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2018

## Town of Skowhegan Maine Ordinances

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Chapter 1  
TOWN OF SKOWHEGAN

**ADMINISTRATION**

**Sec. 1. How Code designated and cited.**

The provisions embraced in this and following chapters and sections shall constitute and be designated the “Code of Ordinances for Town of Skowhegan, Maine” and may be so cited.

**Sec. 2. Position of administrative assistant established; appointment.**

There is hereby established the position of administrative assistant to the Board of Selectmen to be appointed annually by the board. (Town Meeting, 1-31-70. Art.4, § 1)

**Sec. 3. Board of Selectmen to determine powers, duties, wages, conditions of employment of administrative assistant.**

The powers, duties, wages, hours and other conditions of employment of the administrative assistant shall be determined by the Board of Selectmen. (Town Meeting, 1-31-70, Art. 4, §2)

**Sec. 4. Position of Town Manager established.**

Voted to adopt the “town manager plan” form of government set forth in M.R.S.A. Title 30, Section 2311 et.seq. to be effective at the March 7, 1989 Annual Town Meeting. (Town Meeting, 3/5/88. Article 5.)

ANNUAL TOWN MEETING - MARCH 7, 1981

Art. 44 “No Selectmen shall hold any other **town** office or town employment except those specifically authorized by law during the term for which he was elected and no employee of the town shall be eligible to serve on the Board of Selectmen.”

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Chapter 2  
TOWN OF SKOWHEGAN

**ANIMALS AND FOWL**  
**Adopted July 16, 1973**  
**Amended March 8, 1999**

**Section I. In General**

**Section II. Dogs**

**SECTION I. IN GENERAL**

**1. Prohibited in built-up areas.**

- A. No livestock, fowl, or domestic animals shall be kept within the compact or built-up area of the Town in such a manner as to constitute a public nuisance.
- B. On complaint, a police officer may give notice to any owner, keeper, or person so keeping the livestock, fowl, or domestic animal to abate the nuisance within ten (10) days.
- C. Any violation of this article after ten days by the owner or person keeping such livestock, fowl, or domestic animals shall be subject to a civil forfeiture in an amount not to exceed two hundred dollars (\$200.00). Each day the violation continues constitutes a separate offense.
- D. For purposes of this section, domestic animal does not include either dogs or cats.

**SECTION II. DOGS**

**1. Definitions.**

As used in this article, the following words and phrases shall have the meanings ascribed to them in this section, unless the context indicates otherwise.

*Dog* shall mean – An animal, wholly or in part, of the species “canis familiaris”.  
*Wolf hybrid* means any canine regardless of generation that has resulted from the interbreeding of a dog and wolf.

*Owner* shall mean - Any person or persons, firm, association or corporation, owning, keeping, harboring or in possession of, or having the control of a dog. “Owner” shall also be intended to mean and to include the parent or parents or guardian of a minor who owns, keeps or has in his possession a dog. (Town Meeting, 3-13-71, §1)

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**2. Barking, howling, yelping dogs.**

- A. No person shall own, keep or harbor any dog, which by loud, frequent, or habitual barking, howling or yelping shall disturb the peace of any person. (Town Meeting, 3-13-71, §5)
- B. Any keeper, holder or owner of a barking, howling or yelping dog shall be subject to a civil forfeiture in an amount not to exceed one hundred dollars (\$100.00) for each separate violation.

**3. Removal and disposal of dog excrement.**

- A. No person shall cause or permit any dog excrement to be cast or deposited by the animal upon the premises of any public park, beach, sidewalk, or other recreational property owned by the Town or upon any property owned by another individual or business entity.
- B. This Section shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this article.
- C. Failing to immediately remove and lawfully dispose of any dog excrement left upon any public park, beach, sidewalk, or other recreational property owned by the Town, or upon property owned by another individual or business entity is a civil violation for which a forfeiture not to exceed twenty-five dollars (\$25.00) may be adjudged for each offense.
- D. This Section shall be enforced by the Animal Control Officer or Skowhegan Police Department.



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Chapter 4  
TOWN OF SKOWHEGAN

CATV Ordinance  
(Adopted: Regular Selectmen's Meeting 9/25/90)

The Town of Skowhegan, acting by and through its municipal officers, hereby ordains the following Cable Television Ordinance.

SECTION 1. The purpose of this ordinance is to provide for the Town regulations and use of the community antenna television system, including its construction, operation and maintenance in, along, upon, across, over and under the streets, alleys, public ways and public places, now laid out or dedicated, and all extensions thereof and additions thereto in the Town of Skowhegan, including poles, wires, cables, underground conduits, manholes, conductors, and fixtures necessary for the maintenance and operation in the Town of Skowhegan, of the community antenna television system, and to provide conditions accompanying the grant of franchise; and providing the Town regulations of CATV operation.

SECTION 2. DEFINITIONS

- A. "C.A.T.V." shall mean any community antenna television system or facility that, in whole or in part, receives directly or indirectly, over the air, and amplifies or otherwise modifies signals transmitting programs broadcast by one or more television or radio stations, or originates its own signal or signals produced through any of its community access channels and distributes such signals by wire or cable to subscribing members of the public who pay for such services, but such terms shall not include any such facility that serves only residents of one or more apartment dwellings under common ownership, control or management.
- B. "Cable Television Company" shall mean any person, firm or corporation owning, controlling, operation, managing or leasing a CATV system within the Town of Skowhegan, sometimes referred to as "the company".
- C. "Town" shall mean the Town of Skowhegan, organized and existing under the laws of the State of Maine and the area within its territorial limits.

SECTION 3. FRANCHISE REQUIRED

No person, firm or corporation shall install, maintain or operate within the Town or any of its public ways or other public areas, equipment or facilities for the operation of a CATV system unless a franchise authorizing the use of said public ways or areas has first been obtained pursuant to the provisions of this Ordinance and unless said franchise is in full force and effect.

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#### SECTION 4. FRANCHISE CONTRACT

A. The municipal officers of the Town may contract on such terms, conditions and fees as they deem in the best interest of the Town and its residents with one or more cable television companies for the operation of CATV system within the Town, including the granting of a franchise or franchises for the operation thereof for a period not to exceed ten (10) years, and said franchise shall contain the following provisions:

- (1) The area or areas to be served;
- (2) A line extension policy;
- (3) A provision for renewal, the term of which shall not exceed ten (10) years;
- (4) Procedures for the investigation and resolution of complaints by the cable television company in accordance with 30S M.R.S.A. §3010; and
- (5) Such other terms and conditions which are in the best interest of the Town.

B. Applications for a franchise shall pay a non-refundable filing fee to the Town for Two hundred and fifty dollars (\$250.00) to defray the cost of the public notice and other advertising expenses relating to such application. The application shall be filed with the Town Clerk and shall contain such information as the Town may require, including, but not limited to, a general description of the applicant's proposed operation, a schedule of proposed charges, sufficient financial information to determine the applicant's financial capacity, and estimated ten-year financial projection of its proposed system, its proposed annual Town franchise fee, if any, or the basis for same, and a statement detailing the prior operational experience of the applicant in both CATV and microwave service, including that of its officers, management and staff to be associated with the proposed operation.

C. Any franchise contract may be revoked by the municipal officers for good and sufficient cause, after due notice to the company and a public hearing thereon, with the right to appeal to the Superior Court under Rule 80B of the Maine Rules of Civil Procedure.

#### SECTION 5. PUBLIC COMMENT PERIOD

A. Before issuance of a request for proposals, the Town shall hold a public hearing with at least seven (7) days advance notice for the purpose of determining any special local needs or interests regarding cable television.

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B. Any proposal submitted by a prospective CATV franchise shall be filed in triplicate with the Town Clerk's office, shall be deemed a public record, shall be available for a period of not less than thirty (30) days prior to the Town's taking any formal action thereon, and public notice of the filing shall be given.

C. Before authorizing the issuance of any such franchise contract, the municipal officers shall review the applicant's character, financial and technical qualifications and the adequacy and feasibility of its qualification to operate a CATV system within the Town, and shall conduct a public hearing thereon, with at least seven (7) days advertised notice prior to said public hearing.

#### SECTION 6. FINANCIAL GUARANTEE & INSURANCE COVERAGE

Upon the executive of any such franchise contract the cable television company shall file a financial guarantee in an amount not less than 25,000 conditioned upon the faithful performance of said contracts and full compliance with any laws, ordinances, regulations governing said franchise, including cost of dismantling the system. Cable Television Company shall show evidence of such public liability, copyright infringement and other insurance coverage as the municipal officers may require. When the cable television company has completed its proposed system as set forth in its proposal, and in compliance with its franchise agreement, the municipal officers may permit the company to reduce said guarantee to an amount sufficient to cover cost of dismantling the system.

The financial guarantee options are:

A. performance bond from a surety bonding company authorizing to do business in the State of Maine which bond shall be payable to the Town.

B. An irrevocable letter of credit from a bank or other reputable institution satisfactory to the municipal officers and in a form satisfactory to them, which letter of credit shall certify the following:

(1) That the issuer does guarantee funds in a specified amount and for a specified duration; and

(2) That, in case of failure on the part of the company to satisfactorily perform said contract within the required time period, the issuer shall pay to the Town immediately, without further action, such funds as are necessary to finance the proper completion of dismantling of the system, up to the credit limit stated in the letter.

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C. Evidence that cash has been deposited in an escrow account at a bank or other reputable institution acceptable to the municipal officers, and the escrow agreement acceptable to the municipal officers. The agreement shall provide that in case of failure on the part of the company to satisfactorily perform said contract within the required time period, the escrow agent shall pay to the Town immediately, and without further action, such funds as are necessary to finance the proper completion or dismantling of the system, up to the amount of the escrow account.

SECTION 7.

To the extent, if any, that this ordinance conflicts with a franchise agreement, which is in effect as of the date of the adoption of this ordinance, the franchise agreement, including renewal provisions contained therein, shall control.

**TOWN OF SKOWHEGAN  
ORDINANCE  
REGULATIONS FOR THE ADMINISTRATION  
OF PUBLIC CEMETERIES**

**INCLUDING:**

**EAST SKOWHEGAN CEMETERY  
449 OAK POND ROAD**

**LARONE CEMETERY (WHITING CEMETERY)  
36 LARONE ROAD**

**MALBONS MILLS CEMETERY  
418 MALBONS MILLS RD**

**NORTH CEMETERY  
12 WALTON COURT**

**OLD BLOOMFIELD CEMETERY  
26 CEMETERY ROAD**

**OLD RIVER ROAD CEMETERY (HERRIN CEMETERY)  
112 EAST RIVER ROAD**

**POOLER CEMETERY  
419 OAK POND ROAD**

**SOUTHSIDE CEMETERY (BLOOMFIELD CEMETERY)  
103 MAIN STREET**

**APPROVED AT  
TOWN MEETING  
JUNE 13, 2016**

**I. Definitions:**

Burial or Interment - The deposit of the remains of a human being into the ground

Cemetery Committee- A committee appointed by the selectmen to oversee the general administration, upkeep and special projects of the town owned cemeteries

Contractor - Persons, firms, or corporation engaged in the sale and/or erection of vaults, liners, monuments, headstones, etc., subject to the approval of the Sexton, who shall supervise and/or direct such work performed.

Disinter or Exhume- To remove a body from a grave.

Lot – A 12' x 21' plot designated to the remains of six (6) adult human bodies, or as defined under a single grave designation (Page 3).

Grave- An excavation made in the ground to receive the deceased for burial.

Footstone- A small stone placed at the foot of a grave opposite the headstone, often bearing the initials of the deceased.

Flag Holders- Markers that are placed in the ground next to a stone marker and constructed so as to hold a flag, usually marking the grave of a veteran

Headstone – Same as a marker stone, but usually associated with a grave that also has a footstone.

Holiday- Shall mean any State or Federal designated holiday.

Immediate Family – First and second generations of original purchaser(s).

Liner - Approved concrete slabs so constructed and assembled as to prevent sags or hollows in the gravesite and they must meet all laws, rules and regulations.

Markers- Usually cast iron insignia placed in the ground next to a gravestone to indicate membership in the military or some other organization.

Marker Stone or Gravestone- A stone utilized to mark a grave, usually bearing the name of the deceased buried there as well as other pertinent information.

Memorial- A stone inscribed to mark a historic event or important person.

Monument- Something built or placed, usually a block of granite or other stone, to commemorate a person, event, etc., and often bearing written tribute to the person, especially after their death.

Owner- Purchaser of said lot

Perpetual Care- The provision of funds, held in perpetual trust, the income of which is expended in keeping up the necessary care of the individual lots or graves, and the maintenance, repair and future renewal of the cemetery as a whole.

Selectmen - The elected officers of the Town.

Sexton - That person appointed by the Selectmen to be in charge of the Town's cemeteries.

Single Grave – A 3.5' x 12' plot designated to contain the remains of one (1) adult human body; or two (2) children at the discretion of the Sexton; or the cremated remains of six human bodies, provided such remains are the members of the same family or anyone approved for interment within said lot by the owner of said lot.

Town - Shall mean the Town of Skowhegan or its duly elected officers.

Urn – Any container approved by the sexton.

Vault – A burial chamber or, most often, the concrete enclosure in which a casket is placed for burials.

Weekends- Shall mean Saturday and Sunday.

## **II. Cemetery Administration:**

1. Care of public cemeteries and lots therein shall be under the supervision of the Board of Selectmen which is authorized to engage personnel, provide by purchase or contract necessary equipment and supplies.
2. The Board of Selectmen may appoint a cemetery committee to oversee the care and upkeep of public cemeteries per town ordinance and as directed by the Board of Selectmen.
3. The Board of Selectmen shall appoint a sexton of cemeteries on the first day of July each year. Such appointee shall subscribe to the prescribed oath of office.
4. The Board of Selectmen shall receive and expend, as necessary, the annual appropriation for Town-owned cemeteries, income for annual care of lots privately arranged, the income from perpetual care deposits, burials, disinterments and other cemetery operating income.
5. The Board of Selectmen shall cause to be reported in books currently and previously kept for that purpose in the Town vault, a record of every burial and disinterment of a body in a Skowhegan public cemetery with supplemental information indicated in such records or as may be required in the future.



6. A detailed summary of all receipts and expenditures for the up-keep of cemeteries and care of lots shall be published in the annual Town report.
7. Selectmen reserve the rights to sell, convey, exchange or otherwise dispose of unsold lots within cemeteries as they deem to be in the best interest of the town.

### **III. Sexton, Duties and Responsibilities:**

1. The Sexton shall be sworn in as a constable to enforce these ordinances and other applicable laws or rules and regulations.
2. The Sexton may employ such help as he deems necessary to maintain town owned cemeteries and perform such other duties as he deems necessary; and shall be responsible for their compensation, relieving the Town of all obligations, safeguards, compensations, etc.
3. The Sexton shall keep the Selectmen apprised (at least annually) of the condition of the cemeteries, proposed work and/or development to be done by the following year, preparing a necessary budget to complete the proposed development.
4. The Sexton shall oversee, supervise and plan all maintenance and development of the cemeteries, also interments and disinterments and maintain such records as are required by applicable Town, State and Federal laws, rules and regulations or by-laws.
5. The Sexton is responsible for opening all graves for full body and cremation burials.

### **IV. General Regulations:**

1. Vehicles being operated within any Town cemetery shall remain in the roadways of the cemetery, unless given authorization by the Sexton to do otherwise.
2. No vehicle shall be operated in a Town owned cemetery at not more than ten (10) miles per hour or in such a manner as to leave ruts.
3. No vehicle known as a motorcycle, snowmobile, motorbike, all-terrain vehicle, dune-buggy or any registered or unregistered off-highway motor vehicle shall be operated within any Town cemetery at any time except as authorized by the Sexton.
4. All vehicles operated within any Town cemeteries must stop on signal or request of Sexton; the registered owner will be deemed to be the operator of such vehicle that fails to stop as required, all operators to identify themselves upon request.
5. The use or possession of firearms, except as part of a military burial, shall be prohibited.
6. The consumption or use of any alcoholic beverage or illegal drugs in any Town owned cemetery is prohibited.
7. Lot owner(s) shall be responsible for the removal of any unsightly flowers, wreaths, decorations, etc. from their gravesite. If the owner(s) fails to execute such removal, the Sexton may remove such items.
8. Vehicles must not stop so as to block or hinder the passage of other vehicles and must park on the right side of the roadway.



9. No auto shall pass a grave when a burial ceremony is in progress.
10. No shrubs or trees may be planted within any Town cemetery without permission of the Sexton, except that removable urns or flower boxes may be placed on any grave subject to number 5 above.
11. Pets, except service dogs, shall not be allowed within any Town owned cemetery.
12. No one shall damage, injure, remove, or harm any tree, shrub, monument, marker, etc., except at the discretion of the Sexton or lot owner.
13. The Town shall not be responsible for malicious or vexatious damage to any memorial, monument, decorations, etc., or the theft thereof, of any decoration, flag holder, flower box, headstone, marker, marker stone, memorial, monument, urn, etc.
14. Special requests by the lot owner for repairs to graves, trees, etc., may be made to the Sexton at the expense of the owner unless otherwise arranged.
15. Requests for special work shall be made in writing to the Sexton, setting forth such work to be done. Any refusal or denial may be appealed to the Selectmen. The decision of the selectmen is not appealable.
16. A copy of this ordinance and by-laws shall be issued with each new purchase.
17. Burials in late fall, winter, and early spring will be at the discretion of the Sexton.
18. The Sexton shall report all malicious or vexatious damages and/or thefts occurring in any Town owned cemetery to the Skowhegan Police Department, Town Treasurer, and to the owner of such property, or their survivors, if known.
19. Cemeteries close one half hour after sunset and open one half hour prior to sun rise. A person is guilty of criminal trespass if he/she enters or remains in a cemetery when the cemetery is closed. (M.R.S.A., Title 17, Part 2, Chapter 17, Section 402)

**V. Burial or Interment:**

1. All burials or interments shall be made in a concrete vault or urn.
2. Only human remains will be buried or interred. No animal burials will be permitted.
3. Undertakers and/or Funeral Directors shall be responsible for the payment of all burial charges, fees, and burial permits to the Town of Skowhegan.

**VI. Disinterment:**

1. The Sexton shall be informed as to length of disinterment and such disinterment to comply with applicable laws, rules, and regulations.
2. If disinterment results in permanent removal, the Sexton will document Town and name of cemetery where new burial is to be made.

**VII. Fees:**

All fees or deposits for acquiring grave lots, perpetual care, care of lots by other than perpetual care arrangements, digging of graves, interments and disinterments shall be established by the Selectmen. See Addendum #1

### **VIII. Perpetual Care:**

1. Perpetual care is money paid to help provide maintenance to graves and cemeteries, such as lawn mowing. Perpetual care is kept in its own account, and the money paid by the individual(s) purchasing a lot is deposited into that account. Only the interest, and not the principal, of the perpetual care account may be expended for the care of cemeteries.
2. Perpetual care primarily pays to have the lawns mowed and the grass around the headstones trimmed. Perpetual care may also be used to repair broken headstones and make other necessary improvements where possible.
3. Perpetual care fees must first be paid prior to burial in any Skowhegan owned cemetery. The appropriate fee must be paid to the Skowhegan Town Treasurer according to the lot size.
4. Perpetual care fees collected are to be used for cemetery lot maintenance and general improvements within the cemeteries.
5. Deposits for perpetual care of cemetery lots shall be received by the Town Treasurer and shall be accompanied by a description in writing to include the lot, its number and the name of the cemetery in which it is located.
6. The Town Treasurer shall issue to the depositor, or his/her representative, a certificate of deposit, which shall contain the name of depositor, name of cemetery, amount deposited, number of the lot and the date the deposit was received. The Town Treasurer shall record the certificate in a book kept for that purpose and forthwith forward a copy of it to the person or agency in charge of cemeteries and a copy to the Selectmen.
7. The Town Treasurer shall deposit funds received and the Selectmen, by their warrant, shall direct the deposit or investment of such funds as prescribed by M.R.S.A. Title 30A, Section 5706 and amendments thereto.
8. Once ownership is transferred out of the immediate family, the Towns obligation to care for that grave terminates and the next owner must pay the current rate for perpetual care.

### **IX. East Cemetery Regulations**

The following items in this section pertain to the East Cemetery only.

A. Any transfer of grave lot ownership must be recorded with the Town Clerk within thirty days of the transfer.

B. Lot Configurations & Conditions

Lot:

21' X 12' = 6 graves - monument centered in lane

Single grave:

3.5' X 12' = 1 grave- monument centered in lane

Utilization - from street

0 to 1' = buffer zone

1' to 9' = grave

9' to 10.5' = monument zone

10.5' to 12' = open zone (path)  
Monuments - one per lot –  
Foundations - 4' X 18" maximum X 4' deep - flush to ground  
Single lot - 3' X 18" "X 4' deep - flush to ground  
Markers - 1 per grave to be located 1' from street lot line - parallel  
to street lot line - 1' X 2' maximum size to be set flush to  
ground  
Graves - run East - West (approx. 42"w x 9')  
One human body per grave, except two (2) children under ten (10) years

#### **X. Memorials, Monuments, etc.:**

1. No memorial, monument, mausoleum, bench, seat, fence, or other structure may be set or erected in cemeteries without the consent of the Sexton; except, however, the Selectmen may approve requests for such construction after a hearing on the matter, said hearing to include the Sexton and the person or persons making such request and the general public.
2. No grave may contain more than one monument.
3. Multiple graves may have one monument and one flush headstone per grave.
4. Erection or installation of any memorial or headstone may be made only after notification to the Sexton.

#### **XI. Penalties for Violations:**

Any person who violates any provision of this ordinance commits a civil violation for which a forfeiture not to exceed one hundred dollars (\$100.00) may be adjudged. In addition to this forfeiture, any person so adjudged shall also be liable for the Town's costs of restoration, repair, or replacement of any property damage caused by the violation, and legal fees.

#### **XII. Cemetery Committee By-Laws:**

1. Purpose:  
The purpose of the Cemetery Committee is to oversee the general upkeep and special projects of the eight (8) Skowhegan owned cemeteries and to annually review and make necessary recommendations to the Board of Selectmen concerning the Cemetery Ordinance, Budget and Operations.
2. Members:
  - a. The Cemetery Committee shall consist of seven (7) members who shall be appointed by the Board of Selectmen, at their first regularly scheduled Selectmen's meeting after the annual town meeting each year.
  - b. Terms are for one year.
  - c. Membership shall consist of eight (8) members, seven (7) voting members and the eighth to be the Cemetery Sexton.
  - d. The seven (7) voting members shall consist of

- i. A representative from the Board of Selectmen
  - ii. A representative from the Budget Committee
  - iii. A representative of the local veteran's organization
  - iv. A representative of the Skowhegan History House Museum & Research Center.
  - v. Town Clerk/Treasurer, who shall also serve as the Committee Secretary and
  - vi. Two members at large from the community.
- e. Every effort should be made by the Board of Selectmen to fill vacancies after receiving notification of the resignation or demise of a member.
  - f. Any member missing more than two consecutive meetings without notifying the Chairman, Town Treasurer or his/her designee with just cause, will automatically be terminated.

3. Meetings:

- a. The Committee shall convene in open session annually during the month of July for the purpose of electing from within its membership a Chairman and Vice-Chairman and shall certify to the Town Clerk/Treasurer the names of its members and officers, to be recorded in the town record.
- b. In addition to the annual meeting the Committee shall hold regular meetings in October, January and May at dates and times agreed upon by the Committee. If a meeting is necessary outside the set schedule, it may be requested and set by the Chairman, Town Clerk/Treasurer or Sexton.
- c. The Secretary shall notify the members of any meetings to be held and provide an agenda, meeting minutes and any necessary reports to all Committee members. The secretary shall properly post meeting notices as may be required to notify the general public of Committee meetings.
- d. Expenses are to be paid from the Public Properties/Cemeteries expense budget and/or the Capital Improvement Project (CIP) account.
- e. No meeting can be convened unless at least four (4) voting members are present.

4. Budget:

The Cemetery Committee shall annually make recommendations in writing to the Town Manager for inclusion in the Town Meeting Warrant.

**XIII. Adoption and Amendments:**

- 1. This ordinance shall become effective on passage at a Town Meeting.
- 2. This ordinance may be amended in accordance with the general provisions of the Town governing all ordinances.
- 3. Passage of this ordinance and these by-laws shall supersede any and all past rules and regulations governing Town cemeteries.
- 4. The invalidity of any portion of this ordinance shall not invalidate any other part.



**ADDENDUM #1**

1. Fees and Perpetual Care Deposits:  
Deposits for perpetual care and fees for graves shall be:

	<u>Minimal</u> <u>Perpetual</u> <u>Care Deposits</u>		<u>Land</u> <u>Purchase</u>		<u>Total</u>
1 Grave	\$ 125.00	+	\$ 20.00	=	\$ 145.00
2 Graves	250.00	+	40.00	=	290.00
3 Graves	375.00	+	60.00	=	435.00
4 Graves	500.00	+	80.00	=	580.00
5 Graves	625.00	+	100.00	=	725.00
6 Graves	750.00	+	120.00	=	870.00

Greater sums for perpetual care may be deposited.

2. Fees for annual care of burial lots:

1 Grave	\$ 18.00
2 Graves	22.00
3 Graves	24.00
4 Graves	26.00
5 Graves	28.00
6 Graves	30.00

3. Fees for opening and closing graves: (All fees shall be turned over to the Town of Skowhegan and deposited into the Cemetery Revenue Account.)

Burials:

Weekday	\$500.00
Weekend or Holiday	600.00

Disinterment:

Weekday	\$600.00
Weekend or Holiday	700.00

Cremations:

Weekday	\$250.00
Weekend or Holiday	300.00

In unusual cases prices may vary.

4. No additional expenditures shall be made on any lot under perpetual care without prior authorization of the Selectmen.

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Chapter 6  
**TOWN OF SKOWHEGAN**

**CODE ENFORCEMENT ORDINANCE**  
**Adopted 3/10/97**  
**Annual Town Meeting**

SECTION 1: Establishment:

Pursuant to Article VIII Part 2 Section 1 of the Maine Constitution and 30-A MRSA Section 3001, the Town of Skowhegan hereby establishes the Office of Code Enforcement, and creates the positions of Code Enforcement Officer and Deputy Code Enforcement Officer.

SECTION 2: Appointment:

2.01 The Code Enforcement Officer shall be appointed by the Board of Selectmen to serve until a successor is appointed and qualified.

2.02 The Deputy Code Enforcement Officer shall be appointed by the Board of Selectmen, to serve until a successor is appointed and qualified. The Deputy Code Enforcement Officer shall assist the Code Enforcement Officer in the performance of their duties and in the event of the absence of the Code Enforcement Officer, the Deputy is authorized to act in their behalf.

SECTION 3: Duties:

The Code Enforcement Officer shall:

- 3.01 Perform the duties of Building Inspector as required by Town Ordinances and the laws of the State of Maine.
- 3.02 Perform the duties of Plumbing Inspector as required by Town Ordinances and the laws of the State of Maine.
- 3.03 Enforce the Skowhegan Shoreland Zoning Ordinance.
- 3.04 Enforce the Skowhegan Subdivision Ordinance.
- 3.05 Enforce the Skowhegan Floodplain Management Ordinance.
- 3.06 Enforce the Skowhegan Site Plan Review Ordinance.
- 3.07 Enforce the Skowhegan Sewerage Ordinance.
- 3.08 Enforce the junkyard laws of the State of Maine.
- 3.09 Provide staff support to the Zoning Board of Appeals in any matter not directly involving the Office.
- 3.10 Perform all such duties as required by local ordinance and the order of the Board of Selectmen.

SECTION 4: Effective Date:

This ordinance shall become effective upon approval by the legislative body of the Town of Skowhegan.

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SECTION 5: Amendments:

This ordinance may be amended by a majority vote of the Legislative Body. Amendments may be initiated by the Board of Selectmen or on petition of 10 percent of the number of voters who voted in the last Gubernatorial Election.

# **GENERAL ASSISTANCE ORDINANCE**

**Approved Regular Selectmen's Meeting 10/12/93  
Amended Regular Selectmen's Meeting 10/28/03  
Amended Regular Selectmen's Meeting 01/25/05  
Amended Regular Selectmen's Meeting 11/14/06  
Amended Regular Selectmen's Meeting 10/13/09  
Amended Regular Selectmen's Meeting 10/11/11  
Amended Regular Selectmen's Meeting 6/12/12  
Amended Regular Selectmen's Meeting 9/12/12  
Amended Regular Selectmen's Meeting 9/10/13  
Amended Regular Selectmen's Meeting 11/12/14  
Amended Regular Selectmen's Meeting 10/13/15  
Amended Regular Selectmen's Meeting 10/11/16  
Amended Regular Selectmen's Meeting 9/26/17  
Amended Regular Selectmen's Meeting 10/09/18**



**Prepared by Maine Municipal Association  
August 2018**



## GENERAL ASSISTANCE ORDINANCE

The Municipality of Skowhegan, Maine enacts the following General Assistance Ordinance and adopts the MMA Model Ordinance GA Appendices (A-I) and Appendix J for the period of Oct. 1, 2018—September 30, 2019. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the 9<sup>th</sup> day of October, 2018, by the municipal officers:  
(day) (month) (year)

Paul York

(Print Name)

Paul York

(Signature)

GENE ROUSE

(Print Name)

[Signature]

(Signature)

ROGER STAPLES

(Print Name)

Roger Staples

(Signature)

Betty A Austin

(Print Name)

[Signature]

(Signature)

Vanessa York

(Print Name)

Vanessa York

(Signature)

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## ARTICLE I

### Statement of Policy

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

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

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. GA applicants will be provided information regarding their rights and responsibilities under the GA program. Within 24 hours after receipt of an application, the administrator will provide the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also provide the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an applicant is determined to be eligible, assistance appropriate to the need will be

furnished within 24 hours after the completed application is submitted except when the administrator issues non-emergency assistance conditionally on the successful completion of a workfare assignment (*see section 5.6 of this ordinance*).

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

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

## ARTICLE II

### Definitions

#### Section 2.1—Common Meaning of Words

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

#### Section 2.2—Special Definitions

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

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

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

"Basic necessities" do not include:

- Phone bills
- Cable or satellite dish television
- Mail orders
- Vehicle payments
- Credit card debt\*\*
- Furniture
- Loan re-payments\*\*

- Cigarettes
- Alcohol
- Pet care costs
- Vacation costs
- Legal fees
- Late fees
- Key deposits
- Security deposits for rental property(except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full) (22 M.R.S.A. § 4301(1)).

\*\*Repayments of loans or credit will be treated as having been spent on basic necessities when the applicant can provide verification of this fact.

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

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

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

**Eligible Person.** A person who is qualified to receive general assistance benefits from the municipality according to the standards of eligibility set forth in this ordinance, Maine General Assistance law (22 M.R.S.A. ch. 1161), and Maine Department of Health & Human Services regulations (10-144 C.M.R. ch. 323). If otherwise qualified, "Eligible Person" shall include U.S. citizens; non-U.S. citizens who are lawfully present in the United States as described in 8 U.S.C. § 1621(a)(1)-(3); and non-U.S. citizens who are pursuing a lawful process to apply for immigration relief. Assistance for non-citizens pursuing a lawful process for immigration relief shall not exceed 24 months beginning with assistance provided after July 1, 2015. "Eligible Person" does not include a fugitive from justice as defined in 15 M.R.S.A. § 201(4).

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

**General Assistance Program.** A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person is in need and is found to be otherwise eligible to receive general assistance (22 M.R.S.A. § 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.A. § 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 pro rata share is calculated by dividing the maximum level of assistance available to the entire household by the total number of household members. The income of household members not legally liable shall be considered as available to the applicant only when there is a pooling of income (22 M.R.S.A. § 4301(6)).

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

- Net remuneration for services performed
- Cash received on either secured or unsecured credit
- Payments received as an annuity, retirement or disability benefits
- Veterans' pensions and/or benefits
- Retirement accounts or benefits
- Workers' compensation
- Unemployment benefits
- Federal and/or state tax returns
- Benefits under any state or federal categorical assistance program such as, TANF, Supplemental Security Income, Social Security and any other payments from governmental sources (unless specifically prohibited by any law or regulation)

- Court ordered support payments, e.g., child support
- Income from pension or trust funds
- Household income from any other source, including
- relatives or unrelated household members
- Student loans
- Rental income

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

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

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

- 4) Certain public benefit programs are specifically exempt from being counted as income for purposes of GA. These programs include:
  - Food Stamps (7 USCS § 2017(b))
  - Li-Heap (42 USCS § 8624)
  - Family Development Accounts (22 M.R.S. § 3762)
  - Americorp VISTA program benefits (42 USCS § 5044 (f))



- Property tax rebates issued under the Maine Property Tax Fairness Credit program, only so long as the money is spent on basic necessities. (22 M.R.S.A. § 4301(7))
- Aspire Support Service Payments (10-144 CMR Chapter 323)

**Initial Applicant.** A person who has not applied for assistance in this or any other municipality is considered an initial applicant.

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

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

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

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

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

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

**Municipality of Responsibility.** The municipality which is financially liable for the support of an eligible person at the time of application (22 M.R.S.A. § § 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.A. § § 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.A. §§ 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.A. § 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.A. § 4301(13)).

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

**Registered Domestic Partner.** An individual registered as the domestic partner of the applicant pursuant to 22 M.R.S.A. § 2710.

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

**Resident.** A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (22 M.R.S.A. § 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 or recipient share may be available to the individual (22 M.R.S.A. § 4317). Potential resources include the TANF (previously known as AFDC) program, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

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

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

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

**Unforeseen Repeat Applicants.** Are repeat applicants who have not applied for assistance within the last twelve months and who have been regularly employed or

receiving support from a public benefit or private source and who have unexpectedly become unemployed through no fault of their own or whose benefits (e.g., through an available resource) have ceased through no fault of their own.

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

**Work Requirements.** Work requirements are those obligations the municipal administrator places on applicants for general assistance as directed and/or authorized by 22 M.R.S.A. § 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, maintaining employment, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

## ARTICLE III

### Administrative Rules and Regulations

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

#### Section 3.1—Confidentiality of Information

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

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

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

Any representative of a financial institution or any employer of a general assistance applicant who, upon receipt of a written release signed by the depositor and a written request from the Administrator, 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. Effective November 1, 2017 national banks are also obligated to disclose deposit information to the Administrator upon receipt of a written request and



release signed by the depositor. Additionally, effective November 1, 2017, when a municipality or its agents are acting in accordance with section 4313(2) to verify eligibility for funeral or cremation benefits, an officer of a financial institution must disclose the amount deposited upon receipt of a written request from the municipality or its agents and a notarized affidavit signed by the overseer of the municipality or its agents stating that the named depositor is deceased. 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.A. § § 4314, 4315).

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

### Section 3.2—Maintenance of Records

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 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, either in paper format or digital format for each applicant or recipient. Each case record will include at least:

- household applications
- budget sheets
- information concerning the types and amounts of assistance provided



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

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

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

## ARTICLE IV

### Application Procedure

#### Section 4.1—Right to Apply

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

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

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

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

Section 4.2—Application Interview

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

Section 4.3—Contents of the Application

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

- a) applicant’s name, address, date of birth, Social Security number or appropriate United States Customs and Immigration Services (USCIS) documentation, and phone number;
- b) names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other household members for whom the applicant is seeking assistance;
- c) total number of individuals living with the applicant;
- d) employment and employability information;

- e) all household income, resources, assets, and property;
- f) household expenses;
- g) types of assistance being requested;
- h) penalty for false representation;
- i) applicant's permission to verify information;
- j) signature of applicant and date.

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

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

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

**Application Requirements.** The administrator will help the applicant fill out the application form as described in the preceding section. The administrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the administrator to evaluate the applicant's eligibility for assistance. The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

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

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

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

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

**Reimbursement/Recovery.** The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. The municipality may also, as appropriate, contact the client's legal representative to inform him or her of the client's obligation to repay the municipality under the GA program. In addition to seeking

repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for the applicant's support (spouses, parents of persons under the age of 25, see Article VIII, "Recovery of Expenses") (22 M.R.S.A. § § 4318, 4319). Whenever applicable, the administrator will explain the various liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the Workers' Compensation lump sum payment lien, or the SSI "interim assistance agreement" lien, as these liens are described in Article VIII, "Recovery of Expenses".

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

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

- Income
- Resources
- Assets
- Employment
- Use of income
- Names and addresses of any relatives legally liable for the applicant's support
- Any change in this information from a previous application that would affect household eligibility (22 M.R.S.A. §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.A. § §4316-A, 4317).

#### Section 4.6—Action on Applications

**Written Decision.** The general assistance administrator will give a written decision to the applicant concerning his or her eligibility within 24 hours after the applicant submits a written application. Assistance will be furnished to eligible applicants within that period except when the municipality is permitted by law (and pursuant to section 5.6 of this ordinance) to issue assistance conditionally on the successful completion of a workfare assignment (22 M.R.S.A. § § 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 DHHS if he/she believes the municipality has acted illegally (22 M.R.S.A. § 4321).

#### Section 4.7—Withdrawal of an Application

An application is considered withdrawn if:

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

#### Section 4.8—Temporary Refusal to Accept Application

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

- a) When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will only be accepted when his or her conduct is under control.
- b) If the administrator believes that an applicant's behavior presents a threat to the health or safety of the public or to a municipal employee, or if such behavior is violent, or if an applicant has engaged in abusive, disruptive or harassing behavior and has been required to leave on more than one occasion, then the applicant may be required to designate a third party to apply for assistance on his or her behalf and the applicant may be prohibited from entering the municipal building;

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

#### Section 4.9—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.A. § 4301(4)). Although they may be considered otherwise ineligible to receive general assistance, persons who apply for assistance to alleviate an emergency may be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency (22 M.R.S.A. § 4308).

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

**Disqualification.** A person who is currently disqualified from receiving General Assistance due to a violation of sections 5.5, 5.6, 5.7, 5.8, 5.9 or 6.4 of this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. § 4308(2)(A)). However, dependents of a disqualified person may be eligible for assistance. For the purposes of this section, “dependents” are defined as: 1) a dependent minor child; 2) an elderly, ill or disabled person; or 3) a person whose presence is required to provide care for any child under the age of 6 years or any ill or disabled member of the household (22 M.R.S.A. § 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 by dividing the maximum level of assistance available to the entire household by the total number of household members.

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

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

**Telephone Applications.** If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, or other good cause, and if there is no authorized representative who can apply on behalf of the applicant, the administrator shall accept an application over the telephone (22 M.R.S.A. § 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 or her home or by mail and the administrator cannot determine his or her eligibility through any other means.

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

All applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert

the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

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

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

Section 4.10—Residence

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

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

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

**Institutions.** If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitation center, nursing home, or

hospital) and requests assistance while at the institution, he/she will be the responsibility of this municipality for up to 6 months after he/she enters the institution if the conditions of 22 M.R.S.A. § 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.A. § 4307(4)).

**Temporary Housing.** Hotels/motels and similar places of temporary lodging are considered institutions 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.A. § 4307(4)).

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



## ARTICLE V

### Eligibility Factors

A person will be eligible for general assistance if he/she is an “Eligible Person” as defined in section 2.2, is in need, and has complied with the eligibility requirements set forth below. For guidance in determining whether an applicant is an Eligible Person, contact the Department of Health & Human Services at (800) 442-6003 (TTY: 287-6948).

#### Section 5.1—Initial Application

**Initial Application.** For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S.A. § 1043 (23)) (*see section 5.5 of this ordinance*) and to fugitives from justice as defined in 15 M.R.S.A. § 201(4) (22 M.R.S.A. § 4301(3)). An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S.A. § 4308(1)).

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

**Subsequent Applicants.** Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for



general assistance, they must be in need and meet all other eligibility requirements. The eligibility of repeat applicants may also be adversely affected to the extent they have not used their income and resources to secure basic necessities.

### Section 5.2—Eligibility for Categorical Assistance

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

In addition, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs (42 U.S.C. §8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under “Types of Income” at section 6.7 of this ordinance. For several additional exceptions please refer to the definition of “Income” in this ordinance (see page 7, subsection 4).

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.A. § 4317).

### Section 5.3—Personal Property

- a) **Liquid Assets.** No person owning assets easily convertible into cash, including but not limited to, bank deposits, stocks, bonds, certificates of deposit, retirement accounts, life insurance policies and other marketable security, will be eligible for

general assistance unless and until he or she uses these assets to meet his or her basic needs, and thereby exhausts them. At the discretion of the GA administrator, liquid assets do not mean a reasonable minimum balance necessary for obtaining free checking. Although one checking account per household may be allowed, any monies over the minimum required to obtain free checking are to be considered available liquid assets.

- b) **Tangible Assets.** No person owning or possessing personal property, such as but not limited to: a motor vehicle (except as provided immediately below in subsection c), or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household, will be eligible for general assistance. Exceptions may be made when a person is making an initial application or is an unforeseeable repeat applicant as defined in Section 2.2 or when reasonable efforts to convert assets to cash at fair market value are unsuccessful. Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.
- c) **Automobile Ownership.** Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment or for seeking employment, obtaining medical care, rehabilitation or training facilities, or for any other reason the GA administrator determines reasonable for the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than \$8000 may be required, with written, 7-day notice, to make a good faith effort to trade that automobile for an automobile with a market value of less than \$8000. Any income received by the applicant by virtue of such a trade down must be used for his or her basic necessities. Failure to liquidate or trade down the excess value of any automobile asset can result in disqualification (22 M.R.S.A. § 4317).

The municipality will neither pay nor consider as necessary any car payment or vehicle maintenance cost including insurance for which the applicant is responsible. However, provided the vehicle value is \$8000 or less and the applicant is utilizing the vehicle for any of the above mentioned “essential” reasons, the municipality in its discretion may choose to not consider reasonable car payments, reasonable car insurance and reasonable associated costs of maintenance as “misspent” income. General assistance for travel-related needs shall be computed in accordance with section 6.8(F)(7), (8) “Work Related/Travel Expenses.”

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

#### Section 5.4—Ownership of Real Estate

- a) **Principal Residence.** For purposes of General Assistance solely, the applicant's principal residence, including any adjoining land, is considered an exempt resource, even if temporarily unoccupied because of employment, job training,

education, illness or disaster, provided there is demonstrated an intent to return. If the applicant owns land in excess of the minimum lot size for the zone or district in which the home is located, then that land may be considered a potential resource if:

1. The applicant has received General Assistance for the last 120 consecutive days; and
2. The applicant has the legal right to sell the land (e.g., any mortgagee will release any mortgage, any co-owners agree to the sale, zoning or other land use laws do not render the sale illegal or impracticable); and
3. The applicant has the financial capability to put the land into a marketable condition (e.g., the applicant can pay for any necessary surveys); and
4. The land is not utilized for the maintenance and/or support of the household; and
5. A knowledgeable source (e.g., a realtor) indicates that the land in question can be sold at fair market value, for an amount which will aid the applicant's financial rehabilitation; and
6. No other circumstances exist which cause any sale to be unduly burdensome or inequitable.

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

applicant is making a good faith effort to sell or render saleable the land in question.

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

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

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

If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipality may claim a lien against the property.

The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient (*see also section 6.8 of this ordinance*) (22 M.R.S.A. § 4320).

#### Section 5.5—Work Requirement

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

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



workshops and rehabilitative services, except as provided below (*see "Exemptions"*). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

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

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

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

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

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

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

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

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

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

**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.A. § 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 by dividing the maximum level of assistance available to the entire household by the total number of household members.

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

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

securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Labor.

#### Section 5.6—Municipal Work Program

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

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

**Consent.** Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

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

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

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

- 6) In no case will an eligible person be required to perform work beyond his or her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309).

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

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

**"Workfare First" Policy.** Under the authority of 22 M.R.S.A. § 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 supervisors' names and contact telephone numbers; and
  - f) any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.
- 3) As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.



- 4) If a portion of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with section 6.10 of this ordinance.
  
- 5) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just cause reasons shall be reassigned or excused at the discretion of the GA administrator.

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

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

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

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

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

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

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

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of ineligibility for failing to comply with the

municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but will be provided no opportunity to requalify.

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

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

#### Section 5.7—Use of Resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource that may reduce his or her need for general assistance (*see section 2.2 for definition of "Resources"*). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. § 4317).

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

- 1) the minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or

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

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

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

**Mental or Physical Disability.** Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician, psychologist or other professional retraining or

rehabilitation specialist when the services are available to the applicant and would not constitute a financial burden or create a physical risk to the individual.

**Written Notice; Disqualification.** The administrator will give each applicant written notice whenever the applicant is required to utilize any specific potential resource(s). Any applicant who refuses to utilize potential resources, without just cause, after receiving written 7-day notice will be ineligible for further assistance until he/she has made a good faith effort to utilize or obtain the resources. General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

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

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

#### Section 5.8—Period of Ineligibility

No one will have his or her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S.A. § 4321-4322). Each person will be notified in writing of the reasons for his or her ineligibility, and any



person disqualified for not complying with the ordinance will be informed in writing of the period of ineligibility.

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

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

#### Section 5.9 – Unemployment Fraud

An applicant who is found ineligible for unemployment compensation benefits because of a finding of fraud by the Department of Labor pursuant to 26 M.R.S.A. § 1051(1) is ineligible to receive general assistance to replace the forfeited unemployment compensation benefits for the duration of the forfeiture established by the Department of Labor. 22 M.R.S.A. § 4317.



## ARTICLE VI

### Determination of Eligibility

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

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

#### Section 6.2—Determination; Redetermination

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

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

### Section 6.3—Verification

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

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

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

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

**Initial Applicants.** Persons who have not applied for assistance in this or any other municipality are considered initial applicants and must have their eligibility determined solely on the basis of need. Initial applicants are not subject to eligibility conditions placed on repeat applicants (*see below*). However, such applicants are still responsible for providing the GA administrator with reasonably obtainable documentation adequate

to verify that there is a need for assistance. In addition, initial applicants must also comply with both lump sum and relevant work rules (i.e. job quit).

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

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

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

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

**Overseer's responsibilities.** In order to determine an applicant's eligibility for general assistance, the overseer first must seek information and documentation from the applicant. Once the applicant has presented the necessary information, the overseer is

responsible for determining eligibility. The overseer will seek verification necessary to determine eligibility. In order to determine eligibility, the overseer may contact sources other than the applicant for verification only with the specific knowledge and consent of the applicant, except that the overseer may examine public records without the applicant's knowledge and consent.

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

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

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

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

**Penalty for Refusing to Release Information.** Any person governed by 22 M.R.S.A. § 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.A. §§ 4314(5), 4314(6), 4315).

#### Section 6.4—Fraud

It is unlawful for a person to knowingly and willfully make 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.A. § 4315). A person who commits fraud in an effort to receive general assistance benefits may be prosecuted for this offense.

False representation shall consist of any individual knowingly and willfully:

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

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

**Period of Ineligibility.** When the general assistance administrator 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 must reimburse the municipality for the assistance he or she was not entitled to receive and that he/she is ineligible for assistance for the longer of: (a) a period of 120 days; (b) until he or she reimburses the municipality for the assistance; or (c) until he or she enters a reasonable written agreement to reimburse the municipality. (22 M.R.S.A. § 4315)

For the purpose of this section, a material misrepresentation is a false statement about eligibility factors in the absence of which some or all of the assistance would not be or would not have been granted.

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

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

**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.A. § 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 by dividing the maximum level of assistance available to the entire household by the total number of household members.

#### Section 6.5—Period of Eligibility

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

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

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

## Section 6.6—Determination of Need

The period of time used to calculate need will be the next 30-day period from the date of application (22 M.R.S.A. § 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.A. § 4308(2)) (*see section 4.9 of this ordinance*).

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

Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity (*see Appendixes A-H of this ordinance*) shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S.A. § 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.A. § 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum level of assistance.

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

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

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

- Internet services
- Cable or satellite television

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

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

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

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

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

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

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



## Section 6.7—Income

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

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

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

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

- a) **Earned income.** Income in cash or in kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee, is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income consists of wages, the amount computed will be the



income available after taxes, social security and other payroll deductions required by state, federal, and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income.

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

- b) **Income from Other Assistance or Social Services Programs.** State/federal categorical assistance benefits, SSI payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits Food Stamps and fuel assistance payments made by the Home Energy Assistance Program (HEAP and EPIC) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive. Although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise prevented the fuel-related costs for the prospective 30-day period.

The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his or her total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable

need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his or her utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

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

- Family Development Accounts (22 M.R.S. § 3762)
- Americorp VISTA program benefits (42 USCS § 5044 (f))
- Property tax rebates issued under the Maine Property Tax Fairness Credit program, only so long as the money is spent on basic necessities. (22 M.R.S.A. § 4301(7))

c) **Court-Ordered Support Payments.** Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the State Department of Health and Human Services' Child Support Enforcement Unit. In order to be eligible for future GA, applicants being referred to DHHS for such enforcement services shall be required to follow-through with such services. Because child support payments are considered a resource, applicants must make a good faith effort to secure such payments.

d) **Income from Other Sources.** Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.A. § 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.A. § 4301(12-A)).

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

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

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

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

- 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 as defined by the general assistance program such as: reasonable payment of funeral or burial expenses for a family member; any reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities. Repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid must also be subtracted. (22 M.R.S.A. § 4301(7), (8-A));

- 4) add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance; and
- 5) divide the sum created in subsection (4) by the verified actual monthly amounts for all of the household's basic necessities. 22 M.R.S.A. § 4305(3-B)

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

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

#### Section 6.8—Basic Necessities; Maximum Levels of Assistance

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

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



emergency general assistance will be determined according to section 4.9 of this ordinance.

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

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

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



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

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

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

The administrator will exceed the maximums when necessary for households having members with special dietary needs. The administrator may require a doctor's statement verifying there is a special dietary need requiring an expenditure for food that is greater than the ordinance maximums.

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

will be provided assistance according to the maximum level for the number of rooms actually needed.

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

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

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

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

Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the Department

of Health and Human Services, Division of Health Engineering, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

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

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

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

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

- (1) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size;
- (2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or 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.

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

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

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

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

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

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

- a) the property tax in question is for the applicant's place of residence;
- 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 Property Tax Fairness Credit program, when available.

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



State Housing Authority, those levels are hereby incorporated by reference. See Appendix C of this ordinance for the current year's housing maximums.

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

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

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

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

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

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.** See Appendix D of this ordinance for the current year's electricity maximums.

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

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

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

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

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

E) Personal Care and Household Supplies. Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags light bulbs and supplies for children under 5 years of age. See Appendix F of this ordinance for the current year's personal care and household supplies maximums.

F) Other Basic Necessities. Expenses falling under this section will be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

1) **Clothing**. The municipality may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire, flood or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or a household member is without adequate clothing.

2) **Medical**. The municipality will pay for essential medical expenses, other than hospital bills (*see below*), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments, or services that are

determined to be 'medically necessary' by a licensed physician. The municipality will grant assistance for medical services only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his or her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential. Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

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

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

- 3) **Hospital Bills.** In the event of an emergency admission to the hospital, the hospital must notify the administrator within 5 business days of the admission.

Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the administrator, the municipality will have no obligation to pay the bill.

Any person who cannot pay his or her hospital bill must apply to the hospital for consideration under the Hospital's Free Care Program as provided in Title 22 M.R.S.A. § 1716. 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 he or she is not eligible for the hospital's free care program.

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

- 4) **Dental.** The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no



other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.

- 5) **Eye Care.** In order to be eligible to receive general assistance for eyeglasses, an applicant must have his or her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources and generally only at the Medicaid rate.
- 6) **Telephone Charge.** A payment for basic telephone will only be allowed if a telephone is necessary for medical reasons as verified by a physician. At the discretion of the GA administrator, minimum/basic telephone services may be allowed for households with children, for households where job search or job related reasons exist and/or for any other reasons the administrator deems necessary.
- 7) **Work-Related Expenses.** In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include childcare costs, work clothes, supplies and transportation at the actual costs not to exceed the ordinance maximum (*see Appendix G for this year's maximum mileage allotment*). The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.
- 8) **Travel Expenses.** In determining need, necessary travel which is not work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. See Appendix G for the current rate at which such necessary



travel will be budgeted. This rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.

- 9) **Burