant with conditions, or deny permission for a conditional use by applying the process and standards for site plan review and shall take into consideration the following factors: the location, character and natural features of the site and adjoining property; fencing, screening; landscaping;

topography, natural drainage, and provisions for storm and ground water; traffic hazards, vehicular volume, access, impact on public ways and intersections, on-site circulation and parking; pedestrian access, safety and circulation; signage, and lighting; noise; hours of operations; availability of necessary public services; compliance with applicable requirements of all City Ordinances. The Planning Board Chair, subject to challenge and motion by the Board at a meeting duly noticed, may agree to accept for the Board's review fewer than all the mandatory submission requirements set forth in Chapter 16, Article II, except that a site plan shall be required of every applicant. Eff: 10/01/14

(a) Adult Amusement Stores.

(3) Prohibited Uses

(a) Any use which is annoying, dangerous, detrimental, injurious, obnoxious, or unsightly to the comfort, health, or property of individuals, or of the public, by reason of dust, fumes, gas, noise, odor, smoke, vapor, or vibration;

(b) Any use specifically named in Section 19-304-10-B (2);

(c) Outdoor sales or display, except as an accessory use; and

(d) Motor vehicle sales.

C. Standards.

(1) The standards of Section 19-316 shall be observed.

(2) The following space and bulk standards shall apply to all lots and/or parcels of land:

Table 304-13

"PC" ZONE

	NONRESIDENTIAL USE
MINIMUM LOT SIZE	87,120 sq. ft.
MINIMUM STREET FRONTAGE	300 ft. along a public street
MINIMUM SETBACKS	
Front	50 ft.
However, if the area between the principal structure and the front lot line (extending the full width of the lot) is landscaped and remains unpaved except for sidewalks and access drives and not used for off-street parking or outdoor storage	30ft. Eff: 2/9/05
Side	50 ft.
Back	50 ft.
Side and back yard for nonresidential or mixed use abutting a residential zone or use	75 ft.
Side and back setback abutting non-residential use which is also within the "PC" zone	6 ft. Eff: 2/9/05
MAXIMUM LOT COVERAGE	85% Eff: 8/11/99
MAXIMUM BUILDING HEIGHT	Either 2½ stories or 35 feet Eff: 9/12/01
MINIMUM DISTANCE BETWEEN CURB CUTS WITHIN LOT OR ANY OTHER CURB CUT	300 ft. along a public street, but at least one allowed per lot. This provision may be waived if compliance is physically impossible or would create a safety hazard; the intent is to maximize distance between cuts.
MINIMUM DISTANCE BETWEEN CERTAIN USES	No adult amusement store may be located closer than 300 feet from any residence, inn, bed and breakfast establishment, lodging house, assisted living facility, school, daycare, place of religious worship, recreational facility or park, playing field, or playground, or business holding a liquor, special amusement, or entertainment license (measured as a line between the public entrance of the adult amusement store and the closest point on the property line of the incompatible use). Eff: 10/01/14

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14. Downtown Zone "DT" Regulations.

A. Purpose.

The purpose of the Downtown Zone is to preserve and promote a compact, historic commercial district to serve as the retail, office, institutional, financial, governmental, and cultural center of the community. This Zone should include mixed uses that are compatible with existing uses and architectural scale.

B. Use Regulations.

In a Downtown Zone "DT" no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided for in this Article.

(1) Permitted Uses

(a) Congregate housing and other residential uses; provided, however, that on parcels abutting Main, Union (except (1) between Oak and Elm Streets and (2) between Lindsey Street and the parcel identified as Tax Map #4-D-14), Limerock, School, Museum, Orient, Oak, Park, Pleasant, Winter, and Commercial Streets, Tillson Avenue, Kimball Lane and Park Drive, new dwelling units are only allowed where at least seventy-five percent (75%) of the street level floor space shall be used primarily for those uses set forth in subparagraphs (1)(b) et seq. and single-family dwellings may only be repaired or rebuilt as provided at Section 19-308; Eff: 12/10/14

- (b) Business services;
- (c) Churches;
- (d) Community and civic buildings and uses;
- (e) Eating and drinking places;
- (f) Financial services;
- (g) Home occupations, all levels of;
- (h) Human health services;
- (i) Light assembly
- (j) Lodging facilities: hotels, motels, bed & breakfasts;
- (k) Newspaper and job printing;
- (l) Office buildings;
- (m) Parking facilities, commercial;
- (n) Parks and playgrounds;
- (o) Personal services;
- (p) Professional services;
- (q) Quasi-public uses;
- (r) Research and development;
- (s) Retail or wholesale business, any generally recognized;
- (t) Schools and day care centers;
- (u) Social Services;
- (v) Studios;
- (w) Theaters, museums, art galleries and other places of entertainment and assembly;
- (x) Tradesmen's or craftsman's offices, shops, and showrooms;
- (y) Accessory uses; and

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(2) Conditional Uses The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), whether or not the institution of the use requires the construction, renovation, or addition to a structure. The Planning Board shall review and grant, grant with conditions, or deny permission for a conditional use by applying the process and standards for site plan review and shall take into consideration the following factors: the location, character and natural features of the site and adjoining property; fencing, screening; landscaping; topography, natural drainage, and provisions for storm and ground water; traffic hazards, vehicular volume, access, impact on public ways and intersections, on-site circulation and parking; pedestrian access, safety and circulation; signage, and lighting; noise; hours of operations; availability of necessary public services; compliance with applicable requirements of all City Ordinances. The Planning Board Chair, subject to challenge and motion by the Board at a meeting duly noticed, may agree to accept for the Board's review fewer than all the mandatory submission requirements set forth in Chapter 16, Article II, except that a site plan shall be required of every applicant.

(a) Medical marijuana production facilities. Incidental storage and distribution of medical marijuana to qualifying patients is permitted at the facility, provided that cultivation of medical marijuana is the primary use. Incidental distribution shall not include sale of medical marijuana through a storefront. Eff: 11/09/18

(3) Prohibited Uses

(a) Any use which is annoying, dangerous, detrimental, obnoxious, or unsightly to the comfort, health, or property of individuals, or of the public, by reason of dust, fumes, gas, noise, odor, smoke, vapor, or vibration;

- (b) Any use specifically named in Section 19-304 (10)(B)(2);
- (c) Outdoor sales or display, except as an accessory use; and
- (d) Motor vehicle sales.

C. Standards.

- (1) The standards of Section 19-316 shall be observed.
- (2) The following space and bulk standards shall apply to all lots and/or parcels of land:

Table 304-14

"DT" ZONE

Maximum Building Height	Either 65 feet or 5 stories
Architectural Design	See Minimum Architectural Design Standards, Ch. 19, Art. III, Sec. 19-317(B)
Maximum Building Coverage Maximum Lot Coverage Floor Area Ratio ("FAR")	No limit.
Maximum Front Setback (Principal and Accessory Structures)	Five feet from property line for no less than 40% of the building façade (first floor) as measured linearly. Fifteen feet from property line for the remainder of the building façade (all floors) as measured linearly. Such Maximum Front Setbacks shall be measured from the inside edge of any park, plaza, or other exterior portion of the lot that abuts the primary street and to which the lot owner has granted the City of Rockland a public access easement in a form acceptable to the City Attorney. The inside edge shall be that point of the longest line or, in the event of a round or oval space, the curve formed by the publicly accessible park, plaza or similar area, that is located closest to the principle façade of the proposed structure. To be eligible for such enhanced maximum front setbacks, the public access area must contain landscaping, and exclude parking. Eff: 01/13/16
Minimum Front Setback (Principal and Accessory Structures)	None
Minimum Side Setback (Principal and Accessory Structures)	None outside designated scenic viewsheds. Within designated scenic viewsheds, as identified in a City-adopted plan, see 'Preservation of Water views' standard Ch. 19, Sec. 19-304 setbacks.
Façade Materials	Brick, Stone or Wooden Clapboard, or materials similar in appearance, texture, quality and scale to these materials for buildings fronting a public street.

<p>Façade Massing and Projections</p>	<p>All principal facades fronting a public street shall have a prominent cornice and expression line, a working entrance, and windows (except for side-wall facades where entrances are not required).</p> <p>Buildings wider than 75 feet fronting a public street shall incorporate vertical elements in the principal facade to simulate smaller-scale development.</p> <p>Principal facades fronting a public street(s), excluding alleyway(s), or principal facades facing a plaza, or public park may not have blank walls (without doors or windows) greater than 10 feet in length.</p> <p>Expression lines and cornices of principal facades fronting a public street shall be decorative moldings or jogs in the surface plane of the building that extend at least 3 inches out from the principal facade, or a permanent canopy may serve as an expression line.</p>
<p>Entrances</p>	<p>The primary functional entrance to all buildings shall face the street.</p> <p>Corner buildings fronting a public street shall have their primary entrance(s) face either the intersection or the street of greater importance, i.e., typically greater traffic and pedestrian volumes.</p> <p>Where a building fronting a public street would have a building frontage length that exceeds 50 feet, operable doors or entrances with public access shall be provided along streets at intervals averaging no greater than 50 feet.</p>
<p>Windows</p>	<p>Every principal facade fronting a public street must contain transparent windows on each story.</p> <p>Rectangular window openings on principal facades fronting a public street shall be oriented vertically (except for transom windows).</p> <p>All windows fronting a public street must:</p> <ol style="list-style-type: none"> 1. contain visible sills and lintels on the exterior of the wall, and 2. have their glazing set back at least 3 inches from the surface plane of the wall, or set back at least 2 inches when wood frame construction is used.
<p>Preservation of Water views</p>	<p>Existing water views from public streets shall be maintained in whole or part. Until amended following the designation of scenic viewsheds in a City Council-adopted plan, such viewsheds shall be protected in whole or part with a minimum building side setback of 12 feet and/or building separation of at least 15 feet on waterfront parcels; provided that the Planning Board may permit the substitution of a smaller setback requirements if a proposed development preserves or provides a water view architecturally, as with an arch or other visually-permeable building design.</p> <p style="text-align: right;">Ch. 19, Sec. 19-304</p>

Lighting on building or on poles	All fixtures shall be historic in style with pole mounted fixture consistent in design with City fixtures in the Downtown Zone. All lights shall be either fully shielded or designed to release only decorative amounts of light at or above the horizontal plane.
Parking Fee in Lieu of Onsite Parking Requirements	To alleviate owners and developers of sometimes-onerous on-site parking requirements – on-site parking facilities sometimes being unfeasible or preventing traditional building densities – an owner or developer of a new building or building addition that generates a requirement for additional parking under the City’s Off-Street Parking Ordinance may, at his discretion, pay a per-space fee in lieu of providing off-street parking, such fee to be established by Order of the City Council, paid prior to the issuance of the building permit, and placed in a designated fund to create surface or structured off-street parking facilities within the City.
Parking Lot Location	Surface level off-street parking lots shall be placed in side and rear yards only. Off-street parking may be provided under commercial or mixed-use buildings.
Mechanical Equipment	Rooftop and other exterior mechanical equipment, including HVAC systems, shall be screened, using materials similar in type and scale to as roofing materials like brick, slate, wood, cementitious or materials similar in appearance, texture and scale. Solar panels are exempt from this requirement. In no case shall wood stockade or similar fencing be used on roofs. Sound buffering/baffles shall be used as needed to meet the requirements of the Performance Standards.
Signs attached to or part of facades	Signs shall be in proportion to the building façade and not cover the cornice or expression lines of the façade.
Pathways and Sidewalks	Paving brick, stone, concrete unit pavers, or concrete slab surfaces, but not asphalt, except in the case of utility work and/or infrastructure maintenance, repair or replacement requiring disturbance of an existing pathway or sidewalk, in which instance the existing materials shall be matched. 10/12/11
Curbing	Granite curbing shall be used.
Minimum Floor Area Per Dwelling Unit	200 sq. ft. per dwelling unit

Eff: 06/08/11

15. Neighborhood Commercial Zone "NC" Regulations.

A. Purpose.

The purpose of the Neighborhood Commercial Zone is to provide for the day-to-day or convenience needs of adjoining residential neighborhoods. This Zone should be located adjacent to established or proposed residential areas and should be fairly small with a few uses depending on the size of the adjoining neighborhood or neighborhoods to be served.

B. Use Regulations.

In a Neighborhood Commercial Zone "NC" no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided for in this Article.

(1) Permitted Uses

(a) Home occupations, all levels of;

(b) Office building, provided that the footprint of the building does not exceed two thousand

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square feet;

(c) Motor vehicle service stations, including gasoline and lubrication services, but excluding automobile repair and body work, provided that the footprint of the building does not exceed two thousand eight hundred (2800) square feet;

(d) Personal services, provided that the footprint of the building does not exceed two thousand eight hundred (2800) square feet;

(e) Residential uses, single, two-family and multi-family;

(f) Restaurants, provided that the footprint of the building does not exceed two thousand eight hundred (2800) square feet;

(g) Neighborhood Amusement Center: A business, place or establishment where small groups assemble for the purpose of playing games (exclusive of gambling) and social interaction. Such establishment may also conduct retail sales of games and gaming accessories as well as snacks and beverages. Consumption of alcohol on the premises shall be prohibited. A Neighborhood Amusement Center shall not occupy a total floor area of greater than one thousand (1000) square feet and shall be limited to twenty (20) occupants. Eff: 01/07/04

(h) Retail establishments in buildings the footprint of which is two thousand eight hundred (2800) square feet maximum;

(i) Accessory uses; and

(2) Prohibited Uses

(a) Any use which is annoying, dangerous, detrimental, injurious, obnoxious, or unsightly to the comfort, health, or property of individuals, or of the public, by reason of dust, fumes, gas, noise, odor, smoke, vapor, or vibration;

(b) Any use specifically named in Section 19-304-10-B(2);

(c) Outdoor sales or display, except as an accessory use; and

(d) Drive-up windows and drive-throughs.

C. Standards.

(1) The standards of Section 19-316 shall be observed.

(2) All new non-residential structures shall be designed to be residential in appearance and blend with the overall neighborhood. Eff: 03/15/06

(3) The following space and bulk standards shall apply to all lots and/or parcels of land:

Table 304-15

"NC" ZONE

	RESIDENTIAL, NONRESIDENTIAL OR MIXED USE
MINIMUM LOT SIZE	10,000 sq. ft. or lot of record as of (date of adoption of Article)
MINIMUM LOT AREA PER DWELLING UNIT	Single family: 10,000 sq. ft., other: 1,200 sq. ft. per dwelling unit
MINIMUM FIRST FLOOR AREA PER BUILDING	600 sq. ft.
MINIMUM STREET FRONTAGE	100 ft. along a public street
MINIMUM SETBACKS	
Front	25 ft.
Side	15 ft.
Back	20 ft.
MAXIMUM BUILDING COVERAGE	40%
MAXIMUM LOT COVERAGE	80% Eff: 8/11/99
MAXIMUM BUILDING HEIGHT	Either 2½ stories of 35 feet. Eff: 9/12/01
MINIMUM DISTANCE BETWEEN CURB CUTS	100 ft. along a public street, but at least one allowed per lot. Property access shall be from side streets when possible. These provisions may be waived if compliance is physically impossible or would create a safety hazard; the intent is to maximize distance between cuts.

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16. Business Park Zone "BP" Regulations.

A. Purpose.

The purpose of the Business Park Zone is to promote the development of business parks which are often composed of a mix of light industrial, wholesale trade, distribution, and service uses which are designed, constructed, and maintained to be compatible in appearance, and operation with professional offices and office complexes. Such uses should be developed within centers that are planned as units. Because of land use mix, standards are required to assure compatibility.

B. Use Regulations.

In a Business Park Zone "BP" no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided for in this Article.

- (1) Permitted Uses.
- (a) Athletic Fields Eff: 12/14/18
 - (b) Bulk plants for the storage of petroleum, or grain products in existence as of 12/10/2018, and on-site expansions thereof; Eff: 12/14/18
 - (c) Bulk plants for storage of grain products; Eff: 12/14/18
 - (d) Business services;
 - (e) Cemeteries in existence as of 12/10/2018; Eff: 12/14/18
 - (f) Community and civic buildings and uses that can coexist compatibly with other allowed uses;
 - (g) Construction services in existence as of 12/14/18; Eff: 12/14/18
 - (h) Distribution businesses;
 - (i) Financial services;
 - (j) Light industrial uses;
 - (k) Living quarters used by watchmen or custodians for protection within the zone;
 - (l) Office buildings;
 - (m) Personal services; Eff: 8/9/06
 - (n) Professional services;
 - (o) Quasi-public uses that can coexist compatibly with other allowed uses;
 - (p) Research and development facilities;
 - (q) Retail trade accessory to an allowed use; Eff: 9/11/96
 - (r) Restaurants, accessory to and located in a structure housing an allowed use (provided that there shall be no drive-up window or drive-throughs);
 - (s) Storage of boats in the traditional "winter cover" manner in ground cradles and structures for the storage of incidentals such as riggings, masts, stays, spars, rope, line and sails; Eff: 9/11/96
 - (t) Storage buildings, compartmentalized with individual cubicles less than four thousand (4,000) cubic feet per cubicle; Eff: 9/11/96
 - (u) Theaters and other places of entertainment and assembly; Eff: 9/11/96
 - (v) Transportation facilities;
 - (w) Warehousing;
 - (x) Wholesale business;
 - (y) Accessory uses; and

- (2) Prohibited Uses.
- (a) Any use which is annoying, dangerous, detrimental, injurious, obnoxious, or unsightly to the comfort, health, or property of individuals, or of the public, by reason of dust, fumes, gas, noise, odor, smoke, vapor, or vibration;
 - (b) No use that unduly increases the danger from fire or explosion, or is otherwise dangerous, or that produces and emits noxious gases, fumes, odors, dust, smoke, noise, vibration or otherwise which may constitute a nuisance shall be allowed until and unless the Zoning Board of Appeals after public hearing rules that such use under such conditions and in such buildings as it may prescribe will not be detrimental or injurious to the health, comfort or property of individuals, or of the public;
 - (c) New dwelling, except as provided for in section (h) above;
 - (d) Ammonia, bleaching powder, or chlorine manufacture or refining; hydrochloric, nitric, picric, sulfuric, or sulphurous acid manufacture;
 - (e) Asphalt manufacture, heating, mixing, or refining, creosote manufacture;
 - (f) Blast furnaces; melting or ore reduction or smelting; hot rolling mill;
 - (g) Cement; gypsum, or plaster of Paris manufacture or rock crushing;
 - (h) Dextrin, glucose, or starch manufacture;
 - (i) Dye, or match manufacture;
 - (j) Explosives or fireworks manufacture, or storage in excess of five hundred (500) pounds;
 - (k) Fat, grease, lard, or tallow manufacture, refining, or rendering;
 - (l) Fish rendering;
 - (m) Incineration, reduction, or dumping of dead animals, garbage, offal, or refuse;
 - (n) Linoleum or oilcloth manufacture, production or refining of petroleum or other inflammable liquids;
 - (o) Rubber manufacture, or treatment involving offensive odor;
 - (p) Slaughtering, or operation of stock yards;
 - (q) Tanning or curing of raw hides or skins;
 - (r) Tar distillation or manufacture, turpentine or varnish manufacture;
 - (s) Any process similar in character to any of the uses specified above or those uses which have been declared a nuisance in any court of record.

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C. Standards.

- (1) The standards of Section 19-316 shall be observed.
- (2) The following space and bulk standards shall apply:

Table 304-16

"BP" Zone

	NON-RESIDENTIAL USE
MINIMUM LOT SIZE	43,560 sq. ft.
MINIMUM STREET FRONTAGE	200 ft. along a public street or 100 ft. along an internal private road.
MINIMUM SETBACKS	
Front	30 ft., provided that the 20 ft. closest to the lot line shall be landscaped, remain unpaved except for sidewalks and access drives, and not be used for off-street parking or outdoor storage in each yard abutting a street. Eff: 12/14/18
Side	20 ft., provided that the 20 ft. closest to the lot line shall be landscaped, remain unpaved except sidewalks and access drives, and shall not be used for off-street parking and outdoor storage. Eff: 12/14/18
Rear	25 ft., provided that the 20 ft. closest to the lot line shall be landscaped, remain unpaved except for sidewalks and access drives, and shall not be used for off-street parking and outdoor storage. Eff: 12/14/18
Side and rear setback abutting an adjacent lot zoned Industrial (I) or Business Park (BP)	10 ft. but no closer than 20 ft. from an existing building on an adjacent lot. Eff: 12/14/19
Side and rear setback for non-residential or mixed use abutting a residential zone or use	50 ft. and shall not be used for off-street parking or outdoor storage. Eff: 12/14/18
MAXIMUM BUILDING COVERAGE	50% Eff: 12/14/18
MAXIMUM LOT COVERAGE	60% Eff: 12/14/18
MAXIMUM BUILDING HEIGHT	45 ft.
MINIMUM DISTANCE BETWEEN CURB CUTS	200 ft. along a public street, but at least one allowed per lot. Property access shall be from side streets when possible. These provisions may be waived if compliance is physically impossible or would create a safety hazard; the intent is to maximize distance between cuts.

17. Industrial Zone "I" Regulations.

A. Purpose.

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The purpose of the Industrial Zone is to permit a variety of industrial developments that are compatible with other residential and non-residential uses in neighboring areas of the City and to permit more than principal use or structure on any lot in the Industrial Zone, notwithstanding the definition of a lot as set forth in Section 19-302. Eff: 4/10/02

B. Use Regulations.

In an Industrial Zone "I" no building or land shall be used, and no buildings shall hereafter be erected or structurally altered, unless otherwise provided for in this Article.

- (1) Permitted Uses
 - (a) Automobile body shops;
 - (b) Banks;
 - (c) Community and civic buildings and uses for philanthropic reasons;
 - (d) Construction services;
 - (e) Distribution businesses;
 - (f) Living quarters used by watchmen or custodians for protection within the zone;

- (g) Manufacturing, compounding, processing, packing, treatment, or warehousing of goods and products provided such manufacture, compounding, processing, packing, treatment, or warehousing of goods and products, meet the standards of performance herein stated, except as prohibited by Section 19-304-16(B)(2) and 19-304-17(B)(2) hereof;
- (h) Offices accessory to an allowed industrial use or directly or indirectly connected with the manufacture or marketing of products which are created or traded in the zone;
- (i) Quasi-public uses;
- (j) Restaurants, accessory to and located in a structure housing an allowed use, provided that there shall be no drive-up windows or drive-throughs;
- (k) Restaurant, take out only, provided that there shall be no drive-up windows or drive throughs; Eff: 7/24/98
- (l) Research and development facilities;
- (m) Retail trade accessory to an allowed industrial use and restricted to those products manufactured on-site;
- (n) Storage of boats in the traditional "winter cover" manner in ground cradles and structures for the storage of incidentals such as riggings, masts, stays, spars, rope, line and sails; Eff: 9/11/96
- (o) Storage buildings, compartmentalized with individual cubicles less than four thousand (4,000) cubic feet per cubicle; Eff: 9/11/96
- (p) Transportation facilities;
- (q) Wholesale business, any generally recognized;
- (r) Accessory uses; and more than one permitted principal use or structure on any lot in the Industrial Zone, notwithstanding the definition of a lot as set forth in Section 19-302. The provisions of Chapter 19, § 19-308, subparagraph 5B(2) allowing the separate sale of principal structures without each lot conforming to frontage or dimension requirements are not applicable under this subsection. Eff: 4/10/02

(2) Conditional Uses.

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is used. In granting, denying, and/or imposing conditions, the Planning Board shall undertake a review, applying the process and standards outlined in Chapter 16, Sections 16-201 through 16-206 for site plan review and shall take into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; signage, and lighting; availability of necessary public services; and compliance with applicable requirements of all City Ordinances, including the Performance Standards of Section 19-316.

- (a) Community-Based Renewable Energy Projects. Eff: 09/12/18
- (b) Grid-Scale Power Generation Facilities, fueled other than by uranium, enriched uranium, plutonium, solid waste, construction and demolition debris, or treated or engineered wood products, and having a setback of at least 200 feet from any property line shared with a lot on which a residential or mixed-use structure is located. For this purpose, "solid waste" shall have the same meaning as under the Resource Conservation and Recovery Act, 42 U.S.C. § 6903, as amended. Eff: 08/10/16
- (c) Health and Fitness Facilities that occupy no more than 40% of the total area of a structure. Eff: 09/07/16
- (d) Medical marijuana production facilities. Incidental storage and distribution of medical marijuana to qualifying patients is permitted at the facility, provided that cultivation of medical marijuana is the primary use. Incidental distribution shall not include sale of medical marijuana through a storefront. Eff: 11/09/18

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(3) Prohibited Uses.

The following uses shall be prohibited:

- (a) Any use which is annoying, dangerous, detrimental, injurious, obnoxious, or unsightly to the comfort, health, or property of individuals, or of the public, be reason of dust, fumes, gas, noise, odor, smoke, vapor, or vibration;
- (b) Any use prohibited in Section 19-304-16-B-(2).

C. Standards.

- (1) The standards of Section 19-316 shall be observed.
- (2) The following space and bulk standards shall apply:

Table 304-17

"I" Zone

	NON-RESIDENTIAL USE
MINIMUM LOT SIZE	43,560 sq. ft.
MINIMUM STREET FRONTAGE	200 ft. along a public street or 100 ft. along an internal private road.

MINIMUM SETBACKS	
Front	30 ft., provided that the 20 feet closest to the lot line shall be landscaped, remain unpaved except for sidewalks and access drives, and not be used for off-street parking or outdoor storage in each yard abutting a street.
Side	20 ft. provided that the 20 feet closest to the lot line shall be landscaped, remain unpaved except for sidewalks and access drives, and shall not be used for off-street parking and outdoor storage. Eff: 12/14/18
Rear	25 ft. provided that the 20 ft. closest to the lot line shall be landscaped, remain unpaved except for sidewalks and access drives, and shall not be used for off-street parking and outdoor storage. Eff: 12/14/18
Side and rear setback abutting an adjacent lot zoned Industrial (I) or Business Park (BP)	10 ft. but no closer than 20 ft. from an existing building on an adjacent lot. Eff: 12/14/18
Side and back yard for nonresidential or mixed use abutting a residential zone or use	75 ft. and shall not be used for off-street parking or outdoor storage.
MAXIMUM BUILDING COVERAGE	50% Eff: 8/11/99
MAXIMUM LOT COVERAGE	80% Eff: 8/11/99
MAXIMUM BUILDING HEIGHT	65 feet
MINIMUM DISTANCE BETWEEN CURB CUTS	200 ft. along a public street, but at least one allowed per lot. Property access shall be from side street when possible. These provisions may be waived if compliance is physically impossible or would create a safety hazard; the intent is to maximize distance between cuts. Exception: Solar photovoltaic energy systems minimum setback shall be 30 feet from all property lines. Eff: 09/12/18

18. Woodland and Wildlife Zone "G" Regulations.

A. In a Woodland and Wildlife Zone "G", uses are limited to the following:

- (1) Planting, pruning and harvesting forest trees.
- (2) Enjoyment of outdoor recreational activities such as authorized hunting, fishing, hiking, bird-watching, snowmobiling, skating, skiing, snowshoeing and the like.

B. Uses Prohibited.

The following uses are prohibited:

- (1) Construction of roads other than simple logging roads;
- (2) Construction of dwellings or farm buildings, industrial or commercial buildings.
- (3) Operation of motorcycles, motorized bicycles, mini-cars, automobiles or other wheeled motor vehicles, except trucks used in harvesting trees and emergency vehicles.
- (4) Raising any domestic animals or poultry.

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C. Protection of Vegetation, Wildlife, Bodies of Water, and Wetlands.

(1) Vegetation. Vegetation shall not be substantially disturbed, except that owners of record of privately-owned lots in this zone (or their agents) may prune, or harvest mature trees for logs, pulp or other commercial uses, lots owned by the City may be managed to preserve wildlife habitats.

(2) Bodies of Water and Wetlands. Fish and wildlife shall be regulated in accordance with the laws and regulations of the State of Maine;

(a) Prohibited Activities. Use of bodies of water and adjacent land in this zone shall be in compliance with State law and applicable local ordinances. No person, firm, corporation or other legal entity shall dredge or cause to be dredged, drain or cause to be drained, fill or cause to be filled, or erect or cause to be erected any permanent structure in, on, or over any freshwater wetland without a permit from the Planning Board.

(b) Definition. "Freshwater wetland" shall mean wet meadows, marshes, swamps, bogs, areas where ground water, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community of freshwater wetland vegetation either seasonally or permanently. A freshwater wet land can be contiguous with or isolated from great ponds, streams, rivers and brooks.

"Freshwater wetland" vegetation shall include but not be limited to:

(i) Wetland trees, including, among others red maple (*Acer rubrum*), willows (*Solix* spp.), Black Spruce (*Picea mariana*), black ash (*Fraxinus nigra*), larch (*Larix laricina*), white cedar (*Chamaecyparis thyoides*).

(ii) Wetland shrubs, including, among others, alder (*Alnus* spp.), buttonbush (*Cephalanthus occidentalis*), bog rosemary (*Andromeda glaucophylla*), leatherleaf (*Chamaedaphne colyculata*), sweet gale (*Myrica gale*).

(iii) Emergent vegetation, including, among others, cattails (*Typha* spp.), pickerelweed (*Pontederia cordata*), bulrushes (*Scirpus* spp.), arrowheads (*Sagittaria* spp.), reed (*Phragmites communis*), wildrice (*Zizania aquatica*), bur-reeds (*Sparganium* spp.), purple loosestrife (*Lythrum salicaria*).

(iv) Rooted, floating-leaved vegetation, including, among others, waterlily (*Nymphaea odorata*), watershield (*Brasenia schreberi*), spatterdock (*Nuphar* spp.).

(v) Free-floating vegetation, including, among others, duckweed (*Lemna* spp.).

(vi) Wet meadow vegetation, including, among others, sedge (*Carex* spp.) rushes (*Juncus* spp.), cattails (*Typha* spp.), spikerush (*Eleocharis* spp.), mangrass (*Glyceria* spp.).

(vii) Bog mat vegetation, including, among others, sphagnum moss (*Sphagnum* spp.), bog rosemary (*Andromeda glaucophylla*), leatherleaf (*Chamaedaphne calyculata*), pitcher plant (*Sarracenia purpurea*), cranberries (*Vaccinium* spp.), blueberry (*Vaccinium* spp.), laurel (*Kalmia* spp.), crowberry (*Empetrum nigrum*), bladderworts (*Utricularia* spp.), Labrador-tea (*Ledum groenlandicum*), cottongrass (*Eriophorum* spp.).

(c) Findings, Decision. The Board shall grant an applicant's request for a permit to alter a freshwater wetland upon reasonable conditions necessary to ensure conformity with the following standards, if it makes a positive finding, based on all the information presented by proponents and opponents, that the proposed alterations:

(i) will not unreasonably interfere with existing aesthetic, recreational, navigational, or scenic uses;

(ii) will not unreasonably obstruct the natural flow of surface or sub-surface waters across or from the alteration area,

(iii) will not unreasonably impound surface waters and will not unreasonably reduce the absorptive capacity of the alteration area so as to cause or increase the floating of adjacent properties;

(iv) will not unreasonably increase the flow of surface water across, or the discharge of surface water from, the alteration area so as to threaten injury to the alteration area or to downstream lands by erosion, sedimentation, or otherwise;

(v) will not unreasonably damage spawning grounds or habitat for aquatic life, birds, or other wildlife;

(vi) will not lower the quality of any water; and

(vii) will 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, dated June, 1974.

D. General Intent Zone "G". The general intent of subsection 11 of this Section is to preserve the unique area commonly known as the "Rockland Bog" in its wild and natural state, at the same time affording owners reasonable and also affording enjoyment by the public of that portion of the area which is publicly owned, for recreational purposes. It is not the intent of subsection 11 of this Section to abridge the right of owners of privately-owned lots within the area of the above-described requirements on the use of their land than subsection 11 of this Section provides.

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Designated as Woodland and Wildlife "G":

That area generally south of the above-described area and generally north of Oyster River, and also bounded by the Rockland-Warren municipal line. Eff: 11/13/87

19. Recreational Zone "R" Regulations.

A. Use Regulations:

In a Recreational Zone "R":

(1) any use which is obnoxious, annoying, unsightly, detrimental to the character of the neighborhood, or offensive to a neighborhood by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration is prohibited; and

(2) no building or land shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this Article, except for one or more of the following uses:

(a) Parks and picnic areas; nature walks, and bird sanctuaries.

(b) Swimming, or bathing; or ice skating areas.

(c) Pleasure boat landings or launching ramps, including sales of gasoline and oil for pleasure boats only.

(d) Athletic fields, either public or private, golf courses.

(e) Camping areas, provided they are supervised and policed.

(f) Amusement parks, animal farms or zoos for enjoyment of the public. Admission fees to be reasonable to provide for upkeep and amortization of investment of owner.

(g) Places selling cooked food and refreshments to users of the recreational area. Provision for either take-out or seated food consumption allowed, limited to a seating capacity of not over fifty (50) persons. Regular commercial restaurants and places serving alcoholic beverages shall be excluded from this zone.

(h) Any use similar in character to one of the uses permitted in Section 19-304(19)(A), but not including any use specifically named in Sections 19-304 (9)(A) and (8).

B. Dwellings.

(1) Exceptions. No building used in any part for dwelling purposes shall hereafter be erected or altered except as follows:

- (a) For use of a caretaker or operator of one of the allowed uses of Section 19-304(19)(A).
- (b) Height and area regulations shall comply with those in Section 19 304(5)(B) and (C).

20. Shoreland Zone Ordinance

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect 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.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38, sections 435-449 of the Maine Revised Statutes (M.R.S.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
 - normal high-water line of any great pond or river,
 - upland edge of a coastal wetland, including all areas affected by tidal action, or
 - upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

Those areas designated as General Development on the Official Shoreland Zoning Map of the City of Rockland, shall be subject to the provisions of the underlying zoning districts as depicted on the Official Zoning Map of the City of Rockland, and shall not be subject to the provisions of General Development District.

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This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or located below the normal high-water line of a water body or within a wetland.

NOTE: 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 maximum spring tide are all considered to be coastal wetlands.

4. Effective Date

A. Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the City Council on June 8, 2009, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the City Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

B. Repeal of Municipal Timber Harvesting Regulation. The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S. § 438-B(5), at which time the State of Maine Department of

Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S. § 438-B(5), the following provisions of this Ordinance are repealed:

- Section 14. Table of Land Uses, Column 3 (Forest management activities except for timber harvesting) and Column 4 (Timber harvesting);
- Section 15(O) in its entirety; and
- Section 17. Definitions, the definitions of "forest management activities", "residual basal area", "skid trail or skid road" and "slash".

5. **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.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
9. **Districts and Zoning Map**
 - A. **Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance. Ch. 19, Sec. 19-304
 - (1) Resource Protection
 - (2) Limited Residential
 - (3) Limited Commercial
 - (4) General Development (Note: General Development District is subject to underlying zone as depicted on the Official Zoning Map of the City of Rockland.
 - (5) Stream Protection
 - B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
 - C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.
 - D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.
10. **Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.
11. **Land Use Requirements.** Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered

and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

12. Non-conformance.

A. Purpose. It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

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.

NOTE: See Section 17 for the definitions of non-conforming structures, non-conforming uses and non-conforming lots.

C. Non-conforming Structures

- (1) Expansions. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.
 - (a) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section ~~12(C)(3)~~ and is less than the required setback from a water body, tributary stream or wetland, the replacement structure shall be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date. Ch. 19, Sec. 19-304
 - (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
- (2) Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the 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 structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- (3) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. 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 12C(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12C(2) above.

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 12(C)(2) above, the physical condition and type of foundation present, if any.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged by 50% or less of the market value of the structure, excluding normal maintenance and repair, shall be replaced or repaired in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

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- (4) Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, 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 the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

- (1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.
- (2) Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

E. Non-conforming Lots

- (1) Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and

not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot 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 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on May 11, 1994, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)

combined so that each new lot contains at least 100 feet of shore frontage and

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area.

13. Establishment of Districts

- A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial or General Development need not be included within the Resource Protection District.

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value 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 either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

NOTE: The Natural Resources Protection Act, 38 M.S.R. §§ 480-A through 480-Z, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat". Significant wildlife habitat includes:

Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

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- (2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate

Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

- (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 along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

B. Limited Residential District. The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, or the General Development Districts.

C. Limited Commercial District. The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

D. General Development District. The General Development is subject to underlying zone as Ch. 19, Sec. 19-304 Zoning Map of the City of Rockland.

G. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

14. Table of Land Uses. All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

- Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)
- No - Prohibited
- PB - 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
- LR - Limited Residential
- SP - Stream Protection
- GD - General Development
- LC - Limited Commercial

The following notes are applicable to the Land Uses Table on the following page:

TABLE 1. LAND USES IN THE SHORELAND ZONE

LAND USES	DISTRICT			
	SP	RP	LR	LC
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	Yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes
4. Timber harvesting	yes	CEO	yes	yes

5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	yes	yes
6. Fire prevention activities	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes
9. Mineral exploration	no	yes ²	yes ²	yes ²
10. Mineral extraction including sand and gravel extraction	no	PB ³	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes
14. Aquaculture	PB	PB	PB	yes
15. Principal structures and uses				
A. One and two family residential, including driveways	PB ⁴	PB ⁹	CEO	CEO
LAND USES (CONT.)	DISTRICT (CONT.)			
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>
B. Multi-unit residential	no	no	PB	PB
C. Commercial	no	no ¹⁰	no ¹⁰	PB
D. Industrial	no	no	no	no
E. Governmental and institutional	no	no	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO
16. Structures accessory to allowed uses	PB ⁴	PB	Ch. 19, Sec. 19-304	
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland				
a. Temporary	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹
b. Permanent	PB	PB	PB	PB
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI
19. Home occupations	PB	PB	PB	CEO
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI
21. Essential services	PB ⁶	PB ⁶	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²	yes ¹²
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO
25. Campgrounds	no	no ⁷	PB	PB
26. Road construction	PB	no ⁸	PB	PB
27. Land management roads	yes	PB	yes	yes
28. Parking facilities	no	no ⁷	PB	PB
29. Marinas	PB	no	PB	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO
32. Signs	yes	yes	yes	yes

¹In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

²Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³In RP not allowed in areas so designated because of wildlife value.

⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

⁶See further restrictions in Section 15(L)(2).

⁷Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁸Except as provided in Section 15(H)(3).

⁹Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

¹⁰Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹¹Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

¹²Permit not required but must file a written "notice of intent to construct" with CEO.

NOTE: 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, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- 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.

15. Land Use Standards. All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. 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 principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for General Development	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for General Development	Underlying Zone applies	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 normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.		
(3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.		
(4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.		
(5) If more than one residential dwelling unit, 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.		

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B. Principal and Accessory Structures

(1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development District the setback from the normal high-water line shall be the setback of the underlying zone. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant

may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

- (c) 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.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph. Ch. 19, Sec. 19-304
- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except the General Development District adjacent to tidal waters shall be subject to regulations of the underlying zones.
- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the

Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S. § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not interfere with existing developed or natural beach areas.
- (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending 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. Ch. 19, Sec. 19-304
- (6) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- (7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (8) Except in the General Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S. § 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

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

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) 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.
- (4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface

sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Commercial and Industrial Uses. The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amount with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) 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
- (11) Photographic processing
- (12) Printing

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G. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the District in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

H. Roads and Driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the 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 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.
- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection 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 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 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.

- (4) 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 15(Q).
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) 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.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
 - (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
 - (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
 - (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I Signs. The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

NOTE: The Stormwater Management Law (38 M.R.S. § 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

K. Septic Waste Disposal

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

L. Essential Services

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection 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.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

M. Mineral Exploration and Extraction. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(3) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of 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) 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.

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S., § 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

- (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S. §§ 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and 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 this provision may be maintained.
 - (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and 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.

O. Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
 - (a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
 - (1) The ground is frozen;
 - (2) There is no resultant soil disturbance;
 - (3) The removal of trees is accomplished using a cable or boom and there is no use of tracked or wheeled vehicles into the 75-foot strip of land;

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- (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
 - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
- (b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
- (2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:
- (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
 - (b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
 - (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
 - (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
 - (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
 - (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
 - (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation

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of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section P(1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
 - (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 - 24 = 12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

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- (i) The 25-foot by 50-foot rectangular plots must be established where the applicant proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.
In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the General Development District.
- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

Q. Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a) Mulching and 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.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be designed to be as gentle as possible, and natural contours shall be followed as closely as possible. Ch. 19, Sec. 19-304
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

R. Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

S. Water Quality. No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

T. Archaeological Site. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

NOTE: Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.

16. Administration

A. Administering Bodies and Agents

- (1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S. § 2691.
- (3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required. After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. 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.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is not longer than 75 feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) 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.

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- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
- (2) 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.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

D. Procedure for Administering Permits. Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a General Development District;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

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E. Special Exceptions. In addition to the criteria specified in Section 16(D) 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:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) 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.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
 - (a) Located on natural ground slopes of less than 20%; and

(b) 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.

- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) 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 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.

F. 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.

G. 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.

H. Appeals. Any appeal of a decision of the Code Enforcement Officer under Section 19-304(20), or a variance request, shall be heard by the Zoning Board of Appeals pursuant to Chapter 19, Article II, Section 19-202. A decision of the Planning Board regarding the application of the Shoreland Ordinance to an application for approval of a subdivision or site plan may be appealed under Ch. 16, Art. I, § 16-109 or Art. II, § 16-26, respectively, to the Knox County Superior Court, pursuant to Maine Rule of Civil Procedure 80B. Eff: 02/11/15

I. Enforcement

(1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

(2) Code Enforcement Officer

(a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and conditions. A copy of such notices shall be submitted to the municipal officers Ch. 19, Sec. 19-304 permanent record.

(b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

(c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a 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.

- (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.
- (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.

NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5000 (30-A M.R.S. § 4452).

17. Definitions.

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green-house products. Agriculture does not include forest management and timber harvesting activities.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.
 Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Boat Launching Facility - a facility designed primarily for the launching and landing of vessels. Ch. 19, Sec. 19-304 may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Coastal wetland - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

NOTE: All areas below the maximum spring tide level 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 use - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Development – 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 - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

Emergency operations - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

Family - one or more persons occupying a premises and living as a single housekeeping unit.

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls and the floor area of any unenclosed portions of a structure such as porches and decks. Ch. 19, Sec. 19-304

Forest management activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and

2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

Great pond classified GPA - any great pond classified GPA, pursuant to 38 M.R.S. § 465-A(4-A). This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Height of a structure - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Prop Ch. 19, Sec. 19-304 expansions which either meet the dimensional standard or which cause no further increase in nonconformity 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.

Licensed Forester - a forester licensed under 32 M.R.S. Chapter 76.

Lot area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market value - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit residential - a residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect. Ch. 19, Sec. 19-304

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. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the “coastal wetland.”

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure - a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same premises.

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities. Recreational vehicles are not residential dwelling units. Ch. 19, Sec. 19-304

Residual basal area - the average of the basal area of trees remaining on a harvested site.

Riprap - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

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.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service

- a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
- a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a freshwater or coastal wetland.

Skid Road or Skid Trail - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series to available, a 15-minute series topographic map, to the point where the body of water becomes a water body or wetland within the shoreland area. Ch. 19, Sec. 19-304

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S. § 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tidal waters – all waters affected by tidal action during the maximum spring tide.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Tributary stream – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or

exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

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 body - any great pond, river or stream.

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, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on such crossings. This definition includes crossings for timber harvesting equipment and related activities.

Ch. 19, Sec. 19-304

Wetland - a freshwater or coastal wetland.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

21. Chickawaukie Watershed Regulation.

A. Purposes.

The purpose of this ordinance is to provide for orderly development in the Chickawaukie Lake watershed for the health, safety and welfare of the people of Rockland. Rockland recognizes the need to protect the water quality of Chickawaukie Lake, therefore land uses within the watershed to the maximum extent possible shall assure no sediment or dissolved nutrient shall enter, pollute or degrade the water quality of the lake thereby retaining its suitability for water supply and recreational purposes.

B. Applicability.

These provisions apply to any land uses occurring on single lots or on subdivisions whose boundaries fall wholly or partially within the Chickawaukie Lake watershed. The Chickawaukie Lake watershed is defined by a map titled The Official Watershed Map of Lake Chickawaukie.

C. Requirements.

1. Erosion and Sediment Control Plan.

Any proposed activity which takes place within the Chickawaukie watershed involving the disturbance of existing ground cover due to excavation, grading or filling of an area in excess of 50 sq. ft. shall require the preparation of an Erosion and Sediment Control Plan. This plan shall meet the standards of Section VII, Erosion and Sediment Control Plans, Environmental Quality Handbook, Maine, Revised, March 1986, as amended. The Plan shall be prepared by a soil scientist, geologist or engineer and provide for permanent controls. The plan must provide for temporary controls if permanent controls will not be in place within 10 days. The plan must assure, to the maximum extent possible, there will be no increase in the volume of sediment or dissolved nutrients reaching the waters of Lake Chickawaukie.

No excavation, grading, or filling in excess of 500 sq. ft. shall begin between November 1 and March 15.

2. Land Use Permit.

A land use permit shall be required for any land use activities which require the preparation of an Erosion and Sediment Control Plan under this section. The City of Rockland will notify the Camden & Rockland Water Company, in writing, within (5) five days of receipt of an application for a land use permit under this section. This notice is to allow only for the Camden & Rockland Water Company to make comments on the application due to their unique concern and important advice on this valuable resource area. A decision on the land use permit shall be made within (30) thirty days of submission of the application. It may be approved with conditions or denied by the Code Enforcement Officer.

No permit will be issued and no site activity may occur until the plan, meeting the requirements of Section 19-304-14, is submitted and approved.

3. Temporary Controls.

Temporary measures shall be at least as effective as the following; In accordance with Table 7, Guide to Mulch Materials, Environmental Quality Handbook, all areas where ground cover is removed due to excavation, grading or filling shall be mulched with hay or straw at a rate of not less than ninety pounds or two bales per one thousand sq. ft. Such mulch shall be placed as soon as possible but no later than 10 days from the removal of ground cover and/or placement of fill. Temporary controls shall be maintained over all unvegetated areas until permanent provisions are completed. All drainageways shall be provided with hay or straw bale barriers or other equally effective means of retarding erosion within 10 days of the start of construction.

4. Permanent Controls.

Permanent seeding or other permanent measures shall be placed as soon as practical. In no event shall permanent seeding or sodding of grassed areas be placed later than September 15th of the year the land use begins. Permanent measures shall be in place no later than November 1st of the year the land use begins.

D. Performance Guarantee.

A performance guarantee equal to the cost of meeting the provisions of the Erosion and Sediment Control Plan shall be arranged with the City Finance Officer prior to issuance of a permit and the beginning of any site activity. Withdrawals from this account to cover the costs of meeting provisions of the plan may be made as provisions of the plan are completed.

E. Exceptions.

Ch. 19, Sec. 19-304

1. Erosion and Sediment Control plans necessary for one or two family dwellings, structures accessory there to, and normal home maintenance need not be completed by a soil scientist, geologist or engineer, but shall meet other requirements of Section 19-304-14.

2. For excavations, filling or other disturbance of groundcover within 15' from the center of any drainageway, no temporary controls are acceptable. Permanent Controls must be in place as soon as possible and no later than (10) days after the land use has begun.

3. Existing normal household gardening activity is exempt from these regulations.

4. New household gardening activity in excess of 500 sq. ft. is exempt from these provisions but shall meet the following conditions:

a. Have an Erosion and Sediment Control Plan prepared meeting the standards as described in C. Requirements of this Section but need not be completed by a soil scientist, geologist or engineer.

b. The erosion and control plan shall be designed to minimize sediment and dissolved nutrient runoff from use and reuse of the gardening activity. The emphasis of the plan shall be on permanent landscaping or other features that can effectively reduce and minimize the dissolved nutrients and sediment associated with the perennial garden activity.

c. No gardening activity shall occur within 15' from the center of any drainageway.

d. Performance Guarantee provisions stated in this Ordinance apply. Eff: 11/13/87

22. Waterfront Zone Regulations.

A. Purpose. The purpose of this zone and its subzones is to further the maintenance of safe and healthful conditions; prevent and control water pollution; control building sites, placement of structures and land use; visual as well as actual points of access to coastal waters.

B. Applicability.

(1) The provisions of Section 19-304-15 shall apply to all the land areas from the normal high water mark of Rockland Harbor described in zones WF-1 through WF-6 of this ordinance.

(2) Existing Non-Conforming Building Use Permitted. The lawful use of a building existing at the time of the effective date of this Article may be continued, although such use does not conform with the provisions of this Article, and such building may be reconstructed or structurally altered and the non-conforming use changed subject to the following regulations:

a. No Extension of Use. A non-conforming use may not be extended, but the extension of a use to any portion of the building, which portion is at the time of the effective date of this Article primarily arranged or designed for such non-conforming use, shall not be deemed to be an extension of a non-conforming use.

b. No Enlargement of Building; Alteration Limited. The structural alteration made in a non-conforming building shall not exceed fifty percent (50%) of its market value, as determined by the City Assessor, nor shall the building be enlarged, unless the use therein is changed to be a conforming use.

c. Building Damaged. A non-conforming building damaged by fire, explosion, flood, riot, windstorm, tornado, earthquake, act of public enemy, accident of any kind, or otherwise may be repaired or rebuilt.

d. Use Discontinuance. If a non-conforming use is discontinued for a period of six (6) months, any future use of the building shall be in conformity with the provisions of this Article. A reasonable interim, however, between tenants or occupants shall not be construed to mean discontinuance.

C. Definitions. In addition to the definitions in Section 19-302, the following definitions apply to the waterfront zones and subzones:

(1) Accessory Use. A use which is clearly subordinate or incidental to that of the principal use of a building or land, located on the same lot as the principal building or use.

(2) Aquaculture. The culture or husbandry of marine organisms or plants by any person.

(3) Boat/Shipyard. A yard, place or enclosure where boats/ships are built or repaired.

(4) Commercial Fishing. Attempting to catch fish or other marine animals with the intent of disposing of them for profit or trade in commercial channels and does not include subsistence fishing for personal use, sport fishing or charter boat fishing.

(5) Educational Institutions. Any educational institution, part of the function of which is marine related or marine dependent education.

(6) Excursion Boats. Boats used for the purpose of carrying any person or persons as passengers for valuable consideration. Eff: 05/11/16

(7) Floor Area Ratio (FAR). A figure that specifies the amount of floor space permitted on a particular area of that lot, e.g. an FAR of .5 (50%) permits a building to have a gross floor area in square feet equal to 50% of the footprint of the lot including basements. Ch. 19, Sec. 19-304

(8) Height. Height shall be measured beginning at a point which is the average vertical distance in feet from the toe of the slope to the highest elevation of that slope, or from the minimum floor height elevation required for the property by the flood plain ordinance within the setback requirements of this section, whichever is greater. Eff: 4/22/92

(9) Hotel. An establishment that provides lodging and usually meals, entertainment and various personal services for the public.

(10) Light Commercial Fishing. Commercial fishing and/or charter boat operations primarily for docking and off-loading of commercial fishing boats 65 feet in length or less.

(11) Marina. A facility in which the primary business is leasing of storage, docking or mooring space to watercraft.

(12) Marine Dependent Uses. Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which cannot be located away from these waters. These include but are not limited to: commercial and recreational fishing and boating facilities; finfish and shellfish processing, storage and retail and wholesale marketing facilities; marinas, navigation aids, basins and channels; use dependent upon water-borne transportation or requiring large volumes of cooling or processing oceanwater that cannot reasonably be located or operated at an inland site; and uses which primarily provide public access to marine or tidal waters.

(13) Marine Dependent/Marine Related Commercial Uses. Those marine dependent uses which are engaged in work designed for the market. This may include: harbor and marine supplies and services, such as ship chandlery, provided that primary sources of income are from water dependent uses or that the applicant can demonstrate that the business is essential to existing water dependent uses and can only be made profitable if supplemented by sales to non-water dependent uses.

(14) Marine Dependent/Related Industrial Uses. Those marine dependent uses that are heavier industrial uses such as manufacturing, fabricating, wholesaling or warehousing including but not limited to: Finfish and shellfish buying stations primarily engaged in wholesale trade; finfish and shellfish offloading, processing, packing and packaging, and distribution; bait buying, selling, and storage facilities; piers, docks, wharves serving commercial fishing and cargo-carrying boats and vessels; custom fabrication; maintenance and repair of commercial fishing boat equipment, excluding manufacturing for wholesale distribution; shipbuilding, boat building, and facilities for construction, maintenance and repair of vessels; boat storage and marine repair facilities; marine cargo handling facilities for dredging, pier construction, marine salvage, and other related marine construction operations; boat and vessel fueling and bunkering; tugboat, fireboat, pilot boat and similar services; of facilities for pollution control, oil spill clean-up and servicing of marine sanitation services and ice-making devices; publicly-owned intermodal transportation facilities primarily for vessels with regularly scheduled destination service; cold storage facilities which provide for, and give preference to, fisheries related storage, warehousing and storage of goods arriving by, or awaiting shipment via, water-borne cargo carriers, facilities for combined marine and general construction provided that the business is primarily a marine contractor or that the primary use

of the site is for the marine segment of the contractor's business; fabrication of marine goods, exclusive of fishing boat equipment, provided that a location on the water is essential for production. Eff: 11/11/94

(15) Mixed-Use Development. A development in which residential uses are included with other non-residential uses allowed in that specific zone and are contained on a single parcel of land or within a single building. The intent of the mixed-use development provision (or allowance) is to increase the economic viability of a project by allowing a residential component to be included in a development plan whose other components are non-residential uses permitted in that zone. An example would be a marina complex which includes a ships chandlery, a restaurant, and dwelling units. The residential uses shall not exceed 60% of the volume of floor area of the building or the total area of the development, whichever is greater.

(16) Motel. An establishment which provides lodging and parking and in which the rooms are usually accessible from an outdoor parking area.

(17) Ship's Chandlery. A retail dealer who primarily deals in provisions and supplies or equipment specifically for watercraft or marine uses.

(18) Public Access. The ability of the public to enter or pass to and from an area dedicated for public use. Public access shall be at least during business hours but may be extended as the property owner deems acceptable.

(19) Public Open Space. An area on a particular site, dedicated, granted or covenanted for the express use of the general public. This area shall be construed and maintained by the property owner in a condition which allows for easy access and use.

(20) Public Utilities. Public utilities are defined by Section 19-302 (24) which by necessity must be located along the waterfront.

D. Waterfront Subzone "WF-1" Regulations.

This zone will be known primarily as a marine dependent zone. Any use of this zone must have a direct or indirect need for proximity or access to the water.

Ch. 19, Sec. 19-304

(1) Use Regulations.

In a waterfront subzone "WF-1":

a. any use which is obnoxious or offensive by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration is prohibited, and

b. no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided in this Article, except for one or more of the following uses:

- (i) Commercial fishing;
- (ii) Excursion boats and the services incident to them, such as ticket booths, etc.;
- (iii) Marinas;
- (iv) Public and private wharves;
- (v) Parks and recreation;
- (vi) Educational institutions and facilities;
- (vii) Boatyards;
- (viii) Restaurants;
- (ix) Marine dependent commercial uses;
- (x) Marine dependent industrial uses;
- (xi) Accessory uses to those permitted.

E. Waterfront Subzone "WF-2" Regulations.

This zone will be known primarily as a commercial area with limited multi-family uses only in a mixed-use development.

(1) Use Regulations.

In a waterfront subzone "WF-2":

a. any use which is obnoxious or offensive by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration is prohibited; and

b. no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided in this Article, except for one or more of the following uses:

- (i) Retail trade and service activities;
- (ii) Public recreational uses or private water dependent recreational uses;
- (iii) Professional and general offices;
- (iv) Parks;
- (v) Public utilities that are essential;
- (vi) Excursion boats and the services incident to them, such as ticket booths, etc.;
- (vii) Marinas;
- (viii) Public and private wharves and boat launching facilities;

- (ix) Light commercial fishing operations including docking and offloading of fishing boats (lobsters, shrimp, scallops, mussels, etc.) of 65 feet in length or less;
- (x) Restaurants;
- (xi) Mixed-use residential;
- (xii) Hotels and Motels;
- (xiii) Accessory uses to those permitted.

F. Waterfront Subzone "WF-3" Regulations.

This zone will be known primarily as a commercial and maritime area.

(1) Use Regulations:

In a waterfront subzone "WF-3":

- a. any use which is obnoxious or offensive by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration is prohibited; and
- b. no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided in this Article, except for one or more of the following uses:
 - (i) Restaurants;
 - (ii) Public recreational uses or private water dependent recreational uses;
 - (iii) Public utilities - essential;
 - (iv) Excursion boats and the services incident to them, such as ticket booths, etc.;
 - (v) Marinas;
 - (vi) Public and private wharves and boat launching facilities;
 - (vii) Aquaculture;
 - (viii) Hotels and Motels;
 - (ix) Fuel tankers which are water dependent;
 - (x) Accessory uses to those permitted including attending laboratories as support functions, quality control, quality assurance, research and development applications;
 - (xi) Ship's chandlery;
 - (xii) Marine dependent commercial uses;
 - (xiii) Marine dependent or marine related industrial uses.

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G. Waterfront Subzone "WF-3a" Regulations.

This zone will be known primarily as a commercial/industrial and maritime area.

(1) Use Regulations.

In a waterfront subzone "WF-3a":

- a. any use which is obnoxious or offensive by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration is prohibited; and
- b. no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided in this Article, except for one or more of the following uses:
 - (i) any use permitted in Residential Zone "B", except dwellings;
 - (ii) any use permitted in Commercial Zones "C1" and "DT", except dwellings;
 - (iii) any use permitted in Waterfront Subzone "WF-3";
 - (iv) manufacturing, processing or storage of fish or other food, goods, supplies and equipment, except as prohibited by Section 19-304 (9) (B) hereof;
 - (v) Blacksmith shop;
 - (vi) Bottling works;
 - (vii) Carting, express or hauling;
 - (viii) Wood and lumber yards;
 - (ix) Ice manufacturing or storage;
 - (x) laundries;
 - (xi) Machine shops;
 - (xii) Medical marijuana production facilities. Incidental storage and distribution of medical marijuana to qualifying patients is permitted at the facility, provided that cultivation of medical marijuana is the primary use. Incidental distribution shall not include sale of medical marijuana through a storefront. Eff: 11/09/18
 - (xiii) Repair shops;
 - (xiv) Sawmill or planing mill;
 - (xv) Stone yards or monumental works;
 - (xvi) Storage yards;
 - (xvii) Terminal facilities and freight houses for railroad and truck lines and shipping;

(xviii) Warehouses and similar storage buildings. Eff: 04/11/01

H. Waterfront Subzone "WF-4" Regulations.

This zone will be known primarily as commercial in nature, with limited multi-family uses only in a mixed-use development.

(1) Use Regulations:

In a waterfront "WF-4":

a. any use which is obnoxious or offensive by reason of odor, fumes, vapor, dust, smoke, gas, noise or vibration is prohibited; and

b. no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided in this Article, except for one or more of the following uses:

- (i) Retail trade and service activities;
- (ii) Public recreational uses or private water dependent uses;
- (iii) Professional and general offices;
- (iv) Parks;
- (v) Public utilities that are essential;
- (vi) Excursion boats and the services incidental to them, such as ticket booths, etc.;
- (vii) Marinas;
- (viii) Public or private wharves and boat launching facilities;
- (ix) Light commercial fishing operations;
- (x) Restaurants;
- (xi) Shipyards;
- (xii) Ship's chandlery;
- (xiii) Hotels and motels;
- (xiv) Mixed-use residential;
- (xv) Accessory uses to those permitted;
- (xvi) Marine dependent uses.
- (xvii) Tradesman's or Craftsman's Offices, Shops and Showrooms.

Ch. 19, Sec. 19-304

Eff: 11/11/94
Eff: 05/12/04

I. Waterfront Subzone "WF-5" Regulations.

The first 125 feet from the high water mark in this area is proposed to be a Resource Protection Area in which all non-essential development is prohibited. This area is subject to wave action and fits the resource protection criteria of the State of Maine Resource Protection Zone. The City Council may authorize requests to reduce the WF-5 Zone area to less than 125' from the high water mark, down to 90' from the high water mark, where shoreline stabilization has been completed. Any such shoreline stabilization must be approved and authorized by appropriate regulatory agencies and professionally engineered to provide adequate stabilization for the intended use of the land. The City, having an interest in developing a public walkway along as much of Rockland's harbor as feasible, a permanent public easement parallel to the shoreline shall be located in any property zoned WF-5, when said property or any portion of the applicant's adjacent property outside the WF-5 Zone, is developed to the extent requiring Planning Board review. The Planning Board shall approve the exact location of the easement within the WF-5 Zone. Eff: 05/09/07

(1) Use Regulations:

In a waterfront subzone "WF-5":

a. any use which is obnoxious or offensive by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration is prohibited; and

b. no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided in this Article, except for one or more of the following uses

- (i) Recreational which does not require structures;
- (ii) Piers, docks and wharves that are temporary;
- (iii) Public utilities;
- (iv) Recreational uses requiring minimal structural development;
- (v) Aquaculture.

J. Waterfront Subzone "WF-6" Regulations.

This zone will be known primarily as a commercial zone.

(1) Use Regulations:

In a waterfront subzone "WF 6":

a. any use which is obnoxious or offensive by reason of odor, fumes, vapor, dust, smoke, gas, noise, or vibration is prohibited; and

b. no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided in this Article, except for one or more of the following uses

(i) Any use permitted in zones A, B, or D, except that new dwelling units are allowed where at least seventy-five percent (75%) of the street level floor space shall be used primarily for those uses set forth as follows:

Office buildings; retail or wholesale services and trades; auto accessory shops; bakeries; banks; dressmaking and millinery shops; filling stations; garages; laundries; newspaper and job printing; parking lots; personal service shops such as barber shops, beauty parlors, valets, shoe shine, tailor shops, etc.; public buildings; public utility buildings; restaurants; sales and showrooms; theater and other places of amusement and assembly; tradesmen's offices and showrooms, such as plumbers electricians, decorators; undertaking establishments; storage of boats in the traditional "winter cover" manner on ground cradles and structures for storage of incidentals such as riggings, masts, stays, spars, ropes, lines and sails. Any use similar in character to one of the uses permitted.

Any use of an aesthetic nature such as those set forth as follows: Art galleries, artists studios and residential units related to artists; bakeries; bookstores; flower shops: hotels and motels; parks and recreations; public buildings; restaurants; and silversmith and goldsmith shops.

K. Land Use Standards.

No building shall hereafter be erected or altered without complying with the following standards: Ch. 19, Sec. 19-304⁰

(1) No building shall hereafter be erected or altered to exceed the following heights: WF-1 40 feet, WF-3a 65 feet, WF-4 40 feet, WF-5 40 feet, WF-6 40 feet. However, in order to encourage adaptive re-use of legally existing structures, a structure existing as of December 14, 2005 which is converted to mixed use development may exceed these limitations and be increased in height to no higher than the highest portion of any other legally existing building on the same lot, provided that the floor-area ratio standard can be met. Eff: 12/14/05

(2) No two buildings with separate and distinct ownership shall be any closer than 24 feet.

(3) There shall be at least 15 feet of landscaped area between each building and the street or road for a front/rear setback. Parking shall not be allowed in this 15-foot setback. There shall be at least 12 feet from any building and the side lot line, provided the side yard is not on the water, in which case it must meet the setback requirements set forth below in paragraphs K(5)-(8).

(4) The maximum floor-area ratio (FAR) shall be 40% however, the Planning Board shall grant an increase in the maximum FAR from .40 up to 1.0 in .20 intervals in return for one or more of the following:

- a. construction and maintenance of a 12-foot wide public walkway along the water;
- b. 50-foot wide spaces between buildings at least every 150 feet to afford views of the waterfront from the street; and
- c. a minimum of 20% of the floor area for a restaurant, for marine related commercial and/or industrial uses, or for office or rental space connected with marine dependent or marine related commercial and/or industrial uses. Eff: 01/13/93
- d. developing and maintaining public green space on 10% of a site shall yield an increase of 50% in the maximum floor area ratio. Eff: 1/13/93

(5) In determining "waterfront" for setback requirements, for a peninsula or a property with two or three "sides" to the water or fronting on the water, the "waterfront" of the site shall be deemed to be that portion of the site which has the greatest length of navigable water, at mean low water, using the State's definition for a prime water front site as outlined in the State of Maine guidelines for municipal shoreland zoning ordinances; all other areas which abut the water shall be considered "sides" or "back" as set forth in paragraph K(3) above. If there is no navigable water on the site, then the side which has the greatest exposure to the harbor will be considered the front.

(6) For building along the waterfronts of properties in the waterfront zones, the following setbacks and restrictions shall apply:

a. Marine dependent and marine related commercial uses may be built on a wharf or pier or up to the high mark along their entire waterfrontage with no setback. Height can be up to the following: WF-1 40ft., WF-2 40ft., WF-3 40ft., WF-3a 65ft., WF-4 40ft., WF-5 40ft., WF-6 40ft. Eff: 7/8/92

b. Non residential uses including restaurants, have a 25 foot setback for 80% of their water frontage. On up to 20% of the waterfrontage a building of no more than 14 feet (one story) in height can be built closer than the 25 foot setback, even up to the high water mark. Buildable waterfrontage can be increased in 10% increments (for a total of up to 50%) in return for one or more of the following: 1) construction and maintenance of a 12-foot wide public walkway along the entire length of the waterfrontage; 2) 50-foot spaces between buildings at least every 150 feet to provide a view corridor of the waterfront from the street (on their own property if more than one building is planned or between the single building and their property line with other buildings prohibited by covenant in the 50-foot view corridor); 3) development, dedication and maintenance of an additional 10% of the site for public open space.

For the purpose of increasing buildable frontage, direct public access need not be provided on properties where hazards to the safety of the public may exist. These properties may provide access as follows: 1) setting aside open space; 2) view corridors from adjacent streets; or 3) designating areas where the public will be safe from hazard.

c. The waterfront linear coverage and the FAR densities may be used in conjunction with each other, but shall not be compounded for the same dedication. Example: Should a developer choose to construct and maintain a 12-foot wide path for public access along the water, he may choose to take an additional 10% of the waterfront linear coverage OR an additional 25% increase in the FAR, BUT NOT BOTH.

(7) There shall be NO parking in the 25-foot setback along the waterfront. This area shall be considered as open space or green space, and should be landscaped in an attractive manner, although a travel way or driveway not exceeding 12 feet in width may be constructed for access within that 25-foot setback.

(8) Mixed-Use Residential and Congregate Housing shall be set back at least 75 feet from the high water mark.

(9) Erosion and Sediment Control. Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such a manner to prevent, to the maximum extent possible, erosion and sedimentation of surface water. To this end, all such activities shall be accomplished in conformity with the provisions of "Environmental Quality Handbook; Erosion and Sedimentation Control" published by the Maine Soil and Water Conservation Commission, June, 1974, or most current.

(10) Mineral Exploration. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which shall create a minimal disturbance. A permit shall be required for mineral exploration which exceeds the above limitations.

Ch. 19, Sec. 19-304

(11) Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges Over Twenty (20) Feet in Length, and Uses Projecting Into Water Bodies. In addition to federal or state permits which may be required for such structures and uses, they shall conform to the following:

- 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 developed 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 to be consistent with existing conditions, use, and character of the area.

(12) Roads and Streets. Construction of roads and streets shall conform to applicable requirements of Chapter 16, Section 16-105(5).

(13) Sanitary Standards. Sanitary standards shall conform to applicable requirements of Chapter 14, Articles IV and V.

(14) 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 environment impacts, including severe erosion, mass soil movement and water pollution whether during or after construction. A soil report, prepared by a State-certified soil scientist, geologist, professional engineer or other State-authorized personnel, based on an on-site investigation shall be required. Suitability considerations shall be based primarily on criteria employed in the National Co-operative Soil Survey as modified by on-site factors such as depth to water table and depth of refusal.

L. Density.

(1) Density for a mixed-use multi-residential building shall be 7,500 square feet per unit. In the "WF-2" subzone, the minimum density may be reduced to 2,500 square feet per unit if all four requirements of the FAR have been met. This increase in density shall be allowed only on the floors above the ground floor level. Eff: 7/11/90

23. Tillson Avenue Area Overlay Zone

1. Purpose. To enhance redevelopment opportunities in the Tillson Avenue Area while protecting and enhancing the historic character and mixed-uses in Rockland's largely 19th Century-constructed commercial center (the "Downtown District"), and waterfront. This Overlay defines uses and standards that are in addition to regulations for the underlying land use zones that apply in this area. Where there is a conflict between uses and standards within the zones of this area and the Tillson Avenue Area Overlay Additional Standards, the Tillson Avenue Area Overlay Additional Standards shall apply.

2. Definitions:

a. Alley or Alleyway: a private or public passage or way which (i) is less than the usual width of a street or road; (ii) may be open to but is not designed primarily for vehicular traffic; (iii) intersects or opens onto a road or street; and is primarily used for the ingress or egress or convenience of two or more owners of abutting real properties, giving access to the rear of lots or buildings.

b. Functionally water-dependent use: those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and that cannot be located away from these waters. The uses include, but are not limited to the processing of marine plants and marine animals, commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and

wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

c. Grocery Store: any place of business engaged in the sale of foodstuffs, household items, fresh and/or canned fruit, vegetables or meats, breads, cakes and/or pastries, liquor, and/or other similar items to the general public.

d. Marina: a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

e. Maritime Facility: of or relating to marine shipping and commerce or marine navigation, to marinas, functionally water-dependent uses, stevedoring companies; chandlers; warehouses products shipped on such vessels; ship building and repair firms; importers/exporters; and pilot associations. Ch. 19, Sec. 19-304

f. Supermarket: a retail store with more than 6,000 square feet of gross building area, selling a complete assortment of food, food preparation and wrapping materials, and household cleaning and servicing items.

3. Permitted Uses. In addition to uses permitted in the applicable, underlying zone, the following uses also are permitted in the Tillson Avenue Area Overlay Zone:

TILLSON AVE AREA OVERLAY ADDITIONAL PERMITTED USES	
a.	Maritime facilities.
b.	Aquariums.

4. Prohibited Uses. In addition to uses prohibited in the applicable, underlying zone, the following uses also are prohibited in the Tillson Avenue Area Overlay Zone:

TILLSON AVE AREA OVERLAY ADDITIONAL PROHIBITED USES	
a.	Drive-Through Facilities for but not limited to fast food restaurants and banks.
b.	Retail businesses exceeding 6,000 square feet of floor area on the first floor where such area is used for retail purposes. However, supermarkets, grocery stores, and retail sales relating to marine products and services are exempt from this size limitation.
c.	Junkyards.
d.	Mobile home parks, camping or RV parks.
e.	Motor vehicle sales, service including fueling, and repair.
f.	Storage yards not associated with maritime uses that serve as the principal use of the lot or parcel on which they are located.
g.	Transient accommodation facilities with more than 100 units/rooms for accommodation per separately-sited facility. "Separately-sited facilities" must be on separate lots that do not share a contiguous boundary, but may be separated by a public right of way.

5. Standards. In addition to the standards for the zones within this area, the following space, bulk and design standards shall apply to all lots and/or parcels of land.

TILLSON AVENUE AREA OVERLAY ADDITIONAL STANDARDS	
Maximum Building Coverage Maximum Lot Coverage Floor Area Ratio (F.A.R.)	Areas within 75 feet, horizontal distance, of the normal high-water line: Same as Zone in which located. Publicly accessible courtyards at ground level shall not be included for purposes of building coverage calculations. Areas further than 75 feet, horizontal distance, from the normal high-water line: No Limit
Maximum Front Setback (Principal Structures and Accessory Structures with building coverages of 150 sq.ft. or more)	5 feet from property line for no less than 40% of the building façade (first floor) as measured linearly. 15 feet from property line for the remainder of the building façade (all floors) as measured linearly. However, functionally water-

TILLSON AVENUE AREA OVERLAY ADDITIONAL STANDARDS	
Eff: 04/11/12	dependent uses, maritime facilities, and marinas are exempt from a maximum front setback requirement. Such Maximum Front Setbacks shall be measured from the inside edge of any park, plaza, or other exterior portion of the lot that abuts the primary street and to which the lot owner has granted the City of Rockland a public access easement in a form acceptable to the City Attorney. The inside edge shall be that point of the longest line or, in the event of a round or oval space, the curve formed by the publicly accessible park, plaza or similar area, that is located closest to the principle façade of the proposed structure. To be eligible for such enhanced maximum front setbacks, the public access area must contain landscaping, and exclude parking. Eff: 01/13/16
Minimum Front Setback (Principal and Accessory Structures)	None
Minimum Side Setback (Principal and Accessory Structures)	None outside of designated scenic viewsheds. Within designated scenic viewsheds, as identified in a City-adopted Master Plan for the Tillson Ave area, see 'Preservation of Water views' standard for minimum side setbacks.
Façade Materials	Brick, Stone or Wooden Clapboard, or materials similar in appearance, texture, quality and scale to these materials for buildings fronting a public street.
Façade Massing and Projections	<p>All principal facades fronting a public street shall have a prominent cornice and expression line, a working entrance, and windows (except for side-wall facades where entrances are not required).</p> <p>Buildings wider than 75 feet fronting a public street shall incorporate vertical elements in the principal facade to simulate smaller-scale development.</p> <p>Principal facades fronting a public street(s), excluding alleyway(s), or principal facades facing a plaza, or public park may not have blank walls (without doors or windows) greater than 10 feet in length.</p> <p>Expression lines and cornices of principal facades fronting a public street shall be a decorative molding or jog in the surface plane of the building that extend at least 3 inches out from the principal facade, or a permanent canopy may serve as an expression line.</p>
Entrances	<p>The primary functional entrance to all buildings shall face the street.</p> <p>Corner buildings fronting a public street shall have their primary entrance(s) face either the intersection or the street of greater importance, i.e., typically greater traffic and pedestrian volumes.</p> <p>Where a building fronting a public street would have a building frontage length that exceeds 50 feet, operable doors or entrances with public access shall be provided along streets at intervals averaging no greater than 50 feet.</p>
Windows	<p>Every principal facade fronting a public street must contain transparent windows on each story.</p> <p>Rectangular window openings on principal facades fronting a public street shall be oriented vertically (except for transom windows).</p> <p>All windows fronting a public street must:</p> <ol style="list-style-type: none"> 1. contain visible sills and lintels on the exterior of the wall, and 2. have their glazing set back at least 3 inches from the surface plane of the wall, or set back at least 2 inches when wood frame construction is used.
Landscaping	Same as Zone in which located.
Buffering	Same as Zone in which located.
Preservation of Water views	Existing water views from public streets shall be maintained in whole or part. Until amended following the designation of scenic viewsheds in a City Council-adopted Master Plan for the Tillson TIF Development District, such

TILLSON AVENUE AREA OVERLAY ADDITIONAL STANDARDS	
	viewsheds shall be protected in whole or part with a minimum building side setback of 12 feet and/or building separation of at least 15 feet on waterfront parcels; provided, however, that the Planning Board may permit the substitution of these side setback requirements if a proposed development preserves or provides a water view architecturally, as with an arch or other visually-permeable building design.
Lighting on building or on poles	Traditional luminaries including lantern, onion-shaped or pendant, made from brass, cooper, cast iron, pewter or materials similar in appearance, texture and scale.
Parking Fee in Lieu of Onsite Parking Requirements	To alleviate owners and developers of sometimes-onerous on-site parking requirements – on-site parking facilities sometimes being unfeasible or preventing traditional building densities – an owner or developer of a new building or building addition that generates a requirement for additional parking under the City’s site plan or subdivision review ordinances may, at their discretion, pay a per-space fee in lieu of providing on-site parking, such fee to be established by Order of the City Council, paid prior to the issuance of the building permit, and placed in a designated fund to create surface or structured off-street parking facilities within the City.
Parking Lot Location	Surface level off-street parking lots shall be placed in side and rear yards only. Off-street parking may be provided under commercial or mixed-use buildings.
Mechanical Equipment	Rooftop and other exterior mechanical equipment, including HVAC systems, shall be screened, using materials similar in type and scale to as roofing materials like brick, slate, wood, cementitious or materials similar in appearance, texture and scale. Solar panels are exempt from this requirement. In no case shall wood stockade or similar fencing be used on roofs. Sound buffering/baffles shall be used as needed.
Signs attached to or part of facades	Signs shall be in proportion to the building façade and not cover the cornice or expression lines of the façade. In no case shall a sign exceed 10 square feet in size. Signs in this overlay are meant to be viewed by pedestrians on the street.
Pathways and Sidewalks	Brick, stone or concrete.
Curbing	Where practicable, granite curbing shall be used.
Architectural Design	See Minimum Architectural Design Standards, Ch. 19, Art. III, Sec. 19-317(B).

Eff: 10/14/09

24. COMMERCIAL CORRIDOR OVERLAY ZONE (“CCOZ”)

Eff: 03/11/15

A. Purpose.

The purpose of the Commercial Corridor Overlay Zone is to implement – on parcels abutting the City’s major commercial corridors like Route 1 outside the Downtown – land use principles intended to stem sprawl and encourage aesthetically pleasing, mixed-use development along said corridors. The City Council, in adopting the Commercial Corridor Overlay Zone, finds that enhanced streetscapes, achieved through investments in the public right-of-way and in-fill development on private property, will enhance the economic well-being of the community and the public health, welfare, and safety. Creating safe and accessible streetscapes will draw customers for businesses and occupants for multi-dwelling housing complexes, utilizing varied modes of transportation, and bringing renewed vitality and economic activity to under-utilized areas on the City’s arterials outside the Downtown.

B. Compatibility With Underlying Zones.

The requirements and standards set forth in this Commercial Corridor Overlay Zone shall prevail to the extent they conflict with the regulations for zones in which parcels subject to this Overlay Zone are located. Except as provided in this Commercial Corridor Overlay Zone, the regulations for the underlying zone applicable to particular parcels apply to said parcels. Additions to existing buildings are subject to the regulations of the underlying zone and no the Commercial Corridor Overlay Zone. Eff: 11/10/17

C. Standards.

The following space and bulk standards shall apply to all lots and/or parcels of land in the Commercial Corridor Overlay Zone:

COMMERCIAL CORRIDOR OVERLAY ZONE “CCOZ” STANDARDS

Maximum Building Coverage	85%
Maximum Lot Coverage	85%
Minimum Floor Area Ratio	None
Minimum Front Setback	None; provided, however, that in the event the public right-of-way upon which the parcel fronts cannot accommodate an esplanade and sidewalk between the parcel and the outer edge of the existing paved roadway or – if the City Council has adopted a master plan for alterations to the right-of-way – the outer edge of the proposed alteration of the paved roadway, then any new structure or addition shall be set back the lesser of ten feet or such distance as may be needed to accommodate such sidewalk and esplanade within the parcel. Ch. 19, Sec. 19-304
Maximum Front Setback for Primary Structures	<p>Single Primary Structure Developments:</p> <p style="padding-left: 40px;">Ten feet, except when additional footage is needed/used for outdoor seating, green space, public park or similar public amenity approved by the Planning Board.</p> <p>Multiple Primary Structure Developments:</p> <p style="padding-left: 40px;">Ten feet for at least one primary structure; other primary structures may be located between the setback-compliant structure and the rear property line.</p> <p>In the event a minimum front setback is imposed under these overlay standards, the maximum front setback shall be measured from the outer edge of the sidewalk and esplanade.</p>
Minimum Landscaped Front Setback for Surface Parking Areas	Forty feet
Minimum Side Setback	Ten feet, except where the parcel abuts a residential zone or a parcel on which the use is solely residential, in which instance the side setback of the underlying zone shall apply.
Minimum Principal Building Height	Two functional stories
Surface Parking Lots	Areas for surface parking may not be located between a building and a street, except to provide handicap parking.
Parking	Pursuant to Sec. 19-307(8), the parking permit-issuing authority may allow deviations from the parking requirements set forth in Sec. 19-307(6)(E) where the applicant submits a parking management plan acceptable to such authority that incorporates shared parking, provisions for one or more mass transit stops and shelters, short term parking limitations for commercial uses, and/or other parking solutions that reduce the anticipated on-site parking needs for the development.
View Corridors	Buildings shall be so situated so that existing water views from public streets shall be maintained by providing – notwithstanding anything to the contrary in this or the underlying zones – a minimum building side setback of twenty (20) feet; provided, however that the Planning Board may permit the substitution of a view corridor between buildings within a lot for the side setback.
Building Design	Primary and accessory structures shall employ varying setbacks, heights, roof treatments, doorways, window openings, and/or other structural or decorative elements to reduce apparent size and scale of the structures.

	<p>A minimum of twenty (20) percent of the structures' facades that are visible from a public street shall employ actual projections or recesses with a depth of a least six feet. No uninterrupted façade shall extend more than fifty (50) feet.</p> <p>Rear and side building facades shall be the architectural treatment of the primary façade.</p>
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Ch. 19, Sec. 19-304

Eff: 03/11/15

Sec. 19-305 Regulation of Manufactured Housing and Mobile Home Parks

1. Purpose

The purpose of this Section is to establish minimum standards for the placement of manufactured housing in accordance with the provisions of Title 30-A M.R.S. Section 4553. "Regulation of Manufactured Housing," to restrict the location of older mobile homes and trailers, to require that manufactured housing (the newer mobile homes and single-wide modulars) be compatible with site-built homes, to provide opportunities for the location of affordable and safe housing within the city, and to assure a safe and healthful environment for residents of mobile home parks.

2. Authority

This section is adopted pursuant to the Home Rule powers provided for in Article VIII-A of the Maine Constitution and Title 30-A M.R.S. Section 3001, and Title 30-A M.R.S. Section 4358, "Regulation of Manufactured Housing."

3. Applicability

This section shall apply to all of the land area within the City of Rockland, and it shall apply to all factory-built housing to be located in or moved from one part of the city to another.

4. Definitions

Terms not defined shall have their customary dictionary meaning.

A. Manufactured Housing. "Manufactured housing" shall mean a structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. The term shall include any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. They are:

(1) Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the US Department of Housing and Urban Development standards, meaning structures, transportable in one or more sections, which, in the traveling mode, are fourteen (14) body feet or more in width and are seven hundred fifty (750) or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this paragraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the US Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, US Code, Title 42, Section 5401 et seq.; and

(2) Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with the state's Manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained herein.

B. Older Mobile Homes, Trailers. "Older mobile homes" and "trailers" are terms that may be used interchangeably, and shall mean any factory-built home which fails to meet the definition of "manufactured housing" in paragraph A above and more specifically, it shall mean any mobile home constructed prior to June 15, 1976.

C. Mobile Home Park. "Mobile Home Park" shall mean a contiguous parcel of land designed for the location of two (2) or more older mobile homes, trailers, or manufactured homes, which is licensed as a mobile home park by the Maine Department of Business Regulation and reviewed by the Planning Board under Sections 16-101 through 16-110 of the Ordinance. Eff: 11/12/88

D. Mobile Home Subdivision. "Mobile home subdivision" shall mean a parcel of land reviewed by the Planning Board under Sections 16-101 through 16-110 of this Ordinance, on which manufactured homes are placed on individually-owned lots.

5. Permit Requirements

No person, firm, corporation or other legal entity shall locate a manufactured home in the City of Rockland, or move a manufactured home from one lot or parcel of land to another within the City of Rockland, without a permit from the Code Enforcement Officer. The application for a permit shall be in writing on forms prescribed by the Code Enforcement Officer and shall be signed by the applicant. The Code Enforcement Officer shall act upon all

such applications for permits required by this Section, either by issuing such permits or refusing to do so within thirty (30) days of receipt of such applications and submission of proof that the manufactured home meets the requirements of Section 19-305.4.A. Eff: 11/12/88

6. Prohibitions

No person, firm, corporation or other legal entity shall locate, or move from one lot of land to another, an older mobile home, trailer, or manufactured home which fails to meet the requirements of Section 8, except to or within a mobile home park.

7. Non-Conforming Structures

Older mobile homes and trailers, and manufactured homes which fail to meet the standards set forth in Section 8, which were lawfully established prior to the effective date of this ordinance, shall be considered Non-Conforming Structures and may continue and may be maintained, repaired, improved and expanded. No Non-Conforming Structure may be moved to another lot or parcel in the City of Rockland, except as provided in Section 6, and Non-Conforming Structures may be replaced by another Non-Conforming Structure, provided it meets the standards set forth in Section 4-A(1)(2). A Non-Conforming Structure may be moved to a different location on the same lot or parcel of land or replaced by a Conforming One-Family Dwelling. Eff: 8/11/88

8. Manufactured Housing Standards

All manufactured housing located in the City of Rockland shall be at least fourteen (14) feet in width, shall contain at least seven hundred fifty (750) square feet of living space, shall have a shingled roof with a minimum pitch of three in twelve (3/12), shall have siding that is residential in appearance and consistent with surrounding neighborhood housing, and shall have a permanent masonry foundation or pad. Eff: 8/9/89

9. Location of Manufactured Housing

Manufactured housing may be located within the City of Rockland in accordance with standards applicable to one-family dwellings and the following:

Modular Homes are permitted in all zones in which one-family dwellings are permitted. Older Mobile Homes and Trailers are prohibited in all zones except in mobile home parks. New Mobile Homes are prohibited in Residential "AA", Residential "B-1", Waterfront Commercial "C", Recreation "R" and Woodland and Wildlife "G" Zones. Newer Mobile Homes are permitted in all other zones in which one-family dwellings are permitted.

10. Mobile Home Parks

Mobile Home Parks shall be reviewed by the Rockland Planning Board under Site Plan Review Ordinance, Section 16-101 through 16-110 of this Ordinance. Mobile home parks shall further conform to the following requirements:

A. Location. The park shall be located on a well-drained site properly graded to insure rapid drainage and freedom from stagnant pools of water. The park shall not be located near swamps or other potential breeding places for insects and rodents, or on land which is exposed to chronic nuisances such as noise, smoke, fumes, and odors.

B. Access. The park shall have at least one (1) paved road with unobstructed access to a public street or highway with a right-of-way not less than thirty-two (32) feet and a pavement width of not less than twenty (20) feet.

C. Service Streets. The park shall be provided with service streets with well-drained, stabilized or paved surfaces maintained in good repair and, at night, well-lighted. The pavement width shall be not less than twenty (20) feet; and, where parallel parking is permitted on one (1) side of the street only, the total width of such street shall be not less than twenty-six (26) feet; and where parking is permitted on both sides of the street, the total width of such street shall be not less than thirty-two (32) feet.

D. Size of Park. The park shall have an area of at least ten (10) acres.

E. Individual Mobile Home Spaces. Each mobile home space shall contain a minimum area of ten thousand (10,000) square feet, and shall be not less than sixty (60) feet wide and one hundred (100) feet long. The bounds of each space shall be clearly marked, and the space shall be well-surfaced or seeded to provide adequate drainage beneath and adjacent to any mobile home parked thereon. Each individual mobile home space shall be provided with:

(1) a continuing and potable supply of safe and sanitary water;

(2) an adequate sewage disposal means;

(3) an adequate electrical power service. The requirements of this subsection shall comply with regulations of the Maine Department of Business Regulations.

F. Motor Vehicle Parking Space. Motor vehicle parking space shall be provided and all such spaces all have a well-drained, stabilized or paved surface, maintained in good repair.

G. Garbage Receptacles. Metal garbage cans with tight-fitting covers shall be provided in quantities adequate to permit disposal of all garbage and rubbish. The cans shall be kept in sanitary condition at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to insure that the garbage cans shall not overflow.

H. Sale of Mobile Homes in Mobile Home Park. Sale of mobile homes located in a mobile home park shall be limited to the sale of such homes that are privately owned.

I. Placement of Mobile Homes. No mobile home shall be placed less than ten (10) feet from the side of any individual mobile home space, and there shall be not less than thirty-five (35) feet between any two mobile homes.

No mobile home shall be placed less than one hundred (100) feet from any house located on any adjacent lot, nor less than fifty (50) feet from the right-of-way of any street or highway. Mobile homes or house trailers shall not be parked on any traveled way within the City of Rockland for a period of time in excess of two (2) hours.

J. Application to Existing Mobile Home Parks. This section shall not apply to mobile home parks established prior to its effective date; provided, however, that permit fees, and sanitary and utility requirements shall apply to existing mobile home parks.

K. Extension and Alteration of Mobile Home Parks. Existing mobile home parks may not be extended or altered except in conformance with the provisions of this section.

11. Appeals to Zoning Board of Appeals

The Zoning Board of Appeals may, upon written application of the affected landowner(s), grant a variance from the strict application of this Section in accordance with the provisions of Section 19-310. A variance shall not allow the placement of a manufactured home in a zone in which such structures, including modular homes, newer mobile homes, older mobile homes, or trailers, are prohibited as dwellings, nor shall a variance allow the establishment of a mobile home park or subdivision in a zone in which a mobile home park or subdivision is prohibited.

Sec. 19-306 Clustered Housing

A. Purpose and Scope.

The purpose of this Clustered Housing Ordinance is to promote flexibility in the design of housing by authorizing the Planning Board to approve subdivisions with clustered residential units on lots and/or in configurations within subdivisions that exceed maximum densities and/or that are reduced in area and width below the minimum normally required by the zoning and subdivision ordinances, where the reduced lot sizes and/or minimum acreage requirements are offset with the provision of at least 50% of the total land area in the subdivision preserved as Conservation Areas. The relief from lot size and/or minimum acreage requirements afforded by this Clustered Housing Ordinance shall not be construed as a variance.

B. Definitions.

1. Buildable Lot: A lot upon which at least one (1) dwelling unit may be built in accordance with the requirements of the Zoning, Subdivision, and Shoreland Zone Ordinances, and other applicable ordinances and state regulations, were this Clustered Housing Ordinance to not apply.

2. Building Envelope: The area within a buildable lot shown on a standard subdivision plan in which a dwelling might be constructed, taking into consideration all applicable setback, environmental, and other regulatory and site constraints.

3. Clustered Housing Subdivisions: Clustered Housing Subdivisions contain attached or detached single-family dwelling units that are constructed in clusters so as to reduce the land consumed by the dwelling units in the subdivision by at least 50% and to increase land conserved within the subdivision as Conservation Areas. The number of clustered dwelling units authorized in a Clustered Housing Subdivision shall not, except as provided in subsection 19-306(D)(4), below, exceed the number of lots or dwelling units that would be permitted in a standard subdivision as required in the zoning district in which the development is located were this Clustered Housing Ordinance to not apply.

4. Common Space: Those areas reserved in a clustered housing subdivision for common purposes benefiting residents and their guests, including pedestrian and vehicular access, parking, and circulation (except walking trails in Conservation Areas); exterior lighting; landscaping; shared on-site sewerage disposal; and active recreational uses.

5. Conservation Area: Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the preservation of natural features and conditions, or for organic farming. Recreational facilities other than unpaved trails, and structures, other than tool or produce sheds for farming activities, are prohibited in Conservation Areas. Conservation Areas shall, whenever possible, be laid out to be contiguous both within the Clustered Housing Subdivision, and with Conservation Areas or other natural, undeveloped portions of abutting parcels.

6. Density: The number of dwelling units per square foot of lot area.

7. Dwelling Unit, Single-family, Attached: For purposes served by this Clustered Housing Ordinance, a dwelling unit under separate ownership contained within a structure that houses more than one dwelling unit constructed as separate "buildings" as that term is utilized in the Building Code, with independent access.

8. Parent Parcel: the entire land area of the existing parcel or parcels of real estate proposed to be subdivided pursuant to this Clustered Subdivision Ordinance, including Conservation Areas and Common Spaces.

9. Standard Subdivision Plan: The preliminary plan that would be required by Chapter 16, Article I were this Clustered Housing Ordinance to not apply.

C. Application Procedure.

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1. If the applicant seeks to present a Cluster/Conservation Subdivision proposal, the Planning Board shall require the applicant to submit two preliminary plans: a standard subdivision plan that conforms with the preliminary plan requirements of Chapter 16, Article I, and a Cluster/Conservation Subdivision plan that conforms with the provisions of this Clustered Housing Ordinance and applicable provisions of Chapters 16 and 19 not altered or supplanted by this Ordinance. The plans, which will be used to determine the number of dwelling units that may be permitted in the proposed Cluster/Conservation Subdivision, shall show at a minimum the following:

(a) Basic Information. The plan map shall not be less than sixteen inches by twenty four inches (16"x 24") (at least eight (8) copies shall be provided and drawn to scale of not less than one inch (1") equals forty feet (40') nor greater than one inch (1") equals four hundred feet (400') with contour lines of five foot (5') intervals unless otherwise specified by the Board.

(b) Name of Subdivision. Proposed name identifying the name of the subdivision and indicating it as the standard plan to accompany a cluster housing proposal along with the date of submittal.

(c) Name of Subdivider. Name and address of subdivider and his authorized agent, owner(s), engineer(s) and surveyor(s).

(d) Description of Land. Acreage of the tract or parcel.

(e) Survey. Perimeter survey of tract made and certified by a registered land surveyor relating to reference points, showing true north point, graphic scale, corners of tract, and date of survey and total acreage.

(f) Man-Made and Natural Features on the parcel. Existing buildings, proposed building envelopes, lot lines, if any, roads, streets, highways, utility lines, sewer lines, pumping stations, water lines, easements, natural features such as lakes, streams, rivers, wetlands delineation, natural drainage ways, wooded and open roads, etc.

(g) Proposed lot lines, where applicable, and the approximate dimensions (acreage) of each such lot, frontage on rights of way serving the lots, building envelopes, existing easements, tree save areas, and disturbances of natural features that would be required by the development of the parcel and construction of buildings and amenities therein.

(h) Other Studies. The Board may require that the subdivider make other studies and provide other data that it deems necessary or desirable.

2. The application review procedure of preliminary and final plans shall be conducted in accordance with Chapter 16.

D. Performance Standards; Design Standards.

1. The relief from building lot size and dimension requirements, and/or minimum acreage/dwelling unit requirements afforded by this Clustered Housing Ordinance shall only be available where the dwelling units to be constructed in the proposed subdivision are clustered, Conservation Areas of at least 50% of the total land area of the parent parcel are preserved, and the other requirements of these Performance Standards are met.

2. Clustered Housing Subdivisions shall meet all requirements of these provisions, in addition to the applicable provisions of Chapter 16, Article I that are not superceded in this Section 19-306.

3. The minimum, total size of the tract of land to be subdivided (the "parent parcel") shall be three (3) acres.

4. The number of dwelling units that may be approved and constructed in the subdivision shall be the number of buildable lots (see definition) having the minimum, buildable lot dimensions into which the parent parcel might be subdivided were this Clustered Housing Ordinance not applied; provided, however, that the Planning Board may authorize additional dwelling units in the subdivision, as follows:

(a) three (3) additional dwelling units, where the area of the parent parcel is three (3) or more acres and fewer than five (5) acres;

(b) five (5) additional dwelling units, where the area of the parent parcel is five (5) or more acres and fewer than ten (10) acres;

(c) seven (7) additional dwelling units, where the area of the parent parcel is ten (10) or more acres.

5. Each building shall be an element of an overall plan for site development. Only developments having an approvable site plan that includes the dwelling structures will be considered for subdivision approval. The application shall illustrate the placement of buildings, the location(s) of the required Conservation Area(s), and the treatment of Common Space(s), paths, roads, utility services, and parking, elevations showing compliance with applicable design standards, and landscaping, screening, and buffering compliant with Subsections 19-316(G) and (H), and shall conform with all requirements of this section and other relevant sections of this ordinance.

6. Conservation Areas, buildings, building envelopes, buildings, roads, and other improvements shall be so located as to preserve the existing scenic and natural features of the property to the greatest extent practical.

7. Professional estimates of the costs of infrastructure development (roads, utilities, etc.) shall accompany the plans. The written statement shall describe the natural features that will be preserved or enhanced by utilizing the Clustered Housing Ordinance. Natural features include, but are not limited to moderate-to-high value wildlife and water resources, agricultural soils, moderate-to-high yield aquifers and important natural or historic sites identified by the applicant as worthy of preservation. The statement shall also compare the impacts upon the municipality of clustered housing and a traditional subdivision. Examples of impacts are municipal costs for roads, school bussing, solid waste removal, utility

efficiencies, recreational opportunities, protection of floodwater storage areas, and environmental impacts on sensitive lands caused by construction activities, underground utilities, reclamation of land, and provision of land for conservation use.

8. No building shall be sited on slopes steeper than 25%, or within 100 feet of any water body. No building shall be sited on soil classified as being very poorly drained, unless such building will utilize sewer or a community sewage collection and treatment system.

9. Buildings in Clustered Housing Subdivisions shall contain only single-family dwelling units, whether attached or detached. No building in a Clustered Housing Subdivision shall contain more than five (5) single-family dwelling units.

10. The distance between principal structures shall not be less than 10 feet.

11. Unless otherwise approved by the Planning Board, no proposed building lot or proposed dwelling unit shall have direct vehicular access onto a public road existing at the time of development.

12. Shore frontage shall not be reduced below the minimum normally required by the shoreland zoning ordinance.

13. Where the Clustered Housing Subdivision abuts a body of water, the required Conservation Area shall include a portion of the shoreline.

14. The minimum rear setback of the zone(s) in which the Clustered Housing Subdivision is located shall apply to the perimeter of the subdivision.

15. In Clustered Housing Subdivisions where public sewerage disposal service is not available within 200 feet of that parcel boundary line that is closest to existing public sewerage disposal facilities, on-site sewerage disposal shall whenever possible be accomplished with shared, commonly owned, leach field(s) or other commonly-owned disposal facilities that comply with applicable law, and private on-site sewerage disposal shall be prohibited.

16. Homeowner association covenants and other private restrictions or agreements affecting land use within the Clustered Housing Subdivision may not prohibit residential geo-thermal or solar energy facilities, clothes-lines, vegetable gardens, or domesticated animals permitted by applicable municipal zoning regulations.

17. Sidewalks shall be constructed along at least one side of each street, drive, or other vehicular access route on which residential structures are proposed or later constructed in a cluster subdivision.

18. The principal structure(s) in Clustered Housing Subdivisions shall adhere to the following design standards, subject to Planning Board review and approval:

(a) Purposes. These Building Design Standards are purposed to ensure that new development under the Clustered Housing Ordinance complements and strengthens the traditional, New England village character of Rockland, and simultaneously to allow for maximum flexibility in the location, size, and configuration of dwelling units in clustered housing developments.

(b) Standards.

(1) Variety of Styles. Provide a variety of building solutions through the mixing of one and two story building profiles. Limit the amount of replication of building styles within one block.

(2) Setbacks of Houses to Create a Neighborhood Streetscape. The front facades of houses should be set back no **less** than 15 feet from the sidewalk. Vary side yard setbacks from house to house to provide interest and variety.

(3) Setbacks of Garages to Reduce Visual Impact. The preferred location for garages is at the rear of the lot. Where this is not feasible, garages shall be setback no fewer than five feet further from the front lot line than the principal structure(s).

(4) Architectural Features.

[A] Housing shall include features such as:

- * Dormers
- * Brackets supporting or adorning eaves or other roof overhangs
- * Corner boards
- * Wide trim around windows
- * Railings around balconies and porches
- * Low picket fencing

[B] Fronts of houses shall face the street and incorporate usable porches, stoops and steps.

[C] The orientation of ridgelines of homes shall be varied.

(5) Materials. Exterior finishes should incorporate traditional and natural building materials such as have been historically used in Midcoast Maine.

(6) Height

[A] Minimum 1 1/2 stories above grade

[B] Maximum 2 1/2 stories

(7) Massing. Horizontal facades longer than 30' shall be articulated into smaller units, using n

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* distinctive roof forms

* changes in materials and/or patterns

* color differentiation

* bay windows, balconies, or porches

* recesses or offsets.

(8) Roof Pitch. Roof pitch ranges from 5:12 to 12:12 are encouraged.

(9) Architectural Features.

[A] Front Porches shall have a depth of at least six feet, to allow seating.

[B] Street-Facing Garages shall be de-emphasized with two or more of the following or similar design features:

* porches

* trellises

* side location of entry

* break up massing/doors for double or multiple garages

* overhanging second floor

E. Ownership Of Common Open Spaces and Conservation Areas.

1. All common open space and facilities shall be owned by the owners of the lots or dwelling units by means of an owners' association.

2. All conservation areas may be owned by one of the following:

(a) the owners of the lots or dwelling units by means of an owners' association;

(b) an organization which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or

(c) The City of Rockland, upon acceptance of such Conservation Area(s) by the Rockland City Council.

F. Development, or further subdivision, of the Conservation Area(s) required by this ordinance are prohibited, and the use of such Conservation Area(s) shall be limited to preservation of wooded or other natural areas, passive recreation trails no greater than five feet in width, and organic farming. When the Conservation Areas are to be owned by an entity other than the municipality, no building permit and no land disturbance may occur until a suitable easement prohibiting any future development inconsistent with the requirements of this ordinance shall have been granted to and accepted by the municipality.

G. The Conservation Area and any Common Open Space required or authorized by this ordinance shall be shown on the final plan with appropriate notations indicating, at a minimum, whether the area is reserved for conservation or as common open space, and the identity of the entity(s) that will own each such area.

H. The final plan application shall include the following where applicable:

1. Covenants for mandatory membership in the owners' association setting forth the owners' rights, interests, duties and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling, subject to the limitations set forth in this ordinance;

2. Draft articles of incorporation of the proposed owners' association; and

3. Draft by-laws or covenants of the proposed owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.

I. In combination, the document(s) required pursuant to the preceding paragraph shall provide for the following:

1. The homeowners' association shall have the responsibility of maintaining Common Areas, common facilities, and Conservation Areas not owned by the City of Rockland;

2. The homeowners' association shall levy annual charges against all owners of lots and/or dwelling units to defray the expenses connected with the maintenance, repair, and replacement of common property and facilities, tax assessments, and Conservation Areas not owned by the City of Rockland;

3. The authority of the homeowners' association to place a lien on the property of members who fail to pay dues or assessments; and

4. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance, until development sufficient to support the association has taken place.

Sec. 19-307 Off-Street Parking

Ch. 19, Sec. 19-306

1. Purpose.

The purpose of this Section is to establish minimum standards for off-street parking, parking access and landscaping for all land uses.

2. Applicability.

- A. Standards contained in this Section shall not be retroactively required for any legal use of a building in existence on the date of adoption or amendment of this Section except as stated below. Any non-conforming use of a building which does not meet all of these standards may continue subject to the requirements of this Section.
- B. In the City of Rockland, no new building addition resulting in additional floor area shall be constructed, no new land use shall commence, no land use shall be changed to a different classification in the Table of Parking Requirements, and no land use shall be expanded to additional land area unless all of the standards of Section 19-307 are met. Exception: see 19-307.7.A, 19-307.7.D, and 19-307.7.E.

3. Conflict with Other Ordinances.

Whenever the requirements of this Section differ from those of any other section of this Ordinance or any other law, ordinance or regulation, the more restrictive regulation or that imposing the higher standard shall govern.

4. Definitions.

Terms not defined shall have their customary dictionary meaning except as defined herein or in Section 19-302 of this Ordinance.

Building Services: Areas incident to a principal use, such as restrooms, mechanical rooms and small offices for management of the principal use.

Circulation Area: Areas exclusively for getting from one place to another, such as hallways, corridors, or vestibules, and not part of the aisle of the sales floor of a business.

Expansion of a Structure: The increase in floor area or volume of a structure.

Expansion of a Use: The use of more floor area or ground area devoted to a particular use.

Downtown Parking District: The "Downtown Parking District" shall include all properties fronting on Main Street between the intersection of Main Street and Water Street at General Berry Square on the South and Summer Street and the center line of Summer Street as extended to Rockland Harbor on the Southerly side of Summer Street between Main and Union Streets; all properties fronting on the Easterly side of Union Street between Summer and Park Streets; all properties fronting on the Northerly side of Park Street between Union and Main Streets; all properties within the Downtown "DT" Zone fronting on Tillson Avenue and Winter Street; and all properties enclosed by these portions of Main, Summer, Union, Park, Tillson Avenue and Winter Streets described above, and the property located at 9 Water Street identified as Rockland Tax Map #5-F-3. Eff: 11/13/09

Permit-Issuing Authority: For the purposes of this Parking Ordinance the "permit-issuing authority" is the Code Enforcement Officer, the Planning Board or any other person or entity authorized by the Rockland City Ordinances to issue building or other land use permits.

Vehicle Accommodation Area: That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas (spaces and aisles).

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5. Design Standards for Off-Street Parking.

A. General Design Requirements.

- (1.) Vehicle accommodation areas shall be designed so that vehicles can exit such areas without backing onto a public street and without resorting to extraordinary movements, unless no other practicable alternative is available. Traffic circulation within large lots should be continuous with a minimum number of turns. These requirements do not apply to parking areas consisting of driveways that serve one or two-family dwelling units, although backing onto arterial streets is discouraged.

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- (2.) Vehicle accommodation areas in all developments shall be designed so that delivery, sanitation, emergency and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- (3.) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas. Thought should be given to the safe movement of pedestrians to and from the cars and public ways.
- (4.) All vehicle accommodation areas and driveways, except for one and two-family dwelling units, shall have a maximum grade of 5% and a minimum grade of 1%.
- (5.) Any lighting of drives or parking areas shall be so designed as not to cause any glare on any residentially zoned area in the vicinity.
- (6.) Vehicle accommodation areas shall be provided at the side or to the rear of buildings on a lot whenever practicable.
- (7.) Consideration should be given to snow removal and/or snow storage when designing vehicle accommodation areas.

B. Access to Off-Street Parking.

- (1.) Angles. Two-way operation. Driveways used for two-way operation shall intersect the road at an angle of as near ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees or more than 120 degrees.

One-way operation. Driveways used by vehicles in one (1) direction of travel (right turn only) shall not form an angle smaller than forty five (45) degrees with a road.

- (2.) Residential Zones. Unless allowed in another section of the Rockland Zoning Ordinance no driveways or vehicle accommodation areas shall be located in any residential zone which serve uses other than:
 - (i) uses permitted in such residential district; and
 - (ii) uses which legally existed prior to the effective date of this Article.

- (3.) Sight Distances. Any exit driveway or driveway lane other than those for single-family and two-family dwellings shall be so designed in profile and grading and so located as to provide the following minimum sight distances measured in each direction along the intersecting public street or in one direction in the case of one-way streets. Driveways for one and two-family dwellings shall provide the minimum sight distances to the greatest extent practicable. The sight distance measurements shall be in a straight line from the driver's seat of a vehicle standing on that portion of the exit driveway with the front of the vehicle a minimum of ten (10) feet behind the curb line or edge of shoulder, with the height of the eye three and five tenths (3.5) feet above the driveway to the top of an object four and twenty-five hundredths (4.25) feet above the pavement of the public street. The permit-issuing authority may allow changes to non-conforming situations, including the relocation or widening of a driveway, if the existing conditions will be improved and the minimum sight distances will be provided to the greatest extent practicable. The developer or landowner shall bear the costs of any signs or other traffic control devices needed where minimum sight distances cannot be provided.

Posted Speed Limit (Miles Per Hour)	Absolute Minimum (Feet)	Ch. 19, Sec. 19-307
25	150	
30	200	
35	250	
40	325	
45	400	
50	475	
55	550	

NOTE: On streets on which traffic is required to stop by "STOP" signs at intersecting streets and on dead end streets, the sight distances shall not be required to exceed the distances to such intersections or a dead end.

- (4.) Distance from Intersections. No driveway entrance or exit shall be located closer than fifty (50) feet from a street intersection, as measured from the curb or the point of intersection of the tangents of the curbs of the intersecting streets to the curb and the point of intersection of the tangents of the intersecting street and driveway.
- (5.) Driveway Limitations. Unless otherwise approved by the Permit Issuing Authority, no off-street parking facility shall have more than one (1) driveway onto the same street. The minimum distance between driveway entrances for non-residential uses shall be the minimums set forth in Section 19-304, Zone Regulations. Where separations are not specified in 19-304 a minimum of fifty (50) feet shall be required between any two (2) driveways onto the same parcel. At least one driveway entrance shall be allowed onto any lot.
- (6.) Driveway Dimensions. Driveways shall be not less than ten (10) feet in width for one-way traffic and eighteen (18) feet in width for two-way traffic, except that ten (10) feet wide driveways are permissible for two-way traffic: (i) when it services a one or two-family dwelling; or (ii) when the driveway is not longer than fifty (50) feet, it provides access to not more than six (6) spaces and sufficient turning space is provided so that vehicles need not back onto a public street. Unless otherwise approved by the permitting authority and the Maine Department of Transportation, no two-way driveway serving a non-residential use shall exceed forty-two (42) feet in width. The Permit Issuing Authority may require a dividing center island if deemed necessary. No driveway serving a one or two-family or multifamily dwelling shall exceed thirty (30) feet in width. No one-way driveway shall exceed twenty-six (30) feet in width. The width measurements shall not include center islands and curb radii.
- (7.) Curb and Sidewalk Construction. When driveways are cut into existing curbing and sidewalks, curbing must be cut back at least four (4) feet on each side of the driveway opening. Replacement curbing, in kind, must be re-laid with ends tapered from seven (7) inches high (or from the height of the existing curbing) to no more than one and one half (1½) inches high at the driveway. When driveways are constructed to slope toward the gutter line of the street, the grade shall be no less than ¼ inch per foot and no more than ½ inch per foot across the complete width of the sidewalk. All work shall be done at the expense of the applicant, shall meet the applicable standards in the Technical Standards Manual, and shall be performed to the satisfaction of the Director of Public Works.
- (8.) Culverts. Whenever the installation of a culvert underneath a new driveway is deemed necessary to maintain street side drainage, the property owner shall obtain a street opening permit from the City pursuant to Chapter 15, Article IV and shall cause the installation of the culvert in conformance therewith. Alternatively, the property owner may petition the City for such an installation and the City may install the same, at the property owner's expense, upon the property owner's submittal of the requisite street opening permit fee and performance guarantee. Such culvert shall thereafter be maintained by the City, except that the failure of the original installation may be charged to such performance guarantee. Eff: 09/07/16

C. Dimensions of Parking Facilities.

- (1.) Parking Spaces. Each parking space shall contain a rectangular area at least 19 feet long and 9 feet wide except that parallel parking spaces shall be not less than 22 feet by 9 feet. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles so long as the parking spaces so created ~~contain within them the~~ rectangular area required by this section. Ch. 19, Sec. 19-307
- (2.) Parking Area Aisles. Parking area aisle widths (in feet) shall conform to the following table, which varies the width requirements according to the angle of parking.

Parking Angle					
Aisle Width	0°	30°	45°	60°	90°
One-Way Traffic	13'	11'	13'	18'	24'
Two-Way Traffic	19'	20'	21'	23'	24'

D. Vehicle Accommodation Area Surfaces.

- (1.) Vehicle accommodation areas that include lanes for drive-in windows or that are required to have more than 25 parking spaces and that are used regularly at least five days per week shall be graded and surfaced with asphalt,

concrete or other material that will provide equivalent protection against potholes, erosion, and dust. The permit-issuing authority may allow exceptions to this requirement when adequate evidence is presented to demonstrate that due to the low volume or type of traffic (such as employee only parking) location of parking area, site or area conditions or other similar factors that any allowed exceptions will not adversely effect public safety or cause unreasonable erosion, dust or other problems.

- (2.) Vehicle accommodation areas that are not provided with the type of surface specified in Subsection D.(1.) shall be graded and surfaced with crushed stone, screened gravel or other suitable material to provide a surface that is stable and will help to reduce dust and erosion. A base of at least twelve (12) inches of properly compacted gravel must be provided. Whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets), shall be paved as provided in Subsection D.(1.) for a distance of at least 15 feet back from the edge of the paved street. This subsection shall not apply to single-family or two-family residences or other uses that are required to have less than six (6) parking spaces.
 - (3.) Parking spaces in areas surfaced in accordance with Subsection D.(1.) shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with Subsection D.(2.) shall be demarcated whenever practicable or whenever deemed necessary because of limited parking or type of parking space layout, for example.
 - (4.) Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.
- E. Curbs or Wheel Stops. Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties, landscaped areas or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks to restrict pedestrian traffic or tend to bump against or damage any wall, vegetation or other structure.
- F. Fire Lanes. Whenever required by Section 17-901 of the Rockland City Code, fire lanes shall be established and maintained in accordance with said Section.

6. Other Standards

A. Location of Off-Street Parking.

- (1.) If the number of off-street parking spaces required by this chapter cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section. These off-site spaces are referred to in this section as satellite parking spaces.
 - (2.) All such satellite parking spaces (except spaces intended for employee use) must be located within 100 feet of the lot on which the principal use is located. Satellite parking spaces intended for employee use may be located within any reasonable distance approved by the permit-issuing authority.
 - (3.) The developer wishing to take advantage of the provisions of this section must present satisfactory written evidence that he owns the land or has the permission of the owner or other person in charge of the satellite parking spaces to use such spaces and must specify the length of time for which the permission is granted, i.e., 5 yr. minimum subject to renewal. The developer must also sign an acknowledgment that the continuing validity of his permit approval depends upon his continuing ability to provide the requisite number of parking spaces.
 - (4.) The permit-issuing authority shall consider the extent to which any satellite parking area meets the design requirements in determining if the satellite parking will be counted in meeting the minimum number of spaces required by the ordinance.
- B. Mixed Uses. Where a building or lot serves more than one use, the number of required off-street parking spaces serving such building or lot shall be the sum of the requirements for all of the various uses except as allowed in Subsection C., below.

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- C. Shared Use of Parking Facilities. The permit-issuing authority may approve the shared use of a parking facility by two or more buildings or uses, provided the owners or lessees have clearly demonstrated that the shared use of the parking facility would substantially meet the requirements of this Section due to variations in the time of day or days of use by the residents, patrons and employees of the buildings or uses to be served by the parking facility. For example, a parking lot used on Monday through Friday for an office building could be partly used by a flea market operating only on weekends or for an adjacent churches' Sunday morning services. The permit-issuing authority may require a contract between proposed users of a shared parking facility as a condition of approval of such shared use. The provisions of Subsection 6.A., Location of Off-Street Parking, are also applicable if satellite parking spaces are involved.
- D. Parking Facilities for the Physically Handicapped. All vehicle accommodation areas shall be designed to provide an adequate number of properly designed and located parking spaces, appropriately designated as required by the Maine Human Rights Act, Title 5 M.R.S. § 4551, et seq. and other regulations.
- E. Loading and Unloading Areas.
 - (1.) Subject to Subsection 6.E. below, whenever the normal operation of any development requires that goods, merchandise or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.
 - (2.) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the permit-issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

Gross Leasable Area of Building	Number of Spaces*
1,000 - 19,999	1
20,000 - 79,999	2
80,000 - 127,999	3
128,000 - 191,000	4
192,000 - 255,999	5
256,000 - 319,999	6

Plus one (1) space for each additional 72,000 square feet or fraction thereof.

*Minimum dimensions of 12 feet X 55 feet and overhead clearance of 14 feet from street grade required

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- (3.) Loading and unloading areas shall be so located and designed that the vehicles intended to use them can (i) maneuver safely and conveniently to and from a public right-of-way, and (ii) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
 - (4.) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
 - (5.) Whenever there exists a lot with one or more structures on it constructed before the effective date of this Ordinance or amendment thereto, and a change in use that does not involve any enlargement of a structure is proposed for such lot, and the loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this section to the extent reasonably possible.
- F. Landscaping, Buffering, etc. Landscaping, buffering, screening, etc., shall meet all standards provided else where in the Zoning Ordinance.

7. Number of Off-Street Parking Spaces Required.

- A. All developments within the City of Rockland, except for the required number of parking spaces in the "Downtown Parking District" as defined in Section 19-307.4, shall provide a sufficient number of off-street parking spaces to accommodate the number of vehicles that are likely to be attracted to the development in question.
- B. The presumptions established by this Subsection are that:
 - (1.) A development must comply with the parking standards set forth in Subsection 19-307.7.J, Table of Parking Requirements, below, to satisfy the requirements stated above in Subsection 19-307.7.A; and
 - (2.) Any development that does meet these standards is in compliance.
 - (3.) Subsection 19-307.7.J, the Table of Parking Requirements, however, is intended to establish a presumption and may be flexibly administered, as provided in Subsection, 19-307.8, Flexibility in Administration.
- C. The floor area used to determine the off-street parking requirement shall be the sum of the floor area on all floors of the building, excluding areas used exclusively for building services, storage, and circulation, except where otherwise specified. When determination of the number of parking spaces required by the Table of Parking Requirements results in a requirement of fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.
- D. In the case of an expansion of a structure or a use, the required number of new spaces shall be the number of spaces required for the expansion itself. The new spaces for the expansion shall not be required to make up any deficit that may attend the original building or structure, if such building or structure was in lawful existence at the time of adoption of this Ordinance. An expansion of a structure which does not increase the need for off-street parking shall not be required to provide additional parking spaces. However, subsequent changes to the expansion which result in any greater deficit will require additional parking to be provided for the expansion in accordance with Section 19-307.7.J, Table of Parking Requirements. This subsection shall not apply to expansions of use within the "Downtown Parking District" as defined in Section 19-307.4.
- E. In the case of a change of use, the required number of spaces shall be the number of spaces required for the new use itself minus the number of spaces which were required for the original use, whether or not such original use, if in lawful existence at the time of adoption of this Ordinance, actually provided its required number of spaces. Vacant or abandoned buildings or spaces, for which the original use cannot be determined, shall be deemed to have required one (1) space per three hundred fifty (350) square feet of gross floor area. This subsection shall not apply to changes of use within the "Downtown Parking District" as defined in Section 19-307.4.
- F. In no case shall the number, dimensions, location, or layout of off-street parking spaces or areas as authorized by the permit-issuing authority be altered without prior approval of the permit-issuing authority.
- G. Off-street parking spaces used in the fulfillment of the requirements of this Section shall be available and shall not be obstructed by trash receptacles, snow, leaves, or other debris, accessory structures, or other obstacles that will prevent their use for off-street parking unless authorized by the permit issuing authority (such as snow storage in specific areas after the holiday season). Ch. 19, Sec. 19-307
- H. No off-street parking area presently in conformance with this Section shall be made non-conforming as to number, dimensions, location, or layout of spaces; and no off-street parking area that is presently lawfully non-conforming with respect to number, dimensions, location, or layout of spaces shall be altered such that the non-conformity is worsened.
- I. The City Council recognizes that the Table of Parking Requirements set forth in Subsection (J) cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit issuing authority is authorized to review the proposed parking and to determine if the parking requirements are deemed met, using this table as a guide for similar uses.
- J. Table of Parking Requirements.

USES:	OFF STREET SPACES REQUIRED:
Automobiles	(See Motor Vehicle-Related Uses)
Churches and Other Places of Worship	1 space for every 4 seats in portions of the building used for services.
Day Care Centers or Nursery Schools	1 space / 200 sq. ft. of floor area plus 1 space for each employee.

USES:	OFF STREET SPACES REQUIRED:
Educational Facilities:	(Various types below.)
Elementary Schools	2 spaces / classroom plus 1 space for each employee.
High Schools	8 spaces / classroom plus 1 space for each employee.
Trade or Vocational School (beyond High School)	1 space / 150 sq. ft. of floor area.
Colleges or Universities (including all facilities such as dormitories, office buildings, etc.)	1 space / 150 sq. ft. of floor area.
Financial Services including Banks and Credit Unions	1 space / 200 sq. ft. of floor area plus reservoir lane capacity equal to 4 paces for each drive-through window (8 spaces if window serves 2 stations).
Fraternal and Social Clubs or Lodges	1 space / 200 sq. ft. of floor area (except that public assembly parking requirements will apply to areas used for such purposes by the public).
Funeral Homes	1 space / 100 sq. ft. of floor area.
Home Occupations or Professions	5 spaces / doctor or dentist, 2 spaces / attorney or at least 1 space / other use, plus 1 space for each employee not residing in the home. (Adequate parking for the residential uses on the property must also be provided as required in the residential section of this Table.)
Institutional Residence or Care of Confinement Facilities:	(Various types below.)
Hospitals or Clinics	2 spaces / bed or 1 space / 150 sq. ft. of floor area, whichever is greater.
Nursing Care, Intermediate Care or Long Term Care Institutions, Handicap or Infirm Institutions, Child Care Institutions	3 spaces for every 5 beds.
Institutions (other than Half-way Houses or Group Homes where mentally ill persons are confined)	1 space for every 2 employees on the maximum shift.
Penal or Correctional Facilities	1 space for every 2 employees on the maximum shift.
Assisted Living Facilities	1 space per every 3 units; 1 space per every 2 units for unassisted units within a multifamily dwelling that includes an Assisted Living Facility. Eff: 09/09/09
Lodging Places (Including Hotels, Motels, Bed & Breakfast Homes or Rooming and Boarding Homes)	1 space for each room to be rented plus additional space for restaurants or other facilities in accordance with other sections of this table.
Manufacturing, Processing, Repairing or Assembling Goods, Merchandise or Equipment:	(Various types below.)
When the majority of dollar volume of business is done with walk-in trade	1 space / 400 sq. ft. of floor area.
When the majority of dollar volume of business is not done with walk-in trade	1 space for each 2 employees.
Marinas and Facilities for Excursion Boats or Similar Uses	1 space for each boat slip plus 1 space / 200 sq. ft. of building area used for the marina.
Excursion boats or other vessels with regularly scheduled destination services from the facility	1 space for each 4 passengers.
Motor Vehicle Related Sales, Services and Repair Operations (Including Sales and Service or Mobile Homes & Boats)	1 space / 200 sq. ft. of floor area (with a minimum of 5 spaces per business).
Gas or Other Motor Vehicle Fuel Sales	Sufficient parking area to accommodate vehicles at the pumps and 2 additional queuing spaces shall be provided at each pump without interfering with other parking spaces.
Museums, Libraries, Art Galleries (Including Associated Educational Activities)	1 space / 300 sq. ft. of floor area.
Offices, Clerical, Research and Services (Not Primarily Related to Goods or Merchandise):	(Various types below.)
Operations designed to attract and serve customers or clients on the premises (such as offices of attorneys, insurance and stockbrokers, travel agents,	1 space / 250 sq. ft. of floor area.

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personal services, governmental offices, etc.)	
Operations designed to attract little or no customer traffic other than employees of the operation	1 space / 400 sq. ft. of floor area.
Doctors or dentists offices	1 space / 150 sq. ft. of floor area.
Public Assembly (See Also Sections for Theaters, Restaurants, Taverns, etc., if Applicable)	1 space / 4 seats (or 4 patrons) or where there are no fixed seats, 1 space / 100 sq. ft. of assembly area plus 1 space / employee.
Recreation, Amusement, Entertainment:	(Various types below.)
Bowling alleys, skating rinks, pool halls, indoor athletic and exercise facilities and activities conducted primarily outdoors such as golf courses, tennis courts or miniature golf courses and similar uses	1 space for every 3 persons that the facilities are designed to accommodate when fully utilized (if measurable, such as bowling alleys or tennis courts) plus 1 space / 200 sq. ft. of floor area of building used in a manner not susceptible to such calculation.
Theaters, stadiums or similar places of assembly	1 space for every 4 seats.
Residential Uses:	(Various types below.)
One-family dwelling	2 spaces / dwelling unit.
Two-family and multi-family dwellings	Units with one or no bedrooms: 1½ spaces dwelling unit plus 1 space for each room rented out.
	Units with 2 or more bedrooms: 2 spaces / dwelling unit plus 1 space for each room rented out.
Private Non-Medical Institutes and Residential Care Facilities	1 space for each 3 residents plus 1 space for each on-site employee Eff: 04/11/12
Restaurants, Taverns or Lounges	1 space / 4 seats in dining areas plus 1 space / 100 sq. ft. of lounge, bar and waiting area, plus 1 space / employee. Two additional spaces shall be required for each take-out window (with a minimum of 10 spaces for an establishment with take-out windows). 1 additional space shall also be required for each outside dining table. A reservoir lane capacity equal to 5 spaces shall be provided for each drive-in window.
Sales and Rental of Goods, Merchandise and Equipment:	(Various types below.)
General retail sales and rental	1 space / 250 sq. ft. of floor area.
Convenience stores	1 space / 150 sq. ft. of floor area plus the provisions for fuel pumps (see Motor Vehicle Related Sales, Service and Rep
Wholesale and low volume retail sales such as furniture, appliance, and floor covering stores, tradesmen or decorators showrooms, and rental of tools and equipment	1 space / 400 sq. ft.
USES:	OFF STREET SPACES REQUIRED:
Open air markets and horticultural sales	1 space / 1000 sq. ft. of lot area used for storage, sales and/or display (green houses and other enclosed sales areas must meet the requirements above for general retail sales).
Schools	(See Educational Facilities.)
Storage Buildings (for Goods not Related to the Sale or Use of Goods on the Same Lot Where they are Stored)	1 space for every 2 employees (but not less than 1 space / 5000 sq. ft. of storage area).
Theaters	(See Recreation, Amusement, Entertainment.)
Veterinarians and Kennels	1 space / 200 sq. ft. of floor area.

8. Flexibility in Administration.

- A. The Council recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in the Subsection 19-307.7.J, may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in Subsection 19-307.7, the permit-issuing authority may permit deviations from the presumptive requirements of Subsection 19-307.7.J, and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in Subsection 19-307.7.A. In making the determination to allow or require a

deviation, the permit-issuing authority shall consider a parking plan drawn to scale and all available information concerning the specific proposal and similar developments such as: sales reports or computer printouts from other branches or similar operations; national standards; information from headquarters for franchises, etc., and adequate land area available, if necessary, for enlarging the parking area.

- B. Without limiting the generality of the foregoing, the permit-issuing authority may allow deviations from the from the parking requirements set forth in Subsection 19-307.6.E., when it finds that:
 - (1.) A residential development is irrevocably oriented toward the elderly;
 - (2.) A business is primarily oriented to walk-in trade.
- C. Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in Subsection 19-307.7.J., it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.
- D. If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established by Subsection 19-307.7.J, for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in Section 2-212.
- E. When site conditions or other constraints prevent full compliance with Section 19-307.5, Design Standards for Off-Street Parking, the permit issuing authority may accept alternative designs that are not in full compliance with said section provided that reasonable and accepted standards are used and that the variation does not result in unsafe conditions. Eff: 7/12/00

9. Driveway and Curb Cut Permits.

- A. Permits. No person, corporation or other legal entity shall construct or maintain a driveway entrance or approach or cut any curb within the right-of-way of any City street within the Urban Compact District without approval of the Planning Board or a written permit from the Code Enforcement Officer. A permit or Planning Board approval shall also be required for any change in location or grade, or any change in degree or kind of use of an existing driveway, entrance or approach. The permit application form, provided by the Code Enforcement Office, shall be completed and submitted for approval along with the appropriate fee listed in Section 11-402, Land Use Fee Schedule. The Director of Public Works and the Chief of Police or their authorized agents shall make recommendations and countersign each permit application.
- B. Review Criteria. The permit-issuing authority shall ensure compliance with the standards in Subsection 19-307.5.B and other applicable standards in Section 19-307 when reviewing applications for new and changed driveways. Safe access with respect to grades, intersections, vehicular and pedestrian traffic volume, schools, housing for the elderly and handicapped, other traffic generators, and any other elements to adequately protect and promote public shall be considered. In no case shall reasonable ingress and egress to property abutting a Ch. 19, Sec. 19-307
- C. Penalty. Whoever violates any of the provisions of this Section or the rules and regulations made under the authority thereof shall be punished by a fine of not more than one hundred (\$100) to twenty-five hundred (\$2,500) per day as provided in 30-A, M.R.S. §4452. Eff: 4/12/00

Sec. 19-308 Non-Conformance

1. Purpose.

It is the intent of these provisions to promote land use and conformities, except that non-conforming conditions that legally existed before the effective date of this ordinance or any amendment thereto shall be allowed to continue, subject to the requirements set forth in this section. Definitions of "non-conforming lot", "non-conforming structure", and "non-conforming use" can be found in Section 19-302 of this Ordinance.

2. General.

A. 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.

B. Repair and Maintenance: This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, State, or local building safety codes may require.

3. Non-Conforming Structures.

A. Expansions: A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure with the following conditions:

- (1) Lot Lines: No part of the addition or expansion shall be closer to any property line than the closest part of the existing structure.
- (2) Building Coverage: The building coverage within each setback area (i.e. front, side, rear) may be increased by no more than 30% during the lifetime of the structure. For the purposes of this section, building coverage within the setback shall be measured at the time of the first application for expansion within the setback after October 15, 1999.

- (3) The height of any part of the addition or expansion that extends into the setback area shall not exceed the height of the encroaching part of the existing structure nor the height allowed in the zoning district, whichever is less. This section shall not apply to increase in height within the setback where a flat roof is replaced by a pitched roof for the purpose of repairing it and further provided that the height does not exceed the height limitation within the zone.
- (4) Expansion in the Shoreland Zone: After January 1, 1989, if any portion of a structure is less than the required setback from the normal high water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure.
- (5) Foundations: Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided:
 - (a) That the structure and new foundation are placed such that the setback or other dimensional requirements are met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 3.B **Relocation**, below;
 - (b) That the completed foundation does not extend beyond the exterior existing dimensions of the structure; and
 - (c) That the foundation does not cause the structure to be elevated by more than three (3) additional feet. Eff: 10/13/99

Further Limitations:

(1) Expansion in the Shoreland Zone: After January 1, 1989, if any portion of a structure is less than the required setback from the normal high water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure.

(2) Foundations: Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided:

(a) That the structure and new foundation are placed such that the setback or other dimensional requirements are met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 3.B **Relocation**, below;

(b) That the completed foundation does not extend beyond the exterior existing dimensions of the structure; and

(c) That the foundation does not cause the structure to be elevated by more than three (3) additional feet.

(3) Lot Lines and Edges of Water Bodies: No structure which is less than the required setback from a property line or the normal high water line of a water body, tributary stream, or upland edge of a wetland shall be expanded ~~toward the property line, or the water body, tributary stream or wetland.~~

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B. 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 the relocation conforms to all setback or other dimensional requirements and performance standards to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the structure will discharge wastes to the municipal sewer system, the present subsurface sewage disposal system meets the requirements of State law and the *State of Maine Subsurface Wastewater Disposal Rules* or that the new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback or other dimensional requirements to the greatest practical extent, the Planning Board shall base its decision on the following:

- (1) The size of the lot;
- (2) The slope of the land and other site features;
- (3) The potential for soil erosion;
- (4) The location of other structures on the property and on adjacent properties;
- (5) The location of the septic system and other on-site soils suitable for septic systems;
- (6) The physical condition and type of foundation present, if any; and
- (7) The type and amount of vegetation to be removed to accomplish the relocation.

C. Reconstruction or Replacement:

(1) Any non-conforming structure or part of a structure, which is located less than the required setback from the normal high water line of a body of water or tributary stream, the upland edge of a wetland, or from the property line, or which otherwise fails to meet the dimensional requirements of the Ordinance, and which is removed, damaged or destroyed by more than fifty percent (50%) of the market value of the structure before such removal, damage or destruction may be reconstructed or replaced provided that a permit is obtained within one (1) year of the date of said damage, destruction or removal and provided that such reconstruction or replacement is in compliance with the setback and other dimensional requirements and performance standards to the greatest practical extent as determined by the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II). The applicant must also demonstrate that the structure will discharge wastes to the municipal sewer system, the present subsurface sewage disposal system meets the requirements of State law and the *State of Maine Subsurface Wastewater Disposal Rules*, or that a new system will be installed in compliance with the law and said Rules. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

In determining whether the building reconstruction or replacement meets the setbacks to the greatest practical extent the Planning Board shall consider the criteria in subsection 3.B Relocation, above.

(2) Any non-conforming structure which is removed, damaged or destroyed by 50 percent or less of the market value of the structure, excluding normal maintenance and repair, may be replaced or reconstructed in place with a permit from the Code Enforcement Officer. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

4. Non-Conforming Uses.

A. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses which meet all other ordinance requirements may, after obtaining a permit, be expanded within existing residential structures legally existing as of the effective date of this ordinance or on the effective date of a subsequent amendment that causes such use to be non-conforming. Construction of a porch, deck, storage building or other non-habitable space accessory to non-conforming residential uses shall not be prohibited provided that all other requirements of the ordinance can be met.

B. Resumption Prohibited:

1. Non-conforming Use: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding two (2) years may not again be devoted to a non-conforming use. 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 within the preceding five (5) year period. Eff: 01/12/05

2. Non-conforming Area: Non-conforming area: A building with two (2) or more legally established dwelling units on a lot that does not have the required land area per dwelling and in which any or all of the dwelling units have not been used or maintained for residential purposes within the preceding five (5) year period, shall not be permitted to reestablish the use of the inactive or discontinued unit(s) unless use of the building is in compliance with the lot area per dwelling unit requirements of the zone in which it is located. For the purpose of this section, maintained shall mean ready to be occupied without the need for extensive renovations or the addition of bathroom or kitchen fixtures. Eff: 01/12/05

A lot, building or structure in or on which a non-conforming use is superseded by a conforming use may not again be devoted to a non-conforming use.

C. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the Planning Board finds under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), that the applicant has demonstrated that performance standards be met to the greatest practical extent and the proposed use is more appropriate to the district than the existing non-conforming use.

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The determination of appropriateness shall be based on the probable changes in traffic (volume and type), parking, noise, hours of operation, lighting, potential for litter, wastes, by-products, fumes, odors, or other nuisances likely to result from such change of use.

5. Non-Conforming Lots.

A. Non-Conforming Vacant Lots: A vacant, non-conforming lot of record, legally existing 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 the Planning Board determines under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II) that the performance standards will be met to the greatest practical extent, and that all provisions of this Ordinance except minimum lot size and minimum frontage can be met. A single family dwelling can be built on any such separate lot of record provided that all provisions of the ordinance can be met except for minimum lot size, minimum land area per dwelling unit and minimum frontage requirements. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Zoning Board of Appeals.

B. Lots with Structures:

(1) If two or more contiguous lots or parcels are in the same ownership of record as of the effective date of this Ordinance or amendment thereto, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and **Subsurface Wastewater Disposal Rules** are complied with. Contiguous built lots which discharge wastes into the municipal sewer system need not comply with the State Minimum Lot Size Law and the **Subsurface Wastewater Disposal Rules**.

(2) If two or more principal uses or structures legally existed on a single lot of record on the effective date of this Ordinance or amendment thereto, each may be sold on a separate lot provided that the State Minimum Lot Size Law and **Subsurface Wastewater Disposal Rules** are complied with or the structures discharge wastes into the municipal sewer system. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

C. Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in the same ownership of record at the time of or since adoption of or amendment to 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 of this Ordinance, except that contiguous lots which front on different streets do not need to be combined.

For the purposes of this Section (19-308.5.C), lots shown on a subdivision plan approved by the Planning Board and recorded in the Registry of Deeds shall not be treated as lots held in common ownership if, within the three (3) years immediately preceding the effective date of this Ordinance or within three (3) years from the date on which the plan was approved, whichever is less, the owner or his predecessor has improved each lot by the completed construction of roads and the installation of utility services as approved.

D. Lot Modification: Any non-conforming lot may be modified as long as it does not create a condition which leaves the lot's frontage or size or building setbacks below the minimum requirements of this Ordinance, or so long as the modification does not worsen an existing legally non-conforming situation.

6. Vested Rights.

Non-conforming use rights do not arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required State permits and approvals. Such rights may only arise when actual substantial start of construction has begun, or, in the case of pending applications, when the substantive review process to determine compliance with substantive performance standards on a complete application commences. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits, both State and local.
Eff: 9/11/96

Sec. 19-309 Special Use Classes

1. Special Classes. No building may be erected, altered, or used, and no land may be used, for any of the following special use classes in the Residential A and AA zones. In other zones, the Planning Board, applying the procedures and standards set forth in Chapter 16, Article II, may approve such use in any zone other than Residential A or AA zones, upon application, notice, and public hearing, and upon a determination that the use will not be detrimental or injurious to the neighborhood, and that there will be provided fencing and screening adequate to provide visual and auditory barriers from other properties and public rights of way, and that the applicant has demonstrated compliance with all other applicable City ordinances. All owners of property located within 300 feet of the lot lines of the subject parcel shall be notified of the Special Class application, in writing and at least seven days prior to the public hearing, and shall be provided an opportunity to be heard at such hearing.

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- A. Cemetery;
- B. Municipal use (not otherwise provided for);
- C. Public utility use (other than as provided by Section 19-304(3)(B));
- D. Stables, public; saddle horses for hire;
- E. Transformer stations;
- F. Wind power generation equipment;
- G. Temporary structures that are not required to conform with the Building Code or the design standards of the zone in which such a structure is located, that house a use incidental to and reasonably required by an occupant of residential property on the same parcel for a non-commercial purpose (other than the storage or repair of a recreational or fishing vessel, or fishing equipment), or such temporary structures that house a use incidental to and reasonably required for a commercial or industrial use, on the same parcel as the principal commercial or industrial use or on another parcel under the same ownership. Such temporary structures shall be removed within one (1) year at the owner's expense, unless the permit therefor shall have been extended by the Board for not more than one year. Applications for such temporary structure permits must be accompanied by a bond, bill of sale, or other instrument acceptable to the City Manager to guaranty the removal and disposal of the building.
Eff: 07/11/18
- H. Distributed Power Generation Facilities having a capacity to generate electricity at the rate of 500 or more kilowatts AC. Distributed Power Generation Facilities having a capacity of less than 500 kilowatts also may be sited in any zone other than the Residential A or AA zones, but shall not require Planning Board approval. No Distributed Power Generation Facility may be fueled by uranium, enriched uranium, plutonium, solid waste, construction and demolition debris, or treated or engineered wood products. When sited in a residential, rural residential, or transitional business zone or in the Downtown Zone, a Distributed Power Generation Facility that is not a Community-Based Renewable Energy Project must be located either on the same lot as the use to be served by the electricity and/or thermal energy supplied by the Facility, or on an adjacent lot. For this purpose, "solid waste" shall have the same meaning as under the Resource Conservation and Recovery Act, 42 U.S.C. § 6903, as amended. Eff: 08/10/16

2. Seasonal Container Restaurants & Food Wagons.

A. Exemption From Certain Standards. In areas of the City where applicable zoning standards permit Eating and Drinking establishments, Container Restaurants and Food Wagons having a floor areas for the principal structure of less than 250 sq. ft. shall be exempt from the following standards, where applicable, so long as all criteria under subpart B below for Planning Board review are met and the Container Restaurant or Food Wagon is operated accordingly:

- (1) Architectural and/or Design Standards;
- (2) Space and Bulk Standards;
- (3) Maximum front setbacks; and
- (4) Buffering and Screening performance standards.

B. Planning Board Review.

Eff: 12/14/18

No person, corporation, or other legal entity may place, construct, add to, or use any seasonal Container Restaurant or Food Wagon without first applying for and obtaining approval of the same from the Planning Board, pursuant to Chapter 16, Article II, applying the following standards and requirements in Chapters 16 and/or 19, in addition to applicable building code, life safety, and fire prevention requirements:

(1) The Container Restaurant or Food Wagon shall be a trailer or container, or any similar rectangular structure made out of metal, composite or wood and must have rigid walls and a rigid top;

(2) The length of the enclosed structure of a Container Restaurant shall not exceed 30 feet, and the length of a Food Wagon shall not exceed 20 feet. The width of the enclosed structure of a Container Restaurant or Food Wagon shall not exceed 8 feet, and the height of the side to a flat roof, or the lowest side below a pitched roof, shall not exceed 9 feet 6 inches;

(3) The exterior finish shall be of high quality materials and in good condition. Decorative color schemes and full wall murals on the exterior walls are permitted and may incorporate the logo for the specific Container Restaurant or Food Wagon business at the site so long as the lettering in the logo does not exceed the maximum allowed for signs under 19-315 Signs;

(4) Projections such as decks, roll out or flip up awnings, or fold down seating areas shall not extend a greater horizontal distance from the Container Restaurant or Food Wagon than the vertical wall height of the Container Restaurant or Food Wagon;

(5) Unless located in a fully screened enclosure shared with another building or user at the site, all onsite fuel storage tanks, bulk waste storage containers and similar accessory equipment shall be located in a Ch. 19, Sec. 19-309 shall not exceed a greater horizontal distance from the Container Restaurant or Food Wagon than the Container Restaurant or Food Wagon;

(6) Except for plantings and/or fencing installed to provide screening from abutters, and except for plantings, fencing or curbing installed to aid vehicular or pedestrian circulation, and except for movable accessory items like tables, benches and chairs for patron use, all other accessory items shall be located adjacent to the primary structure and shall not extend a greater horizontal distance from the Container Restaurant or Food Wagon than the vertical wall height of the Container Restaurant or Food Wagon;

(7) No accessory buildings may be permitted for container restaurants or food wagons under this section;

(8) Provisions for parking and vehicular circulation, shall conform to the standards in 19-307 Off-Street Parking. Where the Container Restaurant or Food Wagon is located in a parking area, or the temporary seating is in a parking area, the Planning Board may impose specific requirements for vehicular and pedestrian circulation to ensure pedestrian patron and employee safety;

(9) Lighting standards;

(10) Restroom availability for all employees;

(11) Water supply and wastewater disposal;

(12) Landscaping in accordance with Section 19-316(H)(3). Other landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use outside its fixed perimeter.

(13) The use of exterior speakers or other audible devices to play music, communicate with customers, or other purposes shall be strictly prohibited.

(14) The operator shall clean the site and surrounding area at least daily to remove any visible waste from the food service and take all reasonable efforts to keep food service related items off of abutting property and out of adjacent public ways. All trash receptacles for patron use shall be emptied and secured at the end of each business day;

(15) Container restaurants and food wagons permitted under this provision may not operate more than 8 months of the year.

(16) Container restaurants and food wagons permitted under this provision may remain at the permitted location year round so long as all temporary items such as, but not limited to, tables, chairs food service items, and trash cans are removed from the site, stored in the primary structure, or stored in the screened area used for bulk waste and fuel containers when the business is operating;

(17) Except for food trucks or food wagons on locations for less than six days as part of a permitted festival or event, container restaurants and food wagons in any City park or parking area are subject to periodic inspections and enforcement by the Code Office, the provisions of this section, the operators' permits, and any additional standards imposed by the Council or by the Harbor Management Commission as a condition of the use agreement. Container Restaurants and Food Wagons located on a Municipal property that includes parking are exempt from any additional specific parking requirements.

(18) Container Restaurants and Food Wagons having a floor area for the principal structure of 250 sq. ft. or more, and/or that are operational more than eight months or more and permanent restaurants are subject to full site plan review and approval pursuant to Chapter 16, Article II. If Container Restaurants and Food Wagons under this section are located in the Downtown or Tillson Avenue Overlay Zones, they shall be subject to regulations of those zones, including Design Standards. Eff: 3/11/15; Amended 12/14/18.

3. Short Term Rentals.

A. Permitted Short Term Rentals. In any zone, existing single-, two-, and multi-family structures may be used as Short Term Rentals upon the issuance of a Short Term Rentals Permit for the premises pursuant to Chapter 11, Article II, Section 11-210. Notwithstanding anything to the contrary in this section, Planning Board review of Short Term Rentals as a Special Use Class shall not be required when the Code Office is the designated Permitting Authority pursuant to Chapter 11, Article II, Section 11-210(2).

B. Prohibited Short Term Rentals. No person may offer for rent, rent, operate, or otherwise use any parcel in the City of Rockland for Short Term Rentals if:

(1) Such person has not secured or maintained a valid Short Term Rentals Permit for the premises; or

(2) The accommodations are a detached accessory building, recreational vehicle, trailer, tent, or other mobile residential equipment other than a mobile home. Eff: 05/11/16

Sec. 19-310 Reserved

Sec. 19-311 Change of Use

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Except in the case of Special Exceptions and Conditional Uses, or except as otherwise provided in Chapter 16 Article II, any person desiring to change the use classification but not the structure of any building or structure already erected, or the use of any land, to another allowed use, shall apply in writing on a prescribed application form to the Code Enforcement Officer for a permit, and shall satisfy the requirements set forth in Chapter 4, Article V, Subsection 4-503(3), Change of Use Permit.

Sec. 19-312 Violations; Enforcement

1. Complaints. When any person files a complaint with the Code Enforcement Officer, in writing, that any provision of this Article is being violated, it shall be the duty of the Code Enforcement Officer to examine forthwith the condition or thing complained of. A proper record of such complaints shall be kept by the Code Enforcement Officer, with the names of the persons making them.

2. Violation Procedure. When violation of any provision of this Article shall be found by the Code Enforcement Officer to exist, whether such violation is discovered after complaint or by the Code Enforcement Officer on his own initiative, he shall forthwith give notice of such violation to the owner of the premises on which such violation occurs and shall order in writing such change as he shall deem necessary to make the use of the premises in question conform to the applicable provisions of this Article. It shall be unlawful for any owner not to conform to such orders within the time set forth in any such order. Such notice may be served by causing a true copy thereof to be delivered by registered mail with return receipt requested, or handed to such owner or left at his place of residence or of his usual place of business in the City, or, if the owner cannot be located, by posting the notice in a conspicuous place on the premises the use of which is in violation of this Article. Each day such violation or failure to comply continues after notification thereof shall constitute a separate offense. If such owner does not comply with the order within the time set forth in such notice, the Code Enforcement Officer shall so inform the City Attorney, who shall take immediate steps to enforce the provisions of this Article by applying for an injunction to the proper court or by any other appropriate legal action, which application for injunction or other legal action shall be taken in the name of the City of Rockland.

3. Penalty. Any person adjudged by a court to have violated any provision of this Article or any amendments thereof, or any rule or regulations adopted or issued in pursuance of, or under authority of this Article, to have failed to obey a lawful order of any officer charged with the enforcement thereof, or to have maintained any building or land upon which such violation exists, shall be subject to the penalties and other remedies provided by state law including without limitation 30-A M.R.S. § 4452, to be recovered to the use of the City.

Sec. 19-313. Medical Marijuana Production Facilities

1. Purpose: The purpose of this article is to control the cultivation of medical marijuana by controlling land uses consistent with state law and in a manner that prevents unintended consequences that could adversely impact the City of Rockland and its residents. Eff: 11/09/18

2. **Review and notification process:** Any proposal to establish a new or alter an existing medical marijuana production facility shall require approval of the Planning Board as a conditional use. The Planning Board and applicant shall follow the application and review process outlined in the Site Plan Review Ordinance (Chapter 16, Article II) and this section. Notification of site walks and public hearings shall include all property owners within 300 linear feet, measured in a straight line from the property boundary of the proposed facility. Notification to property owners shall be mailed at least ten days before the scheduled site walk and public hearing. In addition to other public notification requirements, the Code Office shall notify the Rockland Police Department and the Maine Department of Administrative and Financial Services prior to the public hearing on any application. Eff: 11/09/18

- A. State authorization: Before submission of a conditional use application, the applicant must demonstrate their authorization to cultivate medical marijuana pursuant to the Maine Use of Medical Marijuana Program. Eff: 11/09/18
- B. Exemptions: As an accessory use, medical marijuana home production shall be allowed in any qualifying patient's residence or any medical marijuana caregiver's primary year-round residence in every base zone and overlay zone, without any requirement for land use permitting.
- C. Performance standards: In addition to other requirements of this section and related provisions of other chapters within the City of Rockland Ordinances, the following shall apply to any application for a new or altered a medical marijuana production facility:

- 1. Each medical marijuana production facility shall be limited to one (1) state license caregiver. Ch. 19, Sec. 19-313
- 2. Proximity limit. No medical marijuana production facility shall be located on a lot that is within 250 feet of another lot on which a medical marijuana production facility is located. This separation requirement will prevent a concentration of these facilities. Eff: 11/09/18
- 3. Proximity to schools. No medical marijuana production facility shall be located within 500 feet of the property line of a preexisting public or private school.
- 4. Security. Before granting an approval, the Planning Board shall ensure the applicant has reviewed their property and building security plans with the City of Rockland Police Department and the Police Department finds the security measures are consistent with state requirements.
- 5. Outside appearance. No signs containing the word "marijuana," or a graphic/image of any portion of a marijuana plant or otherwise identifying medical marijuana shall be erected, posted or in any way displayed on the outside of a medical marijuana production facility. Interior advertisements, displays of merchandise or signs depicting the activities of a medical marijuana production facility shall be screened to prevent public viewing from outside such facility. Medical marijuana production facilities shall have the option of to post a standard green cross (+) on a white background in addition to their regular sign/logo.
- 6. Odorous air contaminants. It shall be an unlawful nuisance for any person to cause or permit the emission of offensive odors from any source so as to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of property. Any proposed facility which may emit odoriferous substances must include detailed plans to mitigate such to the Planning Board before the approval is granted.
 - i. For purposes of this section, an "offensive odor" is defined as the minimum concentration in air of a gas, vapor, or particulate matter that can be detected at the property line by the olfactory systems of the Odor Control Committee per the Rockland City Code, Chapter 10, Article III.
- 7. All medical marijuana waste and/or residue from the cultivation of medical marijuana shall be disposed of in conformance with the Maine Medical Use of Marijuana State Administrative Regulations as well as this section. Waste and/or residue shall not be placed in exterior refuse containers without first being made unusable and unrecognizable through grinding and incorporating it with non-consumable, solid wastes such as paper, plastic, cardboard, food, grease, Bokashi or other compost activators, and/or soil, such that the resulting mixture is at least fifty (50) percent non-marijuana waste. Composting, fermenting, and/or incineration on-site is allowed if undertaken in accordance with state and local regulations. Eff: 11/09/18

3. **Medical marijuana license:** An annual license approved by the Rockland City Council in accordance with Section 11-222 shall be required for medical marijuana production facilities. Eff: 11/09/18

Eff: 01/10/18

Sec. 19-314 Directional Sign Ordinance

1. Purpose and Location. The purpose of this Ordinance is to regulate the installation and maintenance of directional signs on public ways within that portion of the City of Rockland bounded by the following:

A line extending westerly from Rockland Harbor to Camden Street at the intersection of Bay View Street, Camden Street southerly to the intersection of Maverick Street, Maverick Street westerly to the intersection of Birch Street, Birch Street southerly to intersection with Broadway, Broadway southerly to the intersection of Pleasant Street, Pleasant Street easterly through the intersection of Main Street extending to Rockland Harbor, then northerly along the shore of Rockland Harbor to the point of beginning.

Administration of the Office of Business Directional Signs program outside of the above-described area remain the responsibility of the Maine Department of Transportation in accordance with its regulations under Title 23, M.R.S., Sections 1901, 1925 and 17-227-200.

2. Definitions.

A. Directional Sign. A directional sign is a sign erected and maintained in accordance with the Maine Traveler Information Services Act and this section to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services for the traveling public, and points of scenic, historical, cultural, recreational, educational, and religious interest. The second line of the legend may be used to indicate additional directional information for such as next right or left, route number, or the name of the street.

B. Public Way. Public way means any road capable of carrying motor vehicles, including, but

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 highway, municipal road, county road, or other road dedicated to the public.

C. Sign Assembly. A sign assembly is the tiering of more than one directional sign on a support assembly. Such support assembly shall consist of a capped tubular steel post.

D. Traffic Control Sign or Device. Traffic Control Sign or Device means an official route marker, warning sign, sign directing traffic to or from a community bridge, ferry, or airport, or sign regulating traffic which has been erected by officials having jurisdiction over the public way. Traffic control signs and devices are not subject to the provisions of this Section.

3. Placement.

A. General Requirements. Directional signs shall be located within the highway right-of-way on approaches to intersections where travelers must change direction from one public way to another to reach a business, service or point of interest or where appropriate at the end of T intersections. A business, service facility, or point of interest shall not be permitted more than one single or double-faced sign at any intersection approach. Each face of a double-faced sign shall be considered as a separate sign. Directional signs shall be prohibited within those portions of the designated area which are zoned residential. Each place of business, service, or point of interest shall be eligible for a maximum of four (4) directional signs. To qualify for a directional sign, the business, service, or point of interest must be within a ten (10) mile radius of the proposed location of the sign.

Directional signs shall be located so as to avoid visual conflict with other signs, to have the least impact on the scenic environment and to take advantage of the natural terrain.

Directional signs shall not be permitted at locations where the directional information contained thereon may be misinterpreted misleading or otherwise confusing to the traveling public.

B. Lateral Clearance. Signs shall be at least one (1) foot away from the curb face.

C. Distances. Directional signs must be within five hundred (500) feet of the intersection where a change in direction is required.

Directional signs shall be located so as not to interfere with, obstruct, or divert a driver's attention from a traffic control sign or device.

Traffic control signs or devices placed at intersection approaches subsequent to the placement of directional signs shall have precedence as to location and may require the relocation of directional signs.

Successive business directional sign assemblies shall be spaced sufficiently apart for drivers to comprehend the messages contained thereon.

D. Height. Sign assemblies shall be erected so as to provide a minimum of five (5) feet vertical clearance between the lower edge of the bottom sign and surface of the highway. Signboards located near pedestrian and parking areas may be required to have a vertical clearance of seven (7) feet. No assembly shall exceed a height above the curb or sidewalk of fourteen (14) feet.

4. Materials. Sign panel material shall be high density overlaid plywood a minimum of one-half inch thick or other material sufficiently stable not to deform under conditions of weather and use. All materials furnished under this Section shall be durable and weather resistant.

5. Design.

A. General. Signs shall be standard in design and color. Sign legends shall identify the type of business or service, but shall not advertise or identify, by name, specific business or service. Points of scenic, historical, cultural, recreational, educational, or religious interest may be specifically identified by name.

B. Size. All signs shall be twenty-four (24) inches by twenty-four (24) inches in size. Signs may be reduced to less than twenty-four (24) inches in height as conditions require.

C. Color. The background color of all signs shall be blue and shall be in accordance with highway blue color tolerance charts PR-Color #3.

All legend and border shall be white. The edges and back of the signboard shall be sealed and painted brown. Specific color requirements shall be in accordance with the latest color tolerance charts published by the Federal Highway Administration and available for view at the office of the Maine Department of Transportation in Augusta.

D. Lettering and Layout. All lettering used in the name of the business or service, including the directional legend shall be Alternate Gothic 2 upper-case lettering.

Letter size shall be three (3) inches high.

Sign legends shall begin in the upper left-hand corner of the space provided. Single line legends if used shall occupy the top line of the space starting in the upper left-hand corner.

Directional legend shall be located in the lower portion of the sign.

Layout of the signboard and legend shall conform to good graphic layout practices.

E. Reflectorization. The background, sign legend, and border of all signs shall be reflectorized with reflective sheeting to show the same shape and color for both day and night. Reflecting sheets shall consist of smooth, flat exterior film with spherical glass lens elements embedded beneath the surface and a precoated adhesive backing protective. Reflective sheeting shall meet the requirements of Federal specification LS-300B available for Department of Transportation (DOT) in Augusta. Illumination by special interior or exterior supplemental lighting is not permitted.

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6. Installation and Maintenance. Directional signs and posts shall be furnished and maintained by the owner or applicant. The signs shall be installed by the City at approved locations. Eff: 8/7/91

Sign boards which become lost, stolen, defaced, or otherwise damaged or deteriorated shall be replaced by the owner and reinstalled by the City.

The owners of directional signs which represent businesses, service facilities, or points of interest no longer offering such traveler assistance, or signs which are no longer applicable because of business changes, business relocations, or for any other reason, shall notify the City to have such sign removed.

Failure to properly maintain the sign panel by the owner or to notify the City that signs are no longer applicable may result in the removal of such signs by the City.

7. Administration. Official Business Directional Signs and other directional signs, within the area subject to this Section, which are not in accordance with the provisions of this Section, shall be removed by the owner(s) within six (6) months of (the effective date of this Section). If such sign is not removed within thirty (30) days of notification by the Code Enforcement Officer, the Code Enforcement Officer may have the sign removed at the expense of the owner of the sign. No sign may be erected without the approval of the Code Enforcement Officer. Eff: 10/9/85

Sec. 19-315 Signs

1. General. No person, corporation, partnership or other entity shall alter, construct, place or cause to be placed any new or different exterior sign structure or structures without first obtaining a permit unless otherwise specified under this Section. All exterior signs requiring a permit shall be reviewed by the Code Enforcement Officer to determine compliance with the applicable provisions of this Ordinance. All interior signs must comply with illumination, safety and placement provisions of the Ordinance even though a permit is not required.

2. Definitions.

A. Sign: Sign means any structure, display, picture, logo, symbol, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity or place and is visible from any public way. It does not include the flag, pennant or insignia of any nation, state or town.

A mural or work of visual art that otherwise meets the definition of "sign" in this Section but that conforms with the following standards shall not be subject to regulation. Such artwork that projects over sidewalks or into a right of way must receive a license approved by the City Council. Any such artwork that is a structure shall require a building permit.

(i) is created by an artist; and

(ii) does not contain the name of, nor directly advertise the thing, person, business, activity or place upon which it is attached or otherwise affixed, or advertise any other thing, person, business, activity or place; and

(iii) does not contain a logo or trademarked symbol; and

(iv) does not contain a picture, symbol or device of any kind that relates to a commercial business, product or service offered on the premises where it is located.

Eff: 12/13/17

B. Sign Area: Sign measurement shall be based upon the entire area of the sign, with a single continuous perimeter enclosing the extreme limits of the actual sign surface.

Sign area includes all lettering and/or symbols together with any background, including borders, on which they are displayed. Where the background and borders of an attached wall sign are the same color as the wall or where a sign has no

background, the sign area includes all space within a circle, square, triangle or rectangle that could encompass the lettering and/or symbols.

Minimal supporting framework or bracing is excluded but any decorative structure is included.

When a sign has two (2) or more faces, the area of all faces shall be included in determining the area, except where two (2) faces are placed back to back and are at no point more than twenty-four (24) inches from each other. In this case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area. If the faces of the sign are more than twenty-four (24) inches apart, they will be measured as separate signs and the area of face each will be counted as part of the aggregate sign area.

C. Attached Wall Signs: Any sign which is painted on, incorporated into, or affixed parallel to the wall of a building and which extends not more than twelve (12) inches from the surface of that building. Attached wall signs shall not extend beyond the corner of a building.

D. Awning Signs: A sign painted on or attached to the cover of a movable metallic frame or to the cover of the hinged, roll, folding or stationary type awning.

E. Building Frontage: The linear measurement of the building along any one (1) side. There shall be Ch. 19, Sec. 19-315 for any building.

F. Business: To constitute a separate business as defined under this Article, a business must: (1) keep separate financial records; (2) file a separate tax return; and (3) have a separate tax number from any other business located on the same property.

G. Directory Sign: A sign which lists the names of more than one (1) person or business.

H. Facade: The exterior surface of a building.

I. Free-Standing Sign: A self-supporting sign not attached to a building, wall, or fence, but in a fixed location. This does not include portable or trailer type signs.

J. Locational Sign: A sign listing the name of a complex on a property and/or property address. Eff: 06/09/10

K. Marquee Signs: A sign painted on, attached to, or consisting of an interchangeable copy reader, on a permanent overhanging shelter which projects from the face of a building.

L. Off-Premise Signs: Any sign which is not on the premise of the business it is promoting or advertising. A Pedestrian Oriented Directory Sign in compliance with Section 19.315.3.A.(6) shall not be considered an off-premises sign. Eff: 7/14/04

M. On-Premise Signs: Any sign that advertises, calls attention to or identifies the occupant of the premises on which the sign is maintained, or the business transacted thereon, or activities which occur thereon, or advertises the property itself or any part thereof as for sale or rent.

N. Pedestrian Oriented Directory Sign: An attached wall sign at Main Street intersections, which directs pedestrians to businesses located on properties fronting on the intersecting streets within the Downtown Parking District as defined in 19-307.4. Such sign shall be mounted on privately owned buildings only, with written permission from the owner of the property. Eff: 7/14/04

O. Portable Sign/Banner: A self-supporting sign/banner capable of being readily moved or relocated, including signs on legs or banners on portable poles but not including movable signs on chassis and wheels.

P. Projecting Signs: A sign which is affixed directly to a building which extends more than twelve (12) inches beyond the surface to which it is affixed.

Q. Roof Sign: A sign which is located above, or projects above, the lowest point of the eaves or the top of the parapet wall of any building. This includes signs painted on roofs.

R. Temporary Signs: A sign intended to be used for a period of no more than fourteen (14) days. Exceptions for banners and similar devices intended for civic purposes may be granted by special permit from the City Council.

3. Sign Standards.

A. Permitted Signs: Only signs which refer to the legal use of the property, provided such signs conform to the provisions of this Ordinance, are permitted:

(1) Number of Signs. There shall be a maximum of four (4) attached exterior signs per business or per building serving the public. Eff: 10/08/08

(2) Allowed Signage. Aggregate allowable sign area - all exterior signs per non-residential property shall not exceed four (4) square feet of area for each one (1) linear foot of the building frontage. Maximum attached sign area for any one (1) side of a building shall not exceed two (2) square feet for each one (1) linear foot of building length on that side.

(3) Measurement of Height. The height of attached and projecting signs shall be measured from the highest point of the grade level below their point of attachment. The height of a free-standing sign shall be measured from grade level upon which it is located. Grade level shall not be raised above street grade for the purpose of increasing sign height.

(4) Free-Standing Signs: Only one (1) free-standing sign is allowed on any property. Except for limitations in individual zones, and provided that the total sign area complies with the aggregate allowable sign area established in Subsection 3(A)(2), each free-standing sign shall be limited to no greater than thirty-six (36) square feet of sign area. Where more than one business is located, lawfully, on one property, the free-standing sign on that property may be a directory sign, subject to

the aggregate allowable sign area in part 3.A(2) of this section. Each business advertised on a directory sign shall be limited to no greater than thirty-six (36) square feet of sign area, and each directory sign shall be limited to no greater than two hundred (200) square feet of total sign area. On properties with five (5) or more individual businesses, an additional locational sign on the directory sign surround of up to one-third of the total of the actual business directory sign area on the fee-standing sign shall be allowed. Eff: 06/09/10

Exceptions:

- a. Automobile dealerships may have no more than one free-standing sign per franchise and no more than one free-standing sign per 100 feet of road frontage. Eff: 6/9/99
- b. Properties facing on two (2) streets which do not intersect at the property may have Ch. 19, Sec. 19-315 standing sign adjacent to the second street.
- c. A single building on a parcel housing more than one, physically segregated use, having main vehicular entrances used primarily by different businesses on different streets (even if the streets intersect at the property line) shall be permitted to have one (1) free-standing sign at each main entrance so long as no business is served by more than one free-standing sign. Such free-standing sign shall be permitted to advertise more than one business served by the entrance, but not a business served by another free-standing sign. The area of each free-standing sign shall not exceed the area limitation for free-standing signs in the zone in which it is located or thirty-six (36) square feet, whichever is less.
- d. A single property with more than one building containing separate and distinct businesses shall be permitted to have one (1) free-standing sign for each building provided that all such signs are separated by no fewer than four hundred (400) feet as measured at the right of way and are located in the vicinity of the vehicular entrance serving the buildings and/or uses. Such free-standing signs shall be permitted to advertise more than one business at that location, so long as no business is served by more than one free-standing sign. The area of each free-standing sign shall not exceed the area limitation for free-standing signs in the zone in which it is located or thirty-six (36) square feet, whichever is less. Eff: 10/08/08
- e. Transitional Business 3 "TB3" Zone on Camden Street shall be permitted to have signage in accordance with Sections (1) through (4) above. Eff: 07/11/18

(5) Projecting Signs. Only one (1) projecting sign is allowed for each business. Projecting signs shall be limited to no greater than twelve (12) square feet. Projecting signs shall not extend horizontally more than six (6) feet from any building wall. Attached wall signs shall not extend beyond the corner of a building. (See Section 3.A.7 for standards for Home Occupation Signs and Section 3.G.1-3 for standards for Awning and Marquee Signs.)

(6) Pedestrian Oriented Directory Sign. There shall be up to two (2) Pedestrian Oriented Directory Signs on opposite corners at any Main Street intersection within the Downtown Parking District as defined in 19-307.4. All Pedestrian Oriented Directory Signs shall be non-illuminated. Each business shall be limited to one sign not exceeding 12 inches in height and 24 inches in width. All individual signs must be within a single rectangle not exceeding 48 inches in height and 24 inches in width. No part of the sign shall be higher than seven (7) feet from street grade. All lettering shall be no more than three quarters (3/4) inch in height and width. These signs shall be permitted in addition to the number of signs allowed by Section 19-315.3.A(1) but shall be subject to the total allowable aggregate sign area in Section 19-315.A.(2). Pedestrian Oriented Directory Signs shall be specifically designed to provide directions to pedestrians and shall not be misleading or hazardous to vehicular traffic. Eff: 7/14/04.

(7) Residential Property. Residences shall be limited to one (1) attached sign no larger than two (2) square feet or one (1) free-standing sign no larger than four (4) square feet.

(8) Home Occupation Signs. In a residential zone, one (1) non-illuminated or externally-illuminated sign shall be allowed per premise identifying an allowed on-premises home occupation as defined in Section 19-302(15). Eff: 1/8/97

(a) No more than one (1) attached sign shall be allowed per property, not to exceed four (4) square feet in area, or

(b) No more than one (1) free-standing sign, not to exceed four (4) square feet in area, shall be allowed per property providing it meets the placement setbacks set forth in 3(E)(4).

(c) No part of a free-standing sign or its support shall exceed four (4) feet in height.

(9) Any non-residential use permitted in a Residential Zone, except home occupations, shall be limited to either one (1) non-illuminated or externally illuminated attached sign not larger than eight (8) square feet or one (1) non-illuminated or externally illuminated free-standing sign no larger than eight (8) square feet. Any non-residential use permitted in a Transitional Business 1 "TB1", Transitional Business 2 "TB2", or Transitional Business 3 "TB3 Zone shall be limited to one (1) non-illuminated or externally illuminated attached sign not larger than sixteen (16) square feet and one (1) non-illuminated or externally illuminated free-standing sign not larger than sixteen (16) square feet. However, a non-residential use permitted in a Residential Zone or a non-residential use permitted in a Transitional Business 1 "TB1", Transitional Business 2 "TB2", or Transitional Business 3 "TB3" Zones may increase the size of either one (1) free-standing sign or one (1) attached sign by one (1) square foot for every full ten (10) linear feet of frontage on a public street by which the lot exceeds the minimum frontage requirement in that zone. This shall apply only to street frontage where said sign is located. In no case shall the sign of a non-residential use in a Residential, Transitional Business 1 "TB1", Transitional Business 2

“TB2”, or Transitional Business 3 “TB3” Zone be larger than twenty (20) square feet. Any non-residential use permitted in a Rural Residential “RR1” Zone shall be limited to one (1) non-illuminated or externally illuminated free-standing sign and one (1) non-illuminated or externally illuminated attached sign with an aggregate sign area per property of no more than thirty-six (36) square feet. Eff: 7/14/99

(10) Adult Business Store Signs. Notwithstanding anything to the contrary herein, an adult amusement store shall not be permitted more than one (1) sign advertising its business, which shall be an on-premise free-standing or attached wall sign only. No such sign shall:

- (a) Be placed in any window, except that one sign no larger than one (1) sq. ft. may be placed on the door to state only the store’s hours of operation and that admittance is for adults only;
- (b) Be neon or internally-illuminated or contain any flashing lights, moving elements, or mechanically changing messages;
- (c) Contain any depiction of the human form or any part thereof, whether by photograph, painting, drawing, silhouette, or pictorial representation;
- (d) Contain any sexually explicit or suggestive language such as “nude dancing” or “Girls, Girls, Girls,” etc.; or
- (e) Be located off-site;
- (f) Have more than two display surfaces; or;
- (g) Exceed twenty (20) sq. ft.

Any sign located on the premises of a multi-unit commercial center such as a shopping center or plaza and identifying one or more of the businesses that comprise the center shall also comply with this subsection if such sign identifies an Adult Amusement Store on the premises. Eff: 10/01/14

B. Prohibited Signs

(1) No off-premise signs, except directional signs as provided for in Section 19-314 and Section 19-315(3)(c)(9) and (10), shall be constructed, posted or erected in any zones except for the following: Off-premise advertising shall be allowed: (a) upon fences surrounding community sports playing fields, on the side facing the playing field and each said advertisement shall not exceed eight (8) feet in width nor the existing level of the playing field fence in height; and (b) single off-premise free-standing signs for the combined promotion of all service clubs and civic organizations and signs erected for the Chamber of Commerce for general promotion of the City shall be allowed. Free-standing signs that are permitted in the public right-of-way by Section 19-315.E.(4) shall not be considered off-premises signs for the purposes of this section. Eff: 11/10/06

(2) Signs not permitted include any sign for which illumination is not kept constant in intensity at all times when in use, and which exhibits changes in light, color, direction, or animation, or a sign which has rotating, motorized, mechanical or other moving parts. Illuminated signs which indicate the current time of day and temperature will not be considered flashing signs. A barber pole will not be considered a flashing/rotating/motorized sign. Where signs are permitted to be internally illuminated, a changeable message with a frequency no less than 20 minutes between messages shall be permitted. For a sign associated with Rockland District High School, a changeable message with a frequency of not less than 30 seconds between messages shall be permitted, provided that all other regulations pertaining to changeable signs in Title 23, M.R.S. § 1914.11-A are met. Eff: 03/15/06

(3) Any sign advertising or identifying a business or organization which is either defunct or no longer located on the premises are not permitted as per Section 6.A. Exceptions are granted to existing signs which are incorporated in the structure of the building and historically identify the building.

(4) No person may erect a sign which is affixed to a utility pole (Section 12-401 of Rockland's City Ordinances), fence, tree, shrub, rock or other natural object.

(5) New marquees are prohibited.

(6) Portable signs may not be used within the public right-of-way or public sidewalk. Movable signs on chassis and wheels may not be used.

C. Exempt Signs.

An exempt sign shall not require a permit. An exempt sign shall comply with the placement, illumination, safety, and removal sections of this ordinance. An exempt sign shall comply with all applicable State and Federal laws. The following are exempt signs: Eff: 03/15/06

(1) Signs erected or posted and maintained for public safety and welfare or pursuant to any governmental function, law, bylaw or other regulation.

(2) A Sign associated with Rockland District High School. An exempt sign for Rockland District High School shall not exceed forty (40) square feet in sign area. Such sign may be internally illuminated. Illumination of such sign shall be limited to the hours between 6:00 a.m. and 10:00 p.m. Eff: 03/15/06

(3) Directional signs solely indicating ingress and egress placed at driveway locations and on-site routing containing the name and/or logo but no other advertising material, and where display area does not exceed four (4) square feet or extend higher than three (3) feet above ground level. Such sign will conform in all respects with the requirements of this ordinance.

- (4) Signs prohibiting trespassing, hunting, and solicitation, not exceeding two (2) square feet in area.
- (5) Street number, and signs indicating individual or family names, not exceeding two (2) square feet in area.
- (6) Up to two (2) temporary signs for each business on the property in place not more than fourteen (14) days, such as those associated with a specific event or activity (including notices of sale) and removed after the event or activity.
- (7) Real estate signs not exceeding eight (8) square feet in area, which advertise the sale, rental, Ch. 19, Sec. 19-315 upon which said signs are located. A maximum of two (2) such signs may be maintained on the property if the property is rented. As an alternative to having two (2) eight (8) square foot signs, one (1) twelve (12) square foot sign shall be allowed in the Downtown Business District and one (1) thirty-two (32) square foot sign in non-residential areas outside the Downtown Business District. All real estate signs shall be removed by the owner or agent within thirty (30) days of sale, rent or lease. Real estate signs exceeding the fore stated sizes shall not be exempt signs.
- (8) One (1) sign denoting the architects, engineers, contractors, owners or funding agencies when placed upon work under construction and not exceeding eight (8) square feet in a residential zone, twelve (12) square feet in the Downtown Business District, and thirty-two (32) square feet in areas everywhere else for the duration of the construction.
- (9) On-Site historical or memorial signs or tablets including names of buildings and date of construction.
- (10) Official Business Directional Signs erected and maintained in accordance with Maine Travelers Information Services Act Title 23, M.R.S. § 1906.
- (11) Directional signs erected and maintained in accordance with Section 19-314.
- (12) Up to two (2) signs, banners, pennants and/or flags per business indicating business hours and/or "Open/Closed". Portable "Open" banners shall not exceed 3 feet by 5 feet. No part of a flag projecting from a building over a public right-of-way (other than the pole) shall be less than seven (7) feet above the sidewalk. Eff: 04/07/10
- (13) Customary holiday decorations in place not more than three (3) months.
- (14) Any signs, banners, placards or other messages associated with any City, County, State, or federal election or referendum (Title 23, M.R.S. § 1913-A.1(H)).
- (15) On-premise vending machines.
- (16) On-premise product racks.
- (17) Credit card signs, chamber of commerce or civic organizational decals.
- (18) Menu boards or take-out signs that may be visible but are not legible from a public way.
- (19) Portable Signs: Only one (1) portable sign is allowed per business. All portable signs are subject to the following area limitations. Portable signs shall be no wider than three (3) feet nor higher than four (4) feet. Signs may not adversely affect visibility. Portable signs may not be used within the public right-of-way or public sidewalk.
- (20) One (1) gasoline price sign no greater than sixteen (16) square feet in area.
- (21) No more than four off-premises signs for each authorized special event on City property that conform with the requirements for off-premises signs for special events in waterfront parks set forth in Ch. 9, Art. II, Sec. 9-215(1) and that are consistent with any order or policy adopted therefor by the City Council. Eff: 6/10/15

D. Illumination Standards

- (1) No person may erect a sign which flashes, rotates, or has motorized or moving parts.
- (2) All illumination shall comply with the National Electric Code.
- (3) Strings of bulbs are not permitted except as part of a holiday celebration.
- (4) In the Residential Zones and in the Community Business Zone, during regular hours of operation, the external illumination shall be incandescent and aligned in such a manner that the light is directed exclusively at the surface of the sign and does not cause glare.
- (5) Portable signs shall not be illuminated.

E. Placement Standards.

- (1) Signs shall not be mounted on roofs or extend above the eaves (unless mounted on a parapet wall or facade which extends above the eaves). Exception: one roof-mounted sign may be permitted on single story buildings having a building footprint of less than one hundred and fifty (150) square feet. Such signs shall not exceed in area one-half of the sign area allowed for a wall-mounted sign on the building; shall not extend higher than five (5) feet above the eaves of the building; shall not be internally illuminated; and shall comply with all other applicable sign regulations. Eff: 05/12/10
- (2) No projecting sign shall extend into a vehicular public way, nor be less than eight (8) feet above a pedestrian way. Projecting signs shall be set back at least eighteen (18) inches from the street curb or shoulder. If projecting over a driveway, the clearance must be at least fourteen (14) feet.
- (3) No free-standing sign together with any supporting framework shall extend to a height above twenty-five (25) feet from the grade level upon which it is located. Grade level shall not be raised above street grade level for the purpose of increasing sign height. Eff: 06/09/10
- (4) Free-standing signs for non-residential uses must be set back at least six (6) feet from the front curb line or lot line, whichever is less, but in no case shall it extend into or over the public right-of-way, except a sign may be placed in the public

right-of-way, directly in front of the property, in those circumstances where the distance from the applicant's front property line to the edge of the paved road exceed thirty (30) feet and a permit has been granted for the sign by the Maine Department of Transportation. Eff: 11/10/06

(5) All free-standing signs located within twenty (20) feet of a street intersection or of a driveway must be placed to maintain clear sight for vehicular and pedestrian traffic. No sign between three (3) and ten (10) feet in height shall be placed within twenty (20) feet of the nearest point of the intersection of the traveled ways of streets and/or driveways.

(6) No sign shall be placed so as to obstruct or interfere with free entrance or exit from any door, window, or fire escape; prevent access to any roof, or obstruct any opening required for ventilation.

(7) No sign shall be attached to a standpipe or fire escape.

(8) No sign/banner shall be placed so as to obstruct a sidewalk.

F. Safety Standards.

(1) All signs including their supporting structures and other components, shall be kept in good repair and shall be maintained to prevent rust, peeling or similar deterioration.

(2) No person may erect a sign which:

(a) Is structurally unsafe;

(b) Constitutes a hazard to public safety and health by reasons of inadequate maintenance, dilapidation or abandonment;

(c) Obstructs free entrance or exit from a required door, window or fire escape, or interfere with proper ventilation.

(3) Vegetation and landscaping adjacent to any sign shall be maintained in a neat and slightly condition and shall not interfere with the legibility of the sign.

(4) Damaged signs shall be repaired or removed within thirty (30) days. An additional thirty (30) day time extension may be granted by the Code Enforcement Officer if, in his judgement, circumstances warrant it. If a sign suffers damage to the extent of fifty percent (50%) or more (replacement value), it must be brought into conformance with these regulations or removed. The Code Enforcement Officer may, after ten (10) days notice, have any damaged or illegible sign removed, repaired or secured at the expense of the owner or lessee of the sign. Any sign determined by the Code Enforcement Officer to be a public safety hazard shall be removed, repaired or secured to make it safe immediately upon notification by the Code Enforcement Officer. If the owner or lessee of the sign does not take immediate action to make it safe, the Code Enforcement Officer may secure or remove the sign at the expense of the owner or lessee.

G. Awning Signs.

(1) Such sign must be painted on or attached flat against the surface of the awning, but not extending beyond the valance or be attached to the underside.

(2) A minimum of seven (7) feet above sidewalk level must be allowed for pedestrian clearance.

(3) Awning Fees: See Section 5.B.2.

H. Marquee Signs.

(1) Existing signs may be painted on or attached flat against the existing surface of the marquee, but may not be extended beyond nor be attached to the underside of the overhang.

(2) The aggregate square foot area for each side of an existing marquee sign shall not exceed one hundred (100) square feet.

(3) A minimum clearance of eight (8) feet above the sidewalk level must be allowed for pedestrian clearance (Sec. 11-304).

4. Non-Conforming Signs.

A. New Signs: All new signs must conform to this Ordinance.

B. Altering Existing Signs: Signs erected prior to the effective date of this Ordinance which are altered or relocated after the effective date of this Ordinance shall be brought into conformance with this Ordinance. Re-painting or replacing the existing display matter without changing the message or symbols or the placement in kind of structural parts shall not be considered alterations. Changing names on a directory sign within the sign area permitted for that sign will not require a permit.

C. Notwithstanding Section 3.G(2) above, all non-conforming signs shall be brought into conformance with this Ordinance within ten (10) years of the effective date of this Ordinance. After the tenth (10th) anniversary of the effective date of this Ordinance, the Code Enforcement Officer may order the removal of any sign non-conforming under this section.

5. Administration.

A. Permits.

(1) No exterior sign requiring a permit shall be erected, displayed, altered or enlarged until an application has been filed, and until a permit for such action has been issued.

(2) Applications shall be on forms prescribed by the Code Enforcement Officer. At a minimum, all applications shall include a drawing specifying dimensions, materials, illumination, support system, and location on land or buildings, with relevant measurements.

(3) Permits shall be issued only if the Code Enforcement Officer determines the sign complies or will comply with all applicable provisions of this Ordinance. Such application may be filed by the owner of the land or building, or by their designee.

(4) The Code Enforcement Officer shall act to approve, approve with condition(s) or deny any permit within fifteen (15) days of receipt of such application and fee. The Code Enforcement Officer's action or failure to act may be appealed to the Zoning Board of Appeals within thirty (30) days of the action. The Code Enforcement Officer's failure to act may be considered a denial.

B. Fees.

(1) Sign permit fees shall be according to Sec. 11-402 Land Use Fee Schedule of this Code. Eff: 11/10/06

(2) Awning Fee: A sign permit fee is waived when a building permit fee has been paid for installation of an awning that includes a sign. Eff: 8/9/95

6. Enforcement. The Code Enforcement Officer or his designee is hereby authorized to enforce this ordinance.

A. Removal of Signs: Any sign which has been ordered removed by the Code Enforcement Officer or is abandoned or discontinued, shall be removed by the person, firm or corporation responsible for the sign within ten (10) days of written notice to remove.

Any sign or portion thereof, which advertises, identifies or pertains to any activity no longer in existence shall be removed by its owner or lessee within ninety (90) days from the date the activity ceased. If a sign is not removed, the Code Enforcement Officer may have such sign removed at the expense of the owner or lessee.

B. Penalty: Violation of any provision of this section or any lawful order of the Code Enforcement Officer issued pursuant to this section shall be subject to a fine of not more than one hundred dollars (\$100) per offense. Each day that such violation continues shall constitute a separate offense.

C. Variances for Signs: No variances shall be granted under any subsection of this Section of the Ordinance other than placement, for any sign, as ample provision has been made for premises identification within this Ordinance, and because true hardship as defined by State law cannot be demonstrated in signage situations. Eff: 4/7/93

Sec. 19-316 Performance Standards

A. Dust, Fumes, Vapor, and Gases.

(1) General Provisions. Emission of dust, fly ash, fumes, vapors, smoke, or other particulate matter or gases and chemicals which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line shall be prohibited. All such activities shall also comply with applicable Federal and State regulations.

(2) Air Pollution From Power Generation Facilities. The Planning Board or other applicable permitting authority shall condition the establishment of any new power generation facility that requires either a state or federal air emissions license or permit upon (A) the applicant's receipt of such license(s) or permit(s), and (B) the applicant's demonstration that the facility shall comply with the applicable emissions limitation:

(i) A Distributed Power Generation Facility or system that will serve one or more existing commercial, industrial, institutional, municipal, and/or residential facilities shall demonstrate no net increase in the emissions of regulated air pollutants as compared to the annual emissions currently generated to provide electricity and thermal energy for the facility or facilities to be served by the Distributed Power Generation Facility or system, whether such electricity and thermal energy is currently generated on-site or purchased over the grid;

(ii) Distributed Power Generation Facilities serving one or more new or substantially expanded commercial, industrial, institutional, municipal, and/or residential facilities: a net reduction of total point source emissions of regulated air pollutants by at least 10% of the air pollutants that would be emitted, including tractor trailer emissions generated within Rockland from the transport of fuel or feedstock to the facility and idling at the facility, to provide such facility(ies) with electricity from the grid and on-site thermal energy in the absence of the Distributed Power Generation Facility. Such net emissions reduction shall be maintained so long as the facility remains in operation;

(iii) Grid-Scale Power Generation Facilities: a net reduction of total point source emissions of regulated air pollutants shall be achieved. The excess thermal energy produced in the power generation

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utilized to replace the thermal energy currently being produced at existing commercial, industrial, institutional, municipal and/or residential facilities in Rockland. The total air emissions from the grid scale power generation facility, including tractor trailer emissions generated within Rockland from the transport of fuel or feedstock to the facility and idling at the facility, must be 25% less than the total current permitted or modeled emissions for the facilities to which the grid scale power generation facility would provide thermal energy. If this provision cannot be directly met by utilization of the excess thermal energy, the developer of the grid-scale power generation facility can meet this provision by funding energy efficiency upgrades at buildings and commercial facilities in Rockland that would provide sufficient additional reductions to meet this requirement. Emissions reductions under this provision must be contractual. Such net emissions reduction shall be maintained so long as the facility remains in operation.

For the purposes of measuring emissions for compliance with this subparagraph 2, emissions shall be calculated and modeled as the sum of all annual emissions for all regulated parameters currently emitted by existing sources as described above, compared to the sum of the annual emissions projected for the proposed power generation system or facility. Emissions calculations for power purchased over the grid shall be based on the current emissions profile for Standard Offer power, as approved by the Maine Public Utilities Commission and in effect at the time the application is found to be complete.

Values for NO_x, SO_x, CO, CO₂, and PM and any other air emissions parameters regulated in air emissions licenses for the existing facility(ies) being offset, or of the proposed new power generation system or facility, shall be included in the analysis. The applicant shall submit data for three years under existing conditions, and the municipal review authority may designate the reference year for permitting purposes. Where air emissions data is not available for existing systems either of two methodologies may be used separately or in combination to model existing emissions. One option is to model emissions based on fuel consumption and characteristics (higher heating values (“HHV”), ash content, etc.) data acceptable to the Planning Board, assuming a system efficiency of not less than 80% for the existing system. The second option is to use EPA-accepted benchmark and reference values for the types of air emissions sources modeled. The applicant shall submit existing conditions and post-construction models to the local permitting authority.

The Code Enforcement Officer shall conduct periodic inspections after issuing a certificate of occupancy or otherwise require the facility’s operator to demonstrate that the applicable air pollutants emissions limitation is achieved and maintained, and may revoke said certificate of occupancy following notice and the operator’s failure to cure and/or seek the imposition of penalties and other remedies available under applicable law. The facility’s operator shall, within three days, report to the Code Enforcement Officer the occurrence of any air emissions license exceedance, and of any notice of violation issued regarding the operation of the Grid-Scale Power Generation Facility.

(3) Cooling Process Water Vapor. The Planning Board or other applicable permitting authority shall condition the site plan approval and/or building permit, as may be applicable, for the operation of any cooling tower or other mechanism utilized to cool water utilized in any power generation or other production facility by exposing such water to the ambient air or by another open cooling process that causes the emission of water vapor upon the applicant’s demonstration that:

- (a) Such cooling process employs best-available control technologies to eliminate or reduce such water vapor emissions. Such technologies must, at a minimum, preclude the emission of water vapor and precipitation beyond the facility’s boundary line in a manner or amount that constitutes a public or private nuisance;
- (b) The cooling tower is equipped with efficient drift eliminators that achieve drift reduction to a maximum of 0.002% of the recirculated water volume for counterflow towers and 0.005% of the recirculated water flow for cross-flow towers;
- (c) The cooling tower is equipped with conductivity probe(s) to automatically determine the blow-down frequency, and flow meter to measure and totalize flow;
- (d) The cooling tower shall contain a side stream filtration system or other technologies to remove solids while minimizing tower water loss;
- (e) The cooling tower shall incorporate biological and pH control measures that automatic when the tower is in operation;
- (f) The facility has adopted an inspection and maintenance program for the cooling process facility, including

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periodic disinfection of areas where pooling may occur; and

- (g) Open-system cooling towers having a capacity of under 500 tons shall be set back at least 75 feet from the property line; cooling towers having a capacity of 500 or more tons shall be set back 200 feet from the property line;

Applicant shall submit with its application a dispersion model of the anticipated water vapor plume.

(4) Fugitive Emissions; Gas Piping Safety. The Planning Board or other applicable permitting authority shall require the applicant for site plan approval and/or building permit, as may be applicable, for a power generation facility that is proposed to be fueled by natural gas, propane, or other gaseous fuel source, to demonstrate that the facility has made provisions for minimizing, to the greatest extent that is reasonably practicable, the risk that any structure, infrastructure, storage tank, equipment, or process at the facility will leak, emit, discharge, or otherwise allow to escape any natural gas, methane, propane, or other gaseous fuel into the air, whether internally or externally to the facility. Such facility shall comply with the following codes and standards in effect as of April 11, 2016, or as thereafter amended:

- (a) National Fire Protection Association (“NFPA”) 54 (National Fuel Gas Code);
- (b) NFPA 52 (Vehicular Gaseous Fuel Systems Code);
- (c) NFPA 56 (Standard for Fire and Explosion Prevention);
- (d) NFPA 56PS (Standard for Fire and Explosion Prevention During Cleaning and Purging of Flammable Gas Piping Systems);;
- (e) NFPA 85 (Boiler and Combustion Systems Hazards Code);
- (f) NFPA 86 (Standards for Ovens and Furnaces)
- (g) American National Standards Institute (“ANSI”) Z223.1 (National Fuel Gas Code);
- (h) ANSI 380.1 (Guide for Gas Transmission and Distribution Piping Systems);
- (i) Advanced Systems Management Interface (“AMSE”) B31.3 (Process Piping Standards);
- (j) ASME B31.8 (Gas Transmission and Distribution Piping Systems Code);
- (k) Title 32, Maine Revised Statutes (“M.R.S.”) Ch. 130 (Propane and Natural Gas Act);
- (l) 32 M.R.S. Ch. 139 (Maine Fuel Board);
- (m) 02-658 Code of Maine Regulations (Maine Fuel Board Rules);
- (n) 35-A M.R.S. Ch. 45 (Natural Gas Pipeline Utilities); and
- (o) 35-A M.R.S. Ch. 47 (Gas Utilities).

The facility’s operator shall hire a Professional Engineer to inspect and approve the contractors installation and ensure code compliance. Fuel gas supply systems shall be monitored with combustible gas monitors with remoting alarming back to the facility. The combustible gas monitors must be inspected and tested on a monthly basis as part of a preventive maintenance schedule and program.

The facility operator shall strictly adhere to the above codes and standards pertaining to operations, maintenance, and testing on an annual basis. Such maintenance procedures, inspections, and testing shall be properly documented with formal procedures, test sheets with sign-offs, and inspections by the local authority. The annual testing shall include the following tests at a minimum:

- (i) Verification of the operation of the combustible gas monitoring system;
- (ii) Pressure-testing of all natural gas or propane supply piping downstream of the gas to the facility. Pressure tests shall comply with NFPA 54 or 56, based on system pressure. The pressure test shall be witnessed by the local authority and signed off. The test report shall be submitted to the City within 5 days of completing the test.

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The Code Enforcement Officer and/or the Fire Chief or his designee shall conduct periodic inspections after issuing a certificate of occupancy or otherwise require the facility's operator to demonstrate that the applicable gas piping safety provisions are complied with, and may revoke said certificate of occupancy following notice and the operator's failure to cure and/or seek the imposition of penalties and other remedies available under applicable law. The facility's operator shall, within three days, report to the Code Enforcement Officer any release of fugitive emissions. Eff: 08/10/16

B. Odors.

(1) No land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground level of habitable elevation. For purposes of this section, an "offensive odor" is defined as the minimum concentration in air of a gas, vapor, or particulate matter that can be detected by the olfactory systems of the Odor Committee per the Rockland City Code, Chapter 10, Article III.

(2) Any proposed use which may emit odoriferous substances must include detailed plans to mitigate such to the Planning Board before the appropriate permit is granted

C. Lighting.

Statement of Purpose: Ensure appropriate outdoor lighting by addressing the issues of safety, efficiency, the environment and aesthetics.

(1) Definitions: For the purposes of this Section, terms used shall be defined as follows:

- (a) Authority having jurisdiction – The Planning Board or Code Enforcement Officer.
- (b) Direct Light – Light emitted directly from the lamp, off the reflector or reflector diffuser, through the refractor or diffuser lens, or from a luminaire.
- (c) Fixture – The assembly that houses the lamp(s), including but not limited to housing, mounting bracket or pole socket, lamp holder, ballast, reflector or mirror, and/or a refractor or lens.
- (d) Flood or Spot Luminaire – Any luminaire that incorporates a reflector or a refractor to concentrate the light output into a directed beam.
- (e) Indirect Lighting – Direct light that has been reflected or scattered off other surfaces.
- (f) Luminaire Height – The vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.
- (g) Lamp – The component of a luminaire that produces light.
- (h) Lumen – A unit of luminous flux. One foot-candle is equal to one lumen per square foot. For the purposes of this section, the lumen-output values shall be the initial lumen output ratings of a lamp.
- (i) Luminaire – A complete lighting system, including lamp(s) and/or fixture(s).
- (j) Outdoor Lighting – Nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.
- (k) Temporary Outdoor Lighting – Outdoor lighting in place for less than fourteen (14) days, with at least eighty (80) days passing before being used again.

(2) Regulations: Unless determined to be a safety hazard or in violation of any state or federal law, all outdoor lighting installed in the City of Rockland shall comply with this section, except for the following: lighting installed and maintained for public safety by Municipal, State or Federal government; approved signs; external illumination of flags; approved lighting for athletic fields; temporary outdoor lighting; holiday lighting; luminaires with a lamp or lamps rated at a total of 2,000 lumens or less.

- (a) No luminaire shall produce a stray, dazzling light or reflection onto neighboring residential properties, or onto any public road so as to impair the vision of any driver.
- (b) Luminaires shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent buildings. No luminaire shall emit any direct light above a its horizontal plane. The Planning Board may grant exceptions for lights that are aesthetically consistent with decorative streetlights and located on parcels adjacent to such streetlights.
- (c) No flood or spot luminaire of any lumen output rating shall be aimed, directed or focused toward any adjacent or nearby residential parcel.
- (d) Rather than leaving security lights on, the use of motion sensors is encouraged.
- (e) Direct or indirect illumination shall not exceed one-half (1/2) foot-candles upon abutting residential properties.
- (f) Unless otherwise approved by the authority having jurisdiction, luminaire height, including the base, shall not exceed twenty-five (25) feet in non-residential areas and fourteen (14) feet when adjacent to residential zones or neighborhoods. Exceptions may be granted only when it can be demonstrated that the intent of this section will still be substantially met.

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(3) Existing Non-Conforming Luminaires:

- (a) The continued use of non-conforming luminaires legally existing as of the effective date of this section shall be permitted unless determined to be a safety hazard or in violation of any State or Federal laws.
- (b) Non-conforming luminaires replaced or moved after the effective date of this section shall comply with the provisions of this section. Eff: 8/9/06

D. Noise and Vibration.

(1) Excessive noise and/or vibration at unreasonable hours shall be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume.

(2) No use in any zone may generate any ground transmitted vibration that is perceptible to the human sense of touch measured at the lot line of the complainant. Eff: 9/8/99

(3) The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by an activity shall be as established by the time period and type of zone listed below:

- (a) For all uses other than Grid-Scale Power Generation Facilities:

Zone	7 a.m. - 9 p.m.	9 p.m. - 7 a.m.	
Industrial, Business Park and WF1 thru WF5	75 dB	60 dB	
Rural Residential, Commercial 1, Commercial 2, Commercial 3, Plaza Commercial, Downtown	75 dB	55 dB	
Transitional Business 1, Transitional Business 2	65 dB	50 dB	
Transitional Business 3, Transitional Business 4, Neighborhood Commercial, Resort, Residential Zones	55 dB	45 dB	Eff: 08/10/16

(b) Noise from Grid-Scale Power Generation Facilities and Distributed Power Generation Facilities shall be measured utilizing the Octave Band Center Frequency of Measurement, as follows:

Octave Band Center Frequency of Measurement	Grid-Scale Power Generation Facilities	
	Property Line	Residential Zone Line ¹
Hz		
31.5	83 dBa	72 dBa
63	82 dBa	71 dBa
125	77 dBa	65 dBa
250	73 dBa	57 dBa
500	67 dBa	51 dBa
1000	61 dBa	45 dBa
2000	57 dBa	39 dBa
4000	53 dBa	34 dBa

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8000	50 dBa	32 dBa
Single Number Equivalent	70 dBA	55 dBA

¹ “Residential Zone Line” means the nearest point on the property line of the nearest parcel of land that is in a residential zone, in every direction.

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Sound pressure levels shall be measured on a sound level meter at all lot lines of the site, at a height of at least four (4) feet above the ground surface. Noise shall be measured with a sound level meter and frequency weighing network meeting the standards prescribed by the American National Standards Institute. The levels specified may be exceeded by the (10) decibels (dBs) for a single period, no longer than fifteen (15) minutes, in any one (1) day.

(4) Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise or vibration entering that zone.

(5) Noise or vibration created by construction and maintenance activities between 7 a.m. and 9 p.m. are exempt from the requirements of paragraphs (2) and (3) above. Construction activities on a site abutting any residential use between the hours of 9 p.m. of one day and 7 a.m. of the following day are prohibited, unless exempted pursuant to Subparagraph (7). Eff: 08/10/16

(6) These noise and vibration regulations are enforceable by law enforcement officers and by the Code Enforcement Officer, who may measure noise or vibration levels and who shall report documented violations to the police. For the purposes of enforcement, sounds exceeding the limits established in this section shall be deemed to constitute "loud and unreasonable noise" under Title 17-A M.R.S. § 501-A.

(7) The following uses and activities shall also be exempt from paragraphs (2) and (3) above:

- (a) the noise or vibration of safety signals, warning devices, emergency pressure relief valves, and any other emergency device;
- (b) normal traffic noise or vibration on public streets or noise or vibration created by airplanes, railroads, and farm or timber harvesting machinery;
- (c) noise or vibration created by refuse or solid waste collection, provided that the activity is conducted between 6 a.m. and 7 p.m.;
- (d) emergency construction or repair work by public utilities, at any hour;
- (e) noise or vibration created by any recreational activities which are permitted by law and for which a license or permit has been granted by the City including, but not limited to, parades, sporting events, concerts and firework displays;
- (f) vehicle and/or equipment involving municipal services at any hour;
- (g) road construction, reconstruction, and/or paving activities by or on behalf of the City of Rockland or the State of Maine, or as part of road restoration work following emergency construction or repair work by or on behalf of a public utility; Eff: 08/10/16
- (h) noise and vibration created by ordinary residential maintenance activities such as lawn mowing or snow throwing between the hours of 6 a.m. and 9 p.m.

E. Refuse Disposal.

All solid and liquid wastes shall be disposed of on a timely basis and in a manner provided for by Federal, State, and local regulation. All materials stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats, animals, or other vermin. All such wastes shall be stored so as to prevent access to or disposal by stray animals. This shall be accomplished by enclosures in containers, raising material above ground, separation of material, prevention of stagnant water, extermination procedures, or other means. Outdoor storage containers and areas shall be screened from public view. Walls, fencing, screening dense plant material, or a combination of material can be used to achieve this intent.

F. Water Quantity, Quality, and Discharge

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(1) Water Quantity: New electric power generation facilities and new processes serving existing facilities requiring a new or amended permit from the City, that are permitted or commenced on or after April 11, 2016, shall comply with the following standards affecting the quantity of water consumed at such facility:

- (a) Cooling, steam generation, and other processes or systems that utilize water for heat transfer in Grid-Scale Power Generation Facilities, Distributed Power Generation Facilities, or Community-Based Renewable Energy projects shall be designed and engineered to recycle or reuse at least 80% of the water drawn from the water company, well, aquifer, or other potable water supply source serving the facility. No such

minimum reuse or recycling requirement shall be imposed where the source water is processed municipal or other wastewater;

- (b) No single Community-Based Renewable Energy Project, Distributed Power Generation Facility, or Grid-Scale Power Generation Facility may draw or consume more than two hundred, fifty thousand (250,000) gallons of unprocessed source water per day for make-up water for electrical power generation; and
- (c) To assure the maintenance of sufficient flows for fire suppression and other uses throughout the year, including during periods of drought or reduced water supply, the operator of a facility located in or adjacent to the Rockland Industrial Park shall either (i) have demonstrated to the satisfaction of the permitting authority that there will be no reduction in the available supply and flows for such other uses, or (ii) provided for sufficient on-site water storage to meet the facility's requirements without reducing the water supply available for such other uses.

Operators of such facilities shall monitor, measure, and record their water usage, recycling, and discharge levels and, at least monthly, report the same to the Code Enforcement Officer.

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(2) Water Quality – Materials Storage:

(a) No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quality, obnoxiousness, toxicity, or temperature that runoff, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or use nuisances, such as objectionable shore deposits, floating or submerged debris, oil, scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.

(b) All above ground storage facilities fuel, chemical or industrial wastes, and biodegradable raw materials (excluding non-commercial compost heaps), shall be completely enclosed by an impervious dike, which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a twenty-five (25) year storm, so that such liquid shall not be able to spill or seep onto the ground surrounding the paved storage area. Storage tanks for home heating oil, and diesel fuel, not exceeding two hundred and seventy-five (275) gallons in size, are exempt from this requirement in situations where neither a high seasonal water table (within fifteen (15) inches of the surface) nor rapidly permeable sandy soils are involved.

(c) All below ground tanks must meet the standards of the Maine Department of Environmental Protection.

(3) Water Discharge: Water and wastewater discharges into any sanitary sewer must comply with the applicable national and state pretreatment standards, local discharge restrictions, and other limitations set forth in Chapter 14, Article IV. No person or entity may discharge any pollutant to any storm sewer without first obtaining a valid National Pollutant Discharge Elimination System ("NPDES") permit from the Environmental Protection Agency or Department of Environmental Protection for such discharge, and no such discharges may exceed the applicable limit(s) imposed by such NPDES permit. Eff: 08/10/16

G. Landscaping.

(1) General Landscape Standards

(a) Purpose.

The purpose of the following landscape standards is to protect the public welfare by assuring that:

- i. the landscape shall be preserved in its natural state insofar as practical, by minimizing tree removal and grade changes;
- ii. landscaping shall be designed to soften, screen, or enhance the physical design of structures to avoid the encroachment of the proposed use on abutting land uses;
- iii. plant materials are appropriate to Maine climatic conditions and the functions of the areas in which they are used;
- iv. plant materials are of a size and condition that will allow them to establish themselves, mature, and survive in a healthy and attractive manner;
- v. landscaping elements and the areas in which they are established are maintained in a clean, healthy, and attractive condition; and
- vi. landscaping is not placed in such a way as to pose a safety hazard and plantings are designed so as not to interfere with sight distance along a right-of-way and traffic safety.

(2) Types and Uses of Landscape Elements

For the purpose of this ordinance:

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(a) a canopy tree is a deciduous tree that reaches at least thirty-five (35) feet or more in height at maturity. Canopy trees are used to help create identity and establish the character of an area, to help define large spaces, and to provide shade in the hotter months of the year;

(b) an evergreen tree is a tree that reaches at least thirty-five (35) feet or more in height at maturity. Evergreen trees are used to create year-round interest with their dominant forms and color, to screen or direct views, act as windbreaks, and to provide a backdrop for other elements of a site. Where evergreen trees are installed in buffers, the installed heights should vary at a minimum from four (4) to twelve (12) feet to add greater variety and landscape interest;

(c) an understory tree reaches ten (10) feet to thirty-five (35) feet at maturity. Understory trees are used to provide eye-level landscaping features that help to scale down larger architectural and landscape elements, to define minor spaces, and to provide a variety of form, color, and accents to a site;

(d) shrubs have mature heights of two (2) to ten (10) feet. They are used to form physical and visual barriers, add seasonal interest and color, and help define the scale and location of buildings;

(e) miscellaneous plantings include ground covers, vines, perennials, annuals, bulbs, and other herbaceous material. They are used to add seasonal color, form patterns on the ground plane, and add to the humanizing of the site.

(3) Minimum Size Standards.

The plant materials defined in paragraph (2) shall meeting the following minimum size standards at time of installation, with calipers measured at diameter at four (4) feet above ground.

Canopy trees	1½" caliper
Evergreen trees	4' height
Understory trees	1½" caliper
Shrubs	18" - 24" height
Ground covers	2 year old plants

(4) Plant Selection.

Plant materials shall be selected for appearance, durability, and tolerance to air pollution; native trees and shrubs shall be planted whenever possible. All plantings required under this section shall be of a type and species appropriate for soil types and climatic conditions in Rockland.

(5) Amenities and Stone Walls.

Pools, sculptures, benches, and walkways may be used to complement plant materials. In cases where a traditional stone wall exists, it should be conserved or rebuilt in another location.

(6) Disturbed areas.

Where buffers are not required, all disturbed areas not to be used as parking or building footprint shall be planted to lawn or left in their natural vegetated state as a minimum requirement.

(7) Maximum Slope.

A maximum maintainable slope of three horizontal to one (3:1) vertical should be established for both the front and back of berms. Where room permits, a flat top area, four (4) feet in width should be provided.

(8) Fencing.

Fencing materials should complement the architectural style of the buildings of the lot upon which they are erected. Fences shall not be used in locations that will obscure views of the water from public streets.

(9) Maintenance.

(a) All plantings and bufferyards shall be maintained in a good and healthy condition. The Maine Erosion and Sedimentation Control Handbook for Construction - Vegetative Measures, developed by the Maine Department of Environmental Protection shall be used as a guide. Fencing and berms shall be durable and properly maintained at all times by the owner. All landscaping elements shall be so located with respect to property boundaries to allow access for maintenance on both sides without intruding upon abutting properties.

(b) Plants required or recommended by this subsection or plants that are part of an approved site plan shall be replaced within one (1) growing season.

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(10) Parking Areas.

Landscaping shall be designed to accommodate attractive and safe pedestrian circulation patterns, and allow good visibility of oncoming pedestrians and vehicles throughout the parking area.

(a) Landscaping Within the Parking Areas.

Landscaping areas shall be provided within parking areas to provide shade and visual relief from broad expanses of pavement and to channelize and separate areas for pedestrian and vehicular circulation.

i. In addition to required perimeter landscaping, at least five (5) percent of the gross area of all parking lots with twelve (12) or more parking spaces shall be landscaped. Existing parking lots shall be exempt from this requirement although landscaping should be provided to the greatest extent possible.

ii. The recommended landscaping within the parking area should include a minimum of two (2) canopy trees, one (1) understory tree, and five (5) shrubs for every twelve (12) parking spaces or fraction thereof. For every mature canopy tree that exists on the proposed site of a parking lot prior to the parking lot's development and that is retained and integrated into

the parking lot's design, the number of new canopy or understory trees may be reduced by two (2). If any such retained tree dies within five (5) years of the date of the building use permit issued for the development, it shall be replaced with two (2) similar trees meeting the standards of this ordinance.

iii. The landscaping shall be:

(i) in planting areas at least ten (10) feet wide to accommodate canopy and/or understory trees. Planting areas should be located to demarcate the ends of parking rows, avoiding long rows of parked cars, and to channel pedestrian circulation. Planting areas should be edged with a six (6) inch continuous vertical curb or wheel stops to prevent vehicles from overhanging into planting areas and designed to allow efficient snow removal. Planting areas shall be oriented to maximize pedestrian safety and convenience;

(ii) located to break up parking areas into smaller areas of no more than fifty (50) spaces each;

(iii) designed to accommodate snow plowing and storage without damage to the plants and trees.

iv. Landscaping shall be provided except in the case of automobile drop-off loading area, or a vehicular entry in to a building, in order to enhance the appearance of the site and avoid impact to occupants from exhaust fumes and noise. The landscaped area should be no less than fifteen (15) feet deep from all buildings, except in commercial and industrial zones where the depth need be no more than four (4) feet, provided that the building footprint is less than twenty-five hundred (2,500) square feet. The area shall be landscaped with shrubs, groundcover, and trees where appropriate, and may include a walkway if the area if fifteen (15) feet deep of more.

v. To accommodate circumstances where the recommended landscaping may not fit site conditions, an applicant may submit an alternative plan for the siting of landscaped areas provided that an equal or greater amount of landscaped area is provided than would be otherwise required.

(b) Perimeter Landscaping.

Parking lots shall be landscaped adjacent to other uses and rights-of-way with trees, shrubs, fencing, and earth berming to avoid the impact of glare, headlights, parking lot lights, noise, and dust and to protect and enhance visual character as follows:

i. Abutting a public right-of-way:

(i) Where a parking area that includes six (6) or more parking spaces abuts a public right-of-way, a continuous landscaped strip shall be established between the right-of-way boundary line and the parking area and shall be maintained in good condition. It may be interrupted only by a driveway meeting the standards of this ordinance. In areas other than the Downtown, Commercial 3, Plaza Commercial, Business Park, and Rural Residential 1 zones, when the parking area abuts an arterial or collector street, the perimeter planting shall be at least ten (10) feet wide and should be planted with at least three (3) canopy trees, four (4) understory trees, thirty (30) shrubs, and six (6) evergreen trees per one hundred (100) linear feet of street frontage or fraction thereof exclusive of the width of the driveway. When it abuts any other right-of-way, it shall be at least six (6) feet wide and should be planted with at least two (2) canopy trees, two (2) understory trees, twenty (20) shrubs, and four (4) evergreen trees per one hundred (100) linear feet of street frontage exclusive of the width of the driveway. The number of trees for frontages less than one hundred (100) feet shall be in proportion to the above specifications. In the Plaza Commercial, Business Park, and Rural Residential 1 zones the landscaped strip shall be at least ten (10) feet wide and should be planted with at least three (3) canopy trees, six (6) evergreen trees, four (4) understory trees, and thirty (30) shrubs per one hundred (100) linear feet of length exclusive of the width of the driveway. The number of trees for frontages of less than one hundred (100) feet shall be in proportion to the above specifications. The plantings shall be designed and located so as not to interfere with sight distance along the right-of-way and traffic safety.

(ii) In the Downtown Zone, the landscaped strip shall be at least six (6) feet wide and should be planted with at least three (3) canopy or evergreen trees, four (4) understory trees, and twenty (20) shrubs per one hundred (100) linear feet of street frontage exclusive of the width of the driveway. The number of trees for frontages of less than one hundred (100) feet shall be in proportion to the above specifications.

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ii. Where a commercial parking facility or a parking area serving a nonresidential use abuts a residential zone or a lot wholly or partially in residential use, a continuous landscaped strip shall be established between the adjoining zone or use and the parking area at least ten (10) feet wide and shall be maintained in good condition. It may be interrupted only by a single pedestrian pathway at each abutting property line no more than five (5) feet wide. The landscape strip shall be planted with at least three (3) canopy trees, four (4) understory trees, thirty (30) shrubs and six (6) evergreen trees per one hundred (100) linear feet of frontage. The number of trees for frontage less than one hundred (100) feet shall be in proportion to the above specifications. For every mature canopy or evergreen tree existing in the area prior to construction of the parking lot and preserved within the buffer area, the required number of new trees may be reduced by two (2). If any such retained tree dies within five (5) years of the date of the building permit issued for the development, it shall be replaced with two (2) similar trees meeting the standard of this ordinance. As an alternative, a dense hedge or screen composed of at least 2/3 evergreen plantings four (4) feet or more in height at the time of planting of a type which will reach six (6) feet or more in height within five (5) years may be substituted. If the land is bermed to a height of two (2) feet or more, the height of the plantings may be adjusted.

H. Buffering and Screening

(1) Purpose

The following buffer standards are intended to protect the public welfare. Buffers of plantings, berms, and/or walls, fences or natural features should:

- (a) separate conflicting land uses, zones or activities from one another;
- (b) create visual barriers which obscure buildings, signs, headlights, glare, vehicles or other modifications of the landscape;
- (c) reduce the impact of noise;
- (d) reduce air pollution, wind, dust, dirt, and litter and contribute to healthy air and water quality;
- (e) help prevent undesirable access to dangerous areas; and
- (f) direct the eye to more attractive views in keeping with the planned character of the City.

(2) General Standards

(a) Unless otherwise stated, buffer requirements shall apply to perimeter property lines of projects and along arterial and collector streets in the Commercial 1, Commercial 2, Commercial 3, Plaza Commercial, Industrial, Business Park, and Rural Residential 1 zones, and in master planned developments. The perimeter property lines of projects shall be considered to be the perimeter lines of:

- i. business or industrial parks;
- ii. master planned residential, commercial, or mixed use developments;
- iii. single commercial, business, or industrial developments not associated with a subdivision or park or master planned development.

(b) Natural features shall be maintained whenever possible to meet buffer requirements. When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops, do not exist or are insufficient to provide an effective buffer, landscaped buffers shall be created. Indigenous plantings shall be used whenever possible.

(c) Although this ordinance does not prohibit landscaping within a street or street right-of-way, no part of the right-of-way shall be used to satisfy buffer requirements.

(d) Landscaping and Maintenance

See section G above.

(3) Multifamily and Nonresidential Uses Abutting a Residential Zone.

(a) The required side and back yards of nonresidential uses that abut properties in residential zones, or of multifamily uses that abut properties in single family residential use, shall be retained in their natural vegetated state to the maximum extent possible to provide a visual screen between uses. The buffer may be part of the setback.

(b) Where natural buffering does not exist, or is not possible to be retained, or is not sufficient to achieve an effective, complete visual screen, the required side and back yards shall be landscaped to provide a visual screen between uses. It may be interrupted only by a single pedestrian pathway at each abutting property line no more than five (5) feet wide. In areas other than the Industrial, Downtown, Transitional Business 3, Commercial 3, Plaza Commercial, Business Park, and Rural Residential zones, the landscaped strip shall be at least ten (10) feet wide and shall be planted with at least three (3) canopy trees and twelve (12) evergreen trees, four (4) understory trees, and thirty (30) shrubs per one hundred (100) linear feet of length exclusive of the width of the pathway. The number of trees for frontages less than one hundred (100) feet shall be in proportion to the above specifications.

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For uses that are subject to site plan review in the Industrial Park, the landscaped strip at sites approved or substantially reconstructed after April 11, 2016, shall be at least ten feet wide and shall be planted with at least one evergreen tree such as Norway Spruce every ten feet to create a continuous, dense screen and maintained and not pruned so as to retain such screen from the ground to the peaks of the trees. Eff: 08/10/16

In the Downtown Zone, the landscaped strip shall be at least six (6) feet wide and shall be planted with at least three (3) canopy evergreen trees, four (4) understory trees and fifteen (15) shrubs per one hundred (100) linear feet of length exclusive of the width of the pathway. The number of trees for frontages less than one hundred (100) feet shall be in proportion to the above specifications.

In the Transitional Business 3, Commercial 3, Plaza Commercial, Business Park, and Rural Residential zones, the landscaped strip shall be at least thirty (30) feet wide and shall be planted with at least three (3) canopy trees, twelve (12) evergreen trees, four (4) understory trees, and thirty (30) shrubs per one hundred (100) linear feet of length exclusive of the width of the pathway. The number of trees for frontages of less than one hundred (100) feet shall be in proportion with the above specifications.

For every mature canopy or evergreen tree existing prior to development and retained within the buffer area, the required number of new trees may be reduced by two (2). If any such retained tree dies within five (5) years of the date of

the building permit issued for the development, it shall be replaced by two (2) similar trees meeting the standard of this ordinance.

(4) Front Yards of Multifamily and Nonresidential Uses.

The required front yards of multifamily and nonresidential uses shall be maintained in a landscaped condition.

(5) Exposed Areas and Areas for Commercial Outdoor Storage.

Exposed machinery installation, sand and gravel extraction operations, and areas for the storage and collection of discarded or uninspected vehicles, auto parts, metal or any other articles of salvage or refuse, shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on surrounding properties. At a minimum, the screening shall include dense evergreen hedges, four (4) feet or more in height at the time of planting, of a type that shall reach six (6) feet or more in height within five (5) years. If the land is bermed to a height of two (2) feet or more, the height of plantings may be adjusted. All such plantings shall be maintained as an effective, complete visual screen. Where a potential safety hazard to children would be likely to arise, physical barriers sufficient to prevent small children from entering the premises shall be provided and be provided and be maintained in good condition.

(6) Areas for Outdoor Sales and Automobile Repair in the Rural Residential 1 Zone.

Areas for outdoor sales and automobile repair in the Rural Residential 1 Zone shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on surrounding properties. At a minimum, the screening shall include a dense evergreen hedge, four (4) feet or more in height at the time of planting, of a type that will reach six (6) feet or more in height within five (5) years. If the land is bermed to a height of two (2) feet or more the height of plantings may be adjusted. All such plantings shall be maintained as an effective, complete, visual screen. Where a potential safety hazard to children would be likely to arise, physical barriers sufficient to prevent small children from entering the premises shall be provided and be maintained in good condition.

I. Storage of Materials and Machinery.

(1) Bulk Storage; Junkyards. All outside storage areas, areas used for the storage or collection of discarded automobiles, auto parts, metals, and any other articles of salvage or refuse shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their impact on other land uses and properties in the area. All materials stored outdoors shall be screened from public view. Walls, fencing, screening dense plant material, or a combination of material can be used to achieve this intent.

(2) Attractive Nuisances. Where a potential safety hazard to children would likely arise, physical barriers sufficient to prevent small children from entering the premises shall be provided and maintained in good condition.

(3) Fuels And Hazardous Materials. Above-ground fuel (including, without limitation, propane, liquefied natural gas, compressed gas, oil or other petroleum product, and biomass feedstock or products) storage, chemical storage (including without limitation ammonia, urea, or other compounds utilized for air emissions treatment, process water treatment, or cooling water treatment), hazardous materials storage areas, tanks, or other facilities serving any commercial or industrial use, and processes utilizing any hazardous materials shall be (a) adequately screened so as to prohibit public access and provide visual and safety barriers, (b) included in an emergency response plan for the facility that is approved by the Fire Chief or his designee, and (c) subject to periodic inspection by the Fire Chief or his designee. Chapter 7, Article II or other applicable provision of law. Eff: 08/10/16

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J. Preservation of Water Views.

Development in Transitional Business 2 and Transitional Business 3 zones shall preserve water views to the maximum extent feasible. In the Transitional Business 3 zone, a fifty (50) foot wide space between buildings at least every one hundred fifty (150) feet shall be provided to afford views of the waterfront from public rights-of-way.

K. Transportation, Traffic, and Curb Cuts.

In the Commercial 1, Commercial 2, Commercial 3, Plaza Commercial, Transitional Business 1, Transitional Business 2, Transitional Business 3, Neighborhood Commercial, Business Park, and Industrial zones:

(1) Development proposals shall include a program identifying all proposed traffic controls, parking areas, interior traffic circulation and traffic interface with public highways and pedestrian and bicycle safety.

The Program shall demonstrate that additional traffic generated by the project itself can be accommodated on existing public highways or that satisfactory improvements, if necessary, will be made at the developer's cost. The Planning

Board may require a Traffic Impact Study also at the developer's expense. Where traffic studies indicate, deceleration lanes and/or turning lanes will be provided.

Development proposals shall discourage conventional strip development by the use of centers or clusters of development, shared accessways, and buffer zones.

(2) Whenever possible, development proposals shall use access from existing side streets where they abut the premises on secondary street frontage in cases where they will not create a hazardous nuisance to those sending streets. Where this access is not available, a single accessway or curb-cut should provide access to the entire parcel. All lots from the same original parcel should be accessed from this central point.

(3) On or after April 11, 2016, prior to permitting new land uses that are to utilize as fuel or for other purposes compressed natural gas ("CNG"), biomass (*e.g.*, wood chips, wood pellets, sawdust, straw, or other bulk organic matter), or municipal or other solid waste transported to the site by ten or more trucks each having a gross vehicle weight rating ("GVWR") of 60,000 lbs. or more per day, the review authority shall require the applicant to prepare and submit a traffic study acceptable to such review authority that provides for the mandatory routing of such delivery trucks via routes and at times of day that minimize their impact on neighborhoods and roads. Eff: 08/10/16

L. Inspection & Maintenance Programs.

Developers or Operators of Grid-Scale or Distributed Power Generation Facilities shall prepare, obtain City of Rockland approval of, and comply with an Inspection & Maintenance Program for the facility. Each such program shall include, at minimum:

- (1) Annual inspections, and documentation of needed and completed repairs;
- (2) A maintenance schedule, identifying elements requiring routine maintenance, the maintenance to be performed, and the frequency of such maintenance activities;
- (3) Noise testing prior to and at least annually after obtaining a Certificate of Occupancy for the facility, and upon request by the Code Enforcement Officer;
- (4) Annual submittal to the Code Enforcement Officer of proof of ~~Annual testing to assure~~ continued compliance with federal or state air emissions license(s) or permit(s) and annual submittal of a report of the continuance of any air emissions reductions required under Subsection 19-316(A)(2), when applicable;
- (5) Cooling tower and chemical tower treatment maintenance practices;
- (6) Annual pressure testing and inspections of natural gas or propane supply piping, in the presence of the Fire Chief or his designee; and
- (7) All other testing and inspections required under Chapter 19 or applicable law or regulation.

In the event of non-compliance with any required component of the Inspection & Maintenance Program, the Code Enforcement Officer shall give notice of such default and, no sooner than ten days following such notice, may revoke the operator's certificate of occupancy upon the operator's failure to cure said non-compliance and/or seek the imposition of penalties and other remedies available under applicable law.

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M. Exemptions.

These performance standards shall not apply to any "emergency stationary reciprocating internal combustion engine ("RICE")" as defined in 20 C.F.R. Part 63, Subpart ZZZZ, Sec. 63.6675. Eff: 08/10/16

Sec. 19-317 Design Standards

A. Design Standards Of General Applicability.

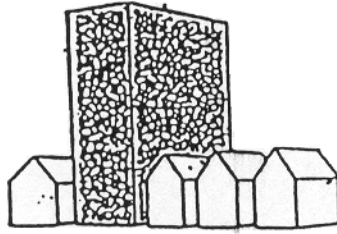
1. General Standards: To protect, enhance, and perpetuate the City's historic, cultural, and architectural heritage and to enhance the City's attraction to residents, and visitors and to serve as a support and stimulus to business and industry, construction of a new building or structure or addition to an existing structure shall be of such design, form, proportion, mass, configuration, building materials, texture, color, and location on a lot as will be compatible with existing buildings or blocks of buildings in the area and with streets and open space to which it is visually related and in keeping with the area. In areas of the City where structures have little or no historic value, new construction or renovations shall enhance the area rather than replicate existing structures. These standards shall not apply to structures in the Industrial Zone, Downtown Zone, or Tillson Avenue Area Overlay Zone, (The Downtown and Tillson Avenue Area Overlay Zones are subject to design standards set forth in Sec. 19-317(B)). In areas of the City that are rural in nature and have no clear pattern or style of construction, these standards shall be used as guidelines for future development to achieve visual compatibility. Throughout these standards

compatibility is not meant to mean uniformity. Residential new construction or renovations that do not require Planning Board approval under the provisions of Chapter 16 of this Code shall not require Planning Board review under the provisions of this Ordinance unless the Code Enforcement Officer denies a building permit because of the provisions herein.

2. Special Standards: New construction or renovations shall be visually compatible or superior in terms of:

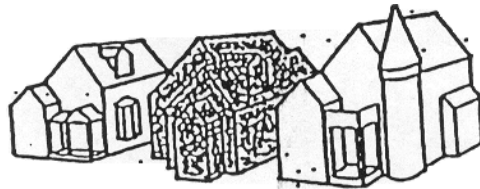
A. Height. The height of the proposed building or additions to existing buildings relate the overall height of new construction to that of neighboring structures. As a general rule, construct new buildings to a height comparable to the average height of existing buildings from the historic period on the same side of and across the street.

Avoid new construction that greatly varies in height (too high or too low) from older buildings in the vicinity.

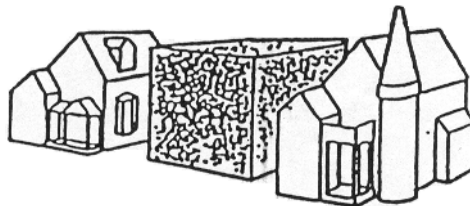


B. Proportion of Buildings Front Facade and Massing. The relationship of the width of the building to the height of the front elevation should be visually compatible with buildings, structures, and open spaces where it is visually related.

In reviewing a proposed new building or structure, or additions to existing buildings, break up uninteresting box-like forms into smaller, varied masses comparable to the historic structures or blocks of buildings from the historic period. Variety of form and massing are often elements essential to the character of the historic streetscape.



Avoid single, monolithic forms that are not relieved by variations in massing. Box-like facades and forms are intrusive when placed in a streetscape of older buildings that have varied massing and facade articulation.



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C. Relationship of Solids to Voids in Front Facades. The relationship of solids to voids in the front facade of a building should be visually compatible with that of buildings to which it is visually related.

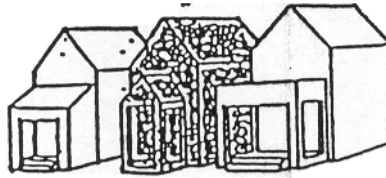
In reviewing a proposed new building or structure or addition to an existing building, respect the recurrent alternation of wall areas with door and window elements in the facade. Also consider the width-to-height ratio of bays in the facade. The placement of openings with respect to the facade's overall composition, symmetry, or balanced asymmetry should be studied.



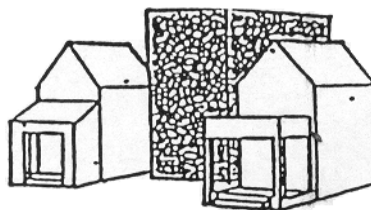
D. Spacing of Buildings on Streets. The relationship of the building to the open space between it and adjoining buildings should be visually compatible with those of buildings to which it is visually related when zoning regulations permit.

E. Entrance and/or Porch Projection (Setback). The relationship of entrance and porch projections to sidewalks and streets should be visually compatible with those of buildings to which it is visually related.

In reviewing a proposed new building or structure or an addition to an existing building, maintain the historic facade lines of streetscapes by locating front walls of new buildings in the same plane as the facades of neighboring buildings when zoning regulations permit. If exceptions are made, buildings should be set back into the lot rather than closer to the street. If existing setbacks vary, new buildings should conform to historic siting patterns.



Avoid violating the existing setback pattern by placing new buildings in front of or behind the historic facade. Avoid placing buildings at odd angles to the street, unless in an area where diverse siting exists, even if proper setback is maintained.



F. Materials, Textures, and Color. The relationship of materials, textures, and color of the facade of a building should be visually compatible either with that of the predominant materials used in the buildings to which it is visually related or compatible with materials traditionally used in the City.

G. Roof Shapes. The roof shape of a building should be visually compatible with that of is visually related. When no clear pattern exists, a roof pitch of 5/12 or steeper should be used, designed so as to appear to have a pitched roof.

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In reviewing a proposed new building or structure, or an addition to an existing building, relate the roof forms of the new building to those found in the area. Although not entirely necessary, duplication of the existing or traditional roof shapes, pitches, and materials in new construction is one way of making new structures more visually compatible.

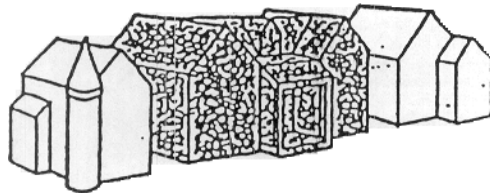


Avoid introducing roof shapes, pitches, or materials not traditionally used in the area.

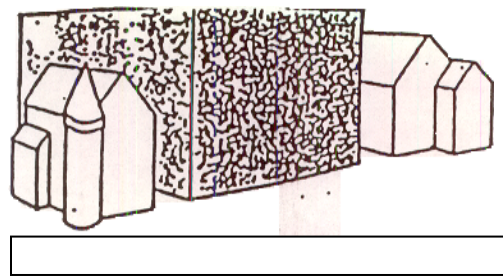


H. Scale of Buildings. The size of the building, the mass of the building in relation to open spaces, the window, door openings, porches, and balconies should be visually compatible with those characteristics of buildings and spaces to which it is visually related.

In reviewing a proposed new building or structure, or addition to an existing building, relate the size and proportions of new structures to the scale of neighboring buildings. Although much larger than its neighbors in terms of square footage, the building shown maintains the same scale and rhythm as the existing buildings.



Avoid buildings that in height, width, or massing violate the existing scale of the area. The new building shown here disrupts the scale and rhythm of the streetscape, although it might be appropriate in a different location.



I. Directional Expression of Front Elevation. A building should be visually compatible with the building, squares, and places to which it is visually related in its directional character, whether this is vertical character, horizontal character, or non-directional character. This provision is not intended to apply to residential subdivisions covered in Chapter 16 of this Code.

In reviewing a proposed new building or structure, or addition to an existing building, relate the vertical, horizontal, or non-directional facade character of new buildings to the predominant directional expression of nearby buildings. Horizontal buildings can be made to relate to the more vertical neighboring structures by breaking the facade into smaller masses that conform to the primary expression of the streetscape as shown below.

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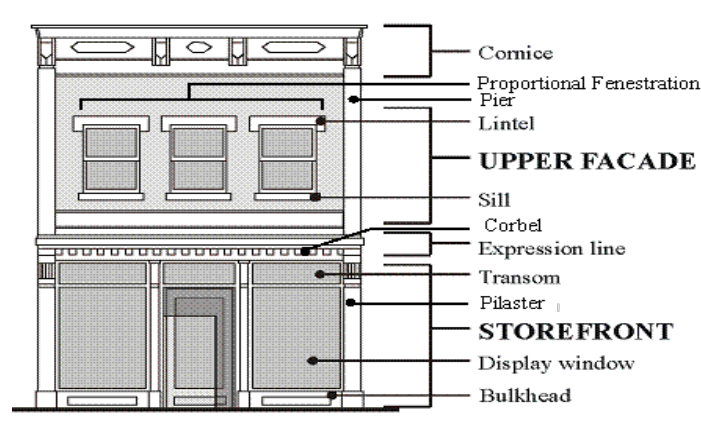


3. Applicability; Alternate Proposals: The above Design Standards shall be adhered to within all zones within the City except in the Industrial Zone, Downtown Zone, or Tillson Avenue Area Overlay Zone, however, that alternative proposals of exceptional design merit that meet the spirit and intent of these Standards may be accepted by the Planning Board. Eff: 9/10/97

B. Minimum Architectural Design Standards – Downtown Zone And Tillson Avenue Area Overlay Zone.

1. Policy and Purpose. The 2005 Tillson District & Waterfront Redevelopment Plan called for public infrastructure improvements and zoning changes to foster the expansion of the downtown into the Tillson and Waterfront area, including the establishment of urban design standards to ensure both the preservation of the working waterfront on Crockett’s Point, and the “New England character” of an extended Downtown. The City finds that requiring consistently high quality design and adherence to the following design standards will best ensure these goals, economic development in the City generally, and the protection and enhancement of the value and redevelopment potential of property subject to the standards. These design standards are intended to achieve, in an extended Downtown and redeveloped waterfront, a balance between historic architecture and a differentiated, modern built environment.

2. Terminology.



[Diagram And Examples Are For Illustrative Purposes Only.]

3. Applicability. No building or structure may be constructed or substantially renovated in the Downtown Zone or Tillson Avenue Area Overlay Zone unless the Planning Board first determines that the architectural plans and elevations for such building satisfy the architectural design standards set forth in this subsection; provided, however, that in the Tillson Avenue Overlay Zone the architectural design standards set forth in this section shall not apply to a building the primary use of which is proposed for one or more functionally water dependent uses. Nor may any building or structure that is to be converted from a primary, functionally water-dependent use to another use be substantially rehabilitated or renovated in the Downtown Zone or Tillson Avenue Area Overlay Zone without such Planning Board determination. The Code Enforcement Officer shall not issue any building permit for a building subject to such design standards without such Planning Board approval, and shall not issue a certificate of occupancy that does not comply with the plans and elevations upon which the Planning Board based its approval.

For the purposes of this subsection, “substantially renovated” shall mean additions to or the reconstruction or repair of a structure at a cost, over a ten year period, of 75% or more of the pre-construction assessed value of the structure. “Substantially renovated” shall also include the repair, reconstruction, or replacement of a structure that is removed, damaged, or destroyed by more than fifty percent (50%) of its assessed value by fire, flood, storm, or other hazard, risk, loss, or act not at the volition or under the control of the owner or occupant of such structure.

4. Procedures and Meetings. Upon the receipt of any application for site plan approval or a building permit for a building or structure subject to the requirements of this section, the Code Enforcement Office shall notify the Chair of the Planning Board and schedule the application for review by the Planning Board, which review shall be performed in conjunction with site plan review, where applicable. The applicant shall provide the Code Enforcement Office with plans and/or elevations depicting the architectural features and materials proposed for the facades of the building, and details of specific architectural, lighting, landscaping, and other pertinent features that the applicant represents satisfies these architectural design standards, together with any and all other plans and materials required for site plan review or a building permit, as may be applicable.

5. Findings. The Planning Board shall approve an application received pursuant to this section unless the Board finds that the building or structure would, if erected or substantially renovated, result in a marked absence of architectural elements characteristic of the predominant architecture of structures on Main Street between Park and Lindsey Street constructed prior to 1941, including but not limited to street and sidewalk orientation of the structure; functional pedestrian entrances from adjacent public ways; horizontal expression lines such as cornices, window and door sills and lintels, story expression lines, transom windows, and bulkheads; vertical expression lines such as pilasters, piers, and corbels; and the size and proportional arrangement of doorways and fenestration. These design standards are intended to require the use of traditional architectural elements, but not to impose any particular architectural style or to foreclose modern design that invokes, but does not mimic, the historic Downtown architecture in Rockland. Eff: 04/13/11

ARTICLE IV Comprehensive Planning

Sec. 19-401 Comprehensive Planning

The Rockland Comprehensive Plan is hereby established to be maintained and periodically updated by Ordinance as a document physically separate from the Rockland Code for reasons of convenience. Eff: 11/19/85

Sec. 19-402 Establishment of Commission

A Comprehensive Planning Commission is hereby established pursuant to Title 30-A, §§ 4324-4327 of the Maine Revised Statutes.

Sec. 19-403 Organization; Term

The Comprehensive Planning Commission shall consist of seven (7) members who shall be appointed by the Mayor and confirmed by the City Council. The Mayor (or designee) and the City Manager (or designee) shall serve as ex-officio non-voting members of the Commission. The Commission shall annually, in January of each year, elect its Chair and secretary from among its members. Should the position of Chair become vacant during such year, the Commission shall elect another of its member to serve as Chair for the remainder of that year. The term of the members shall be three (3) years, except that of the seven (7) first appointed, two (2) shall be appointed for a term of one (1) year, two (2) for two (2) years, and three (3) for three (3) years. Such terms shall expire December 31 of each year as designated. As of the effective date of this section, no member shall be elected as chair of the Commission more than six (6) consecutive times; and as of the effective date of this section no member shall serve more than five (5) consecutive terms on the Commission. Service on the Commission prior to the effective date of this section shall not be included in such calculations. The Secretary shall be responsible for taking minutes at each meeting of the Commission, and shall forward copies of the minutes to the City Manager for distribution once such minutes are accepted by the Commission. There shall also be two (2) alternate members of the Commission who shall serve a term of three (3) years. The alternate members shall attend all meetings of the Commission, may participate in any discussions or hearings, but shall only vote on Commission matters if a full quorum is not present at such meeting. When a vacancy occurs on the Commission, an alternate member may be appointed to fill such vacancy. Eff: 11/09/18

Sec. 19-404 Duties of Comprehensive Planning Commission

The Comprehensive Planning Commission shall prepare a comprehensive master plan for adoption by the City Council pursuant to Title 30-A, §§ 4324-4327 of the Maine Revised Statutes.

After the City Council had adopted a master plan as provided in this Section, no regulation, official map, or zoning or other plan shall be enacted, established, or amended, under the provisions of Sections 19-104 to 19-106 inclusive, and no plat, street, or way shall be approved, under such provisions, until the Comprehensive Planning Commission shall have reported its recommendations in regard thereto, and no public building, structure (except as authorized under Ch. 19, Sec. 19-401 Revised Statutes of Maine), utility or roadway, or street, way, park, or other public land shall be authorized, modified in location or extent until the Comprehensive Planning Commission shall have reported its recommendations in regard to the location and extent thereof. This report shall be made only after the Commission has made a careful investigation and is convinced that the plans or regulations recommended by it will fit in with the comprehensive master plan for the development of the City. If the Commission fails to report within thirty (30) days after submission to it of a proposed action, it shall be deemed to have approved such action.

After the appointment of a City Engineer, no plat shall be approved under the provisions of Section 19-105 until the Engineer has had opportunity to report thereon in regard to grades, feasibility of drainage and sewerage, and character of road surfacing. Eff: 05/09/07

Sec. 19-405 Communications

It shall be the responsibility of the Chairman of the Comprehensive Planning Commission and the Chairman of the Planning Board to maintain regular communications between the Board and the Commission. The Board and the Commission shall meet together whenever their Chairmen shall deem necessary and shall meet together to consider final drafts of any completely new Comprehensive Plan.

State Law Reference: 30-A M.R.S., §§ 4301 et seq. Eff: 4/10/96

ARTICLE V Energy Advisory Committee

Sec. 19-501 Establishment of Committee

An Energy Advisory Committee is hereby established to advise the City Council and City Manager on matters pertaining to energy sources, energy consumption, energy efficiency, and related environmental issues in the City of Rockland.

Sec. 19-502 Organization; Term

The Energy Advisory Committee shall consist of seven (7) members who shall be appointed by the Mayor and confirmed by the City Council. The Mayor and the City Manager shall serve as ex-officio non-voting members of the Committee. The Committee shall annually, in January of each year, elect its Chair and Secretary from among its members. The term of the

members shall be three (3) years, except that of the seven (7) first appointed, two (2) shall be appointed for a term of one (1) year, two (2) for two (2) years, and three (3) for three (3) years. There shall also be two (2) alternate members of the Committee who shall serve a term of three (3) years. The alternate members shall attend all meetings of the Committee, may participate in any discussions or hearings, but shall only vote on Committee matters if a full quorum is not present at such meeting. When a vacancy occurs on the Committee, an alternate member may be appointed to fill such vacancy. As of the effective date of this section, no member shall be elected as Chair of the Committee more than six (6) consecutive times; and as of the effective date of this section, no member shall serve more than five (5) consecutive terms on the Committee. Service on the Committee prior to the effective date of this section shall not be included in such calculations. The Secretary shall be responsible for taking minutes at each meeting of the Committee, and shall forward copies of the minutes to the City Council Manager for appropriate distribution once such minutes are accepted by the Committee. Eff: 11/09/18

Sec. 19-503 Duties of the Energy Advisory Committee

The Energy Advisory Committee is charged with developing and recommending to the City Council for review and possible implementation a Municipal Energy Policy that would serve as a guide for City government. The goals of this City Energy Policy shall include: (1) identifying cost effective options for reducing energy use within city government; (2) insuring that long term energy use and related energy cost are factored into city policy, planning and purchasing decisions; (3) identifying places within City Government where the use of alternative energy technologies should be explored; and (4) identify places where City actions may directly impact energy use in the community.

The Committee shall follow any energy related policy adopted by the City Council, report back to the Council on those policies' effectiveness and recommend changes where needed. Working from energy use and energy cost data provided to the Committee in August of each year by the Finance Director, the Energy Advisory Committee shall report to the Council in December of each year on City energy use in the prior fiscal year.

In addition, the Committee is charged with researching potential projects suggested by the City Council, City Manager and/or City Staff and then making recommendations to Council on ways City government can encourage and support energy efficiency, environmental conservation and sustainable energy development in all segments of the Rockland community. In fulfilling this task, the Committee's responsibilities may include, but are not limited to, providing community education on any successful energy initiatives within City government that could also benefit the business community. Likewise, the committee shall work with City staff to ensure educational materials on any energy conservation programs for residential or business properties through programs like the Efficiency Maine Trust are readily available to members of the community who might benefit.

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The Energy Committee shall also serve as the advisory committee for any energy, or energy-related environmental grants the City may apply for and/or receive. Eff: 11/12/10

ARTICLE VI Floodplain Management

The Rockland Floodplain Management Ordinance is hereby established to be maintained and periodically updated by Ordinance as a document physically separate from the Rockland Code for reasons of convenience. Eff: 8/9/99

Chapter 20

Historic Preservation Ordinance

Article I Purpose and Definitions

Sections

- 20-101 Purpose
- 20-102 Definitions

Article II Historic Preservation Commission

Sections

- 20-201 Creation
- 20-202 Terms of Office
- 20-203 Training
- 20-204 Officers
- 20-205 Duties

Article III Designation of Local Historic Districts and Landmarks

Sections

- 20-301 Criteria for Designation
- 20-302 Designation Procedures
- 20-303 Application for Designation
- 20-304 Public Hearing
- 20-305 Designation Amendment
- 20-306 Notification of Local Landmark or Local Historic District Status upon Sale of Designated Properties
- 20-307 Designated Local Historic Districts and Local Landmarks

Article IV Historic Preservation Actions and Procedures

- 20-401 Publication of Historic Preservation Design Manual
- 20-402 Review of Alterations to Designated Properties
- 20-403 Review Process
- 20-404 Application Content
- 20-405 Action of the Historic Preservation Commission
- 20-406 New Construction Within a Local Historic District
- 20-407 Demolition or Removal of a Local Landmark or Structure Within a Local Historic District
- 20-408 Adjustment to Building Code Requirements
- 20-409 Tax Incentives
- 20-410 Fines

Chapter 20

Historic Preservation Ordinance

Article I Purpose and Definitions

Sec. 20-101 Purpose

The purpose of this ordinance is to preserve and protect historic buildings and structures in Rockland in order to promote Rockland's history and historic appearance and benefit the general welfare; to educate the public about the significance of Rockland's historic architecture; and to provide guidance to owners of historic properties as they plan for rehabilitation, demolition, or moving of those structures.

By October of 2020, the Rockland City Council shall re-examine this ordinance to determine whether to strengthen it to make Rockland eligible to be a Certified Local Government.

Sec. 20-102 Definitions

For the purpose of this ordinance, certain words and phrases are defined as follows:

Architectural Features: Any features, such as windows, doors, dormers, roof lines, or trim that contribute to a structure's distinctive architectural style.

Building: An assemblage of architectural elements, usually walled and roofed, constructed for permanent use as a dwelling, shelter, place for commercial purposes, or gathering site for general human activity.

Certified Local Government: A Certified Local Government is a government that has adopted a historic preservation ordinance which creates a historic preservation commission and implements a formal review process that meets state and federal requirements and is approved by the Maine Historic Preservation Commission and the National Park Service, making it eligible for state and federal grants to support historic preservation.

Contributing Property: A contributing property is a building or structure that by age, location, design, setting, materials, workmanship, or association adds to a historic district's sense of time and place.

Double House: Any house built as two houses, owned separately, under one roof, sharing a common wall, and having a floor plan on each side that is a mirror image of the other.

Exterior Materials: Exterior Materials are the exterior walls or the coverings of those walls, excluding architectural features.

Historic Integrity: The authenticity of a property's historic identity as evidenced by the survival of physical characteristics that existed during the property's historic period.

Historic Preservation Commission: A group of seven members and two alternates, appointed by the mayor and confirmed by the City Council, to carry out duties outlined in Section 20-205 of this ordinance.

Historic Preservation Design Manual: The Historic Preservation Design Manual is a manual which contains a set of criteria for evaluating proposed changes to Local Landmarks and historic properties within Local Historic Districts.

Historic Site: A parcel of land having special significance in the history or prehistory of the City of Rockland, and which has been designated as such in accordance with this ordinance.

Historic Structure: A historic structure is something built by a human, that is not a building, such as a lime kiln, a wharf, a breastwork, or a tower. A historic structure may be designated as a Local Landmark in accordance with this ordinance.

Local Historic District: A Local Historic District is a geographically definable area possessing a significant concentration of buildings or structures united by past events or by architectural design and designated in accordance with the requirements of this ordinance as appropriate for historic preservation.

Ch. 20, Sec. 20-101

Local Landmark: A Local Landmark is a building, structure, or site that deserves preservation because it possesses historic integrity and local, state, or national significance.

Local Multiple Property Listing: A collection of buildings or structures that have a common historical or architectural significance but are not located within one contiguous district.

Maine Uniform Building and Energy Code (MUBEC): A building code made up of the 2015 International Residential Code, the International Building Code, the 2015 International Existing Building Code, and the 2009 International Energy Conservation Code.

Maintenance: Maintenance is the keeping of a resource in good repair, e.g.: painting, replacement of deteriorating elements, and other protections from weather and decay, in order to preserve its integrity.

Major Alteration: A major alteration includes additions or alterations to the exterior of a building, structure, or site that affect the architectural style or character of the building, structure, or site, or the related viewscape.

Minor Alteration: A minor alteration is a small-scale alteration to the exterior of a building, structure, or site that has a minimal effect on its appearance and is easily reversible.

National Register of Historic Places: The National Register of Historic Places is the official list of the Nation's historic places which deserve preservation. Authorized by the National Historic Preservation Act of 1966, the National Park Service maintains the list as part of a national program to coordinate and support public and private efforts to identify and protect America's most important historic and archeological resources.

National Register-Eligible Property: A National Register-Eligible Property is one that has been determined by the Maine Historic Preservation Commission to be eligible to be listed on the National Register of Historic Places because it meets the National Register criteria as specified by the U. S. Department of the Interior.

Non-Contributing Property: A non-contributing property is a building or structure within a historic district that the Historic Preservation Commission has determined does not contribute to the historic district's sense of time, place, or historical development; or one which has been so altered that its historical integrity has been compromised and it no longer represents its period of significance.

Secretary of the Interior's Standards for Rehabilitation: *The Secretary of the Interior's Standards for Rehabilitation* are the national regulations established by the U. S. Department of the Interior to guide work undertaken on historic properties. The intent of the Standards is the long-term preservation of historic buildings and structures along with their most distinguishing features.

Viewscope: The area around a Local Landmark or in a Local Historic District visible from the public right-of-way, including what is intended to be permanent, such as sidewalks, fences, and water views.

Article II Historic Preservation Commission

Sec. 20-201 Creation

There shall be a Historic Preservation Commission consisting of seven (7) members, each of whom shall be appointed by the mayor and confirmed by the City Council. All members of the commission shall have a demonstrated interest in historic preservation or related fields such as: architecture, history, architectural history, local history, or archaeology. There shall be two (2) alternate members of the commission, each of whom shall have the same qualifications as the members and be appointed by the mayor and confirmed by the City Council. Such alternate members shall attend all meetings of the Commission and may participate in discussions or hearing, but shall only vote on committee matters if a full quorum is not present at such meeting. When a vacancy occurs on the committee, an alternate member may be appointed to fill such vacancy. The Mayor (or designee) shall serve as ex-officio non-voting members of the Commission. All members shall serve without compensation.

Ch. 20, Sec. 20-201

Sec. 20-202 Terms of Office

The terms of office of members of the commission and alternates shall be three (3) years, except that of the seven (7) members first appointed, two (2) shall be appointed for a term of one (1) year, two (2) for two (2) years, and three (3) for three (3) years. The alternates shall be appointed for terms of three (3) years. Such terms shall expire December 31st of the year designated. As of the effective date of this section, no member of the commission shall service more than five (5) consecutive terms.

Sec. 20-203 Training

All commissioners and alternates are encouraged to develop their knowledge of historic preservation and attend a yearly training seminar in architectural history and preservation standards offered by the Maine Historic Preservation Commission.

Sec. 20-204 Officers

The Historic Preservation Commission shall elect a Chairperson, annually, in January of each year. The Chairperson shall set the agendas, conduct the meetings, sign any documents on behalf of the Commission, and submit an Annual Report to the Maine Historic Preservation Commission. Should the position of Chairperson become vacant during such year, the Commission shall elect another of its members to serve as Chairperson for the remainder of that year. As of the effective date of this section, no member shall serve as Chairperson more than six consecutive (6) times.

The Historic Preservation Commission shall elect or appoint a Secretary. The Secretary shall not be required to be a member of the Commission. The Secretary shall maintain a permanent record of all Commission meetings and all correspondence of the Commission. The Secretary shall be responsible for maintaining those records and all Applications for Review and written recommendations of the Historic Preservation Commission at the Code Enforcement Office. All records maintained or prepared by the Secretary are deemed public and shall be stored at City Hall.

Sec. 20-205 Duties

The Historic Preservation Commission shall:

1. Publish a Historic Preservation Design Manual, described in Sec. 20-401, to guide the Historic Preservation Commission and property owners when reviewing proposed alterations, additions, or demolition of Local Landmarks or for buildings within Local Historic Districts, and proposed new construction within a Local Historic District. Articles IV and V of this ordinance shall not become effective until the Historic Preservation Design Manual is available to the public.
2. Hold regularly scheduled meetings, in a public and ADA accessible space, once a month, or as necessary, to:
 - A. Recommend to the City Council that a property or properties be designated as a Local Landmark or a Local Historic District;
 - B. Consider scheduled applications for Review of proposed alterations, additions, demolition, or moving of a Local Landmark or of a building within a Local Historic District, or proposed new construction within a Local Historic District, and make recommendations pertaining to the proposed work;
 - C. Plan ways to inform the public and City officials about historic preservation, Rockland's historic resources, and financial assistance available for the rehabilitation of historic buildings;
 - D. Apply for grants to publish materials pertaining to Historic Preservation, to conduct surveys of historic buildings, structures, sites, and districts within the City of Rockland.
3. Nominate buildings, structures, sites, or districts within the City of Rockland to the National Register of Historic Places, or review such nominations;
4. Conduct surveys of historic buildings, structures, districts and sites within the City of Rockland, using the Maine Historic Preservation Commission's Historic Building Survey Form ~~and maintain copies of~~ those surveys at the City Clerk's Office and the Rockland Historical Society Ch. 20, Sec. 20-202
5. Sponsor educational programs pertaining to historic preservation.

Article III Designation of Local Historic Districts and Landmarks

Sec. 20-301 Criteria for Designation

One or more of the following criteria shall be required for a property to qualify as a Local Historic District or Local Landmark as defined in Article I of this Ordinance:

1. Structures or districts which exemplify the broad cultural, economic, political, military, social, or sociological patterns of the history of Rockland and the nation.
2. Structures associated with persons important to the history of Rockland or the nation.
3. Structures, sites or districts that embody the distinctive characteristics of a type, period, or method of construction or that represents the work of an individual.
4. Structures that contribute to the visual continuity of a historic district.
5. Structures or sites listed on the National Register of Historic Places, or those found to be eligible to be listed on the National Register of Historic Places.

Sec. 20-302 Designation Procedures

Any individual or group may fill out an Application for Designation (Sec. 20-303). The Historic Preservation Commission shall review the application; and if the Commission finds the application in order, the Commission shall recommend that the City Council designate the property or properties as a Local Landmark or a Local Historic District. The Code Enforcement Office shall notify the affected property owners, by mail, of a public hearing; and the City Council shall hold the public hearing (Sec. 20-304). The City Council shall designate properties as Local Landmarks or Local Historic Districts by amendment to Sec. 20-306 of this ordinance; or the Council may decide not to designate the property as such.

Sec. 20-303 Application for Designation

1. An application for designation of a Local Landmark or Local Historic Site shall be submitted in writing to the Code Enforcement Officer. The application shall include:
 - A. The address and the name and address of the current owner.
 - B. A physical description including the architectural style.
 - C. The period of historical significance.
 - D. A statement of significance based on one or more of the Criteria for Designation outlined in Sec. 20-301, of this ordinance.
 - E. Photographs of the building, structure, or site.
 - F. A portion of a tax map showing the property's immediate surroundings.
2. An application for designation of a Local Historic District shall be submitted in writing to the Code Enforcement Officer. The application shall include:
 - A. The addresses of properties in the Local Historic District and the names and addresses of the owners of those properties.
 - B. A physical description of the elements that make the area a Local Historic District including a description of the architectural styles of each building.
 - C. The historic period represented.
 - D. A statement of significance of how the district meets the Criteria for Designation outlined in Sec. 20-301, of this Ordinance.
 - E. A justification for the boundaries of the district.
 - F. A description of non-contributing structures.
 - G. A map showing all structures in the district (for instance: a tax map) and identifying non-contributing structures.
3. An application for an Extension of an Existing Local Historic District shall be submitted in writing to the Code Enforcement Officer. The application and shall include:
 - A. The addresses of properties to be included in the extension of the Local Historic District and addresses of owners of those properties.
 - B. A description of the physical elements of the area to be added to the district, including the architectural styles and historic periods of all buildings in the extension.
 - C. A justification of the extension of the boundaries of the district, including a statement of significance as outlined in Sec. 20-301.
 - D. A description of non-contributing structures in the proposed expansion area.

Ch. 20, Sec. 20-301

- E. A map showing all the structures in the proposed extension area (for example, a tax map) and indicating non-contributing structures.

Sec. 20-304 Public Hearing

With at least one month notice, the Code Enforcement Officer shall notify the Historic Preservation Commission to hold a public hearing at their next regularly scheduled meeting to review the application for the designation of a new Local Landmark or Local Historic District or Extension of a Local Historic District. The Code Enforcement Office shall notify all affected property owners of the public hearing by mail at least one month before the public hearing. If the owner of a proposed landmark, or 50% or more of the property owners in a proposed district or proposed extension, object to the designation in writing before the public hearing, the Historic Preservation Commission shall discontinue the designation process.

Sec. 20-305 Designation Amendment

If the Historic Preservation Commission decides in favor of the Local Landmark or Local Historic District or Extension of a Local Historic District, it will prepare a proposed amendment to Article III, Section 20-307, of this Ordinance which will include a description of the Local Landmark or Local Historic District or Extension of a Local Historic District, and the date it is to be adopted. The City Council shall adopt or deny the designation amendment.

Sec. 20-306 Notification of Local Landmark or Local Historic District Status upon Sale of Designated Properties

When a property that has been designated a Local Landmark or a contributing property within a Local Historic District is sold, and the tax assessor is adding the new owner to the tax rolls, the assessor shall send the new owner notification of the property’s historic designation and the responsibilities involved.

Sec. 20-307 Designated Local Historic Districts and Local Landmarks

This section lists districts, buildings and structures that have been designated as Local Historic Districts and Local Landmarks of Rockland. Districts, buildings and structures may be added to this list by amendment to this section of this ordinance by following procedures outlined above in Sections 301, 302, 303, 304 and 305 of this ordinance.

(This section left blank for future use)

Article IV Historic Preservation Actions and Proceedings

Sec. 20-401 Publication of Historic Preservation Design Manual

The Historic Preservation Commission shall publish a Historic Preservation Design Manual that will be available from the Code Enforcement Office and online to guide commission members and property owners when considering changes to a Local Landmark or to a property within a Local Historic District.

The Historic Preservation Design Manual shall contain:

1. The Rockland Historic Preservation Ordinance.
2. *The Secretary of the Interior’s Standards for Rehabilitation.*
3. A list of Rockland’s Local Historic Districts and Landmarks with Maps.
4. Historical Architectural Styles Found in Rockland with Illustrations Showing Their Important Features.
5. Guidelines for Rehabilitation.
6. Guidelines for New Construction.
7. Application for a Review of Proposed Changes to a Historic Building or Structure.

The Historic Preservation Commission shall not undertake any Reviews of Alterations to Ch. 20, Sec. 20-304 as outlined in Sec. 20-402, 20-403, or 20-405, or make any Recommendations, nor will it be responsible for applying for such Reviews, until after the Historic Preservation Design Manual has been published.

Sec. 20-402 Review of Alterations to Designated Properties

In order to encourage the preservation of historically significant Local Landmarks and Local Historic Districts, it shall be required that a property owner apply for a review by the Historic Preservation Commission of any major alteration to the exterior of a Local Landmark or the exterior of a property within a Local Historic District.

Ordinary maintenance and repair to exterior features of a Local Landmark or a historic structure within a Local Historic District shall not require review, so long as those repairs do not result in a major alteration. Reversible modifications such as storm windows and storm doors, window air conditioners, shutters, and paint color shall not require review.

New construction within a Local Historic District and additions to existing structures within a Local Historic District or to Local Landmarks shall require review by the Historic Preservation Commission.

Demolition or moving of a Local Landmark or a historic structure that is located in a Local Historic District shall require review by the Historic Preservation Commission.

Sec. 20-403 Review Process

Application for Review of changes to a designated Local Landmark or to properties within a designated Local Historic District shall be obtained from the Code Enforcement Officer when obtaining a building or sign permit or when work must be approved by the Historic Preservation Commission. The completed application shall be submitted to the Code Enforcement Officer. After determining that the application is complete and that the proposed work meets applicable codes, the Code Officer shall transmit the application to the Historic Preservation Commission and notify the property owner when the Commission will meet to consider the application. With at least two weeks' notice, the Commission shall consider the application at their next regularly scheduled meeting. After the Commission has reviewed the changes, the Code Enforcement Officer shall issue or deny a building permit as appropriate and mark the records in the Code Enforcement Office and the Tax Assessors Office to indicate properties that are designated Local Landmarks or within a Local Historic District.

Sec. 20-404 Application Contents

An application for a Review shall contain:

1. The applicant's name and address, and his or her interest in the property.
2. The owner's name and address, if different from the applicant's.
3. The address of the property to be considered.
4. The tax map showing the location of the property to be considered.
5. The present use and zone of the property to be considered.
6. Photographs of the building and its setting.
7. A detailed description of the work to be reviewed.
8. Drawings and other materials indicating the design and location of the proposed work.

Sec. 20-405 Action of the Historic Preservation Commission

At their next regularly scheduled meeting, the Historic Preservation Commission will review the work to be done and recommend ways to preserve important defining characteristics of the building's architectural style.

Within two weeks of the meeting, the Commission shall provide a written copy of the Recommendations to the property owner and to the Code Enforcement Office. The property owner shall not be required to follow the recommendations of the Commission but shall sign and date the written copy of the recommendations to indicate their receipt. A building permit shall not be issued without evidence of review by the Historic Preservation Commission, which includes Property Owner signature acknowledging receipt of recommendations.

Sec. 20-406 New Construction within a Local Historic District

The construction of a new building or other structure within a Local Historic District shall take into consideration the scale and setback of adjacent buildings. The Commission shall review width, and depth relative to other structures in the surrounding viewscape. The Commission shall also review associated elements visible from the street, such as fences, walls, and signs, to protect the historic character of the district.

Within two weeks of the public hearing, the Commission shall provide a written copy of the Recommendations to the property owner and to the Code Enforcement Office. The property owner shall not be required to follow the recommendations of the Commission but shall sign and date the written copy of the recommendations to indicate their receipt. A building permit shall not be issued without evidence of review by the Historic Preservation Commission, which includes Property Owner signature acknowledging receipt of recommendations.

Sec. 20-407 Demolition or Removal of a Local Landmark or Structure within a Local Historic District.

A Local Landmark or any structure within a Local Historic District, whether residential or commercial, shall require review by the Historic Preservation Commission before it can be demolished or removed. Demolition or moving of a Local Landmark or structure that is located in a Local Historic District shall be delayed until one of the following conditions has been met:

1. The structure has been identified by the Commission as non-contributing or incompatible with the Historic District in which it is located.
2. The property owner, the City, and a real estate professional have tried, unsuccessfully, for 180 days to find a buyer who will preserve the structure.
3. In the case of government property designated as a Local Landmark or as a contributing structure within a Local Historic District, before issuing a demolition permit, the City shall advertise the property or structure for sale on the condition that a buyer will rehabilitate the structure. If no buyer is found within 180 days, the structure may be demolished.

Sec. 20-408 Adjustment to Building Code Requirements

For single family residences that are designated as Local Landmarks or are Contributing Properties within a designated Local Historic District, a building owner may explore eligibility for adjustments permitted by the Maine Uniform Building and Energy Code.

Sec. 20-409 Tax Incentives

Should an owner of a designated Local Landmark or building or structure within a designated Local Historic District make improvements to the exterior of the main historic building and/or barn or carriage house, following the written recommendations of the Historic Preservation Commission, causing the tax assessment for the designated property to increase; the owner of the property shall be reimbursed for additional property tax on the increased value for three (3) years. This does not include improvements such as landscaping, fencing, driveways, walkways, or outbuildings.

Sec. 20-410 Fines

Any person, including but not limited to a property owner, a property owner’s agent, or a contractor, who orders or conducts any activity which requires review by the Commission, without such review and without signing a written copy of the Commission’s recommendations, is in violation of this ordinance, and shall be fined \$500.

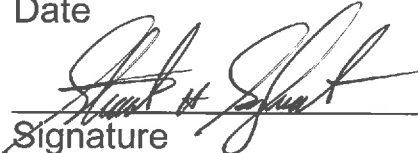
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Ch. 20, Sec. 20-406

FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
CITY OF ROCKLAND, MAINE

ENACTED: 5/19/16
Date

EFFECTIVE: 6/8/16
Date

CERTIFIED BY: 
Signature

CERTIFIED BY: Steward H. Sylvester
Print Name

City Clerk
Title

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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60.3 (e) Rev. 01/16

ARTICLE I-PURPOSE AND ESTABLISHMENT

Certain areas of the City of Rockland, 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 City of Rockland, 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 City of Rockland, 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 City of Rockland has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City of Rockland 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 City of Rockland, Maine.

The areas of special flood hazard, Zones A, AE, and VE for the City of Rockland, Knox County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Knox County, Maine," dated July 6, 2016 with accompanying "Flood Insurance Rate Map" dated July 6, 2016 with panels: 170D, 188D, 335D, 351D, 352D, and 353D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Knox County, Maine," are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

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

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed 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), North American Vertical Datum (NAVD), 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 AE and VE from data contained in the "Flood Insurance Study - Knox County, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.K. and IX.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- 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 Article VI by a registered professional engineer or architect:
1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 4. a certified statement that bridges will meet the standards of Article VI.M.;
 5. a certified statement that containment walls will meet the standards of Article VI.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 Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$50.00 for new structures or substantial improvements, or \$25.00 for a Minor Development Permit shall be paid to the City Clerk and a copy of a receipt for the same shall accompany the application. If a Building Permit is required for any Minor Development, as defined, the Building Permit fee shall be paid in lieu of the Minor Development Permit fee.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 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.

ARTICLE V - 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 Article VI (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 - Knox County, Maine," as described in Article I.;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program 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 a Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, 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 Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

3. 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 Article VI.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 Article VII.

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

ARTICLE VI - 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 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. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 - 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
 - 3. Zone VE shall meet the requirements of Article VI.P.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
 - 1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the 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 Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
 - 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or

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

3. Zone VE shall meet the requirements of Article VI.P.

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

1. Zone AE 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 Article VI.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
- b. meet the anchoring requirements of Article VI.H.1.c.

3. Zone VE shall meet the requirements of Article VI.P.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and AE shall either:

- a. be on the site for fewer than 180 consecutive days,

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

2. Zone VE shall meet the requirements of either Article VI.I.1.a. and b., or Article VI.P.

J. **Accessory Structures** - Accessory Structures, as defined in Article XIV, located within Zones A and AE, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

- 1. have unfinished interiors and not be used for human habitation;
- 2. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
- 3. be located outside the floodway;
- 4. 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,
- 5. 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. **Floodways** -

- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2. In Zones A and AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

3. In Zones AE and A riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or 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 Article XIV;

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,

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.

M. **Bridges** - New construction or substantial improvement of any bridge in Zones A, AE, and VE 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 Article VI.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.

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

1. Zones A, AE, and VE 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 of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A, AE, and VE, 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.

P. Coastal Floodplains -

1. All new construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
2. New construction or substantial improvement of any structure located within Zone VE 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 that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot. (The National Flood Insurance Program Program assesses a higher premium for breakaway walls that enclose 300 square feet or greater. The larger the square footage of the enclosure, the higher the cost of insurance. Developers are advised to inquire into flood insurance premiums rates before commencing construction.)

c. require a registered professional engineer or architect to:

- (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); 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 Article VI.P.2.

3. The use of fill for structural support in Zone VE is prohibited.
4. Human alteration of sand dunes within Zone VE 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 Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.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.

ARTICLE VII - 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 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.

ARTICLE VIII - 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 Article VI, paragraphs F, G, H, or P and,
 2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.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 to the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - 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, 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 in order to reduce exposure to flood hazards.

- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI 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.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the City of Rockland 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.

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 is deemed 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 Article X and Article VI.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 Article X, paragraphs A. through D. above; and,
 - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article X, 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.

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to other actions, the Code Enforcement Officer may, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of:
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

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

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIV - 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.

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

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

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

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

Basement - area of a building that includes a floor that is subgrade (below ground level) on all sides.

Breakaway Wall - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

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 Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

Conditional Use - 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 Article VII.

Containment Wall – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

Development – a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Digital Flood Insurance Rate Map (FIRM) – see **Flood Insurance Rate Map**

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zones A or AE, so that the top of the elevated floor, or in the case of a building in Zone VE, 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 to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zone VE, **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 Article VI.P.2.b.(3).

Elevation Certificate - an official form (FEMA Form 81-31, 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

- 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 - an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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

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

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

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

Floodway - see **Regulatory Floodway**.

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

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

Functionally Dependent Use - a use that 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 - 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), North American Vertical Datum (NAVD) 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 - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this Ordinance.

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

Mean Sea Level – when related to the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) 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 Article VI.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) - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”.

New Construction - 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.

North American Vertical Datum (NAVD)- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

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

Recreational Vehicle - a vehicle that 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.

Regulatory Floodway –

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

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

Start of Construction - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include

excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

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.

ARTICLE XV - ABROGATION

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

60.3 (e) Rev. 01/16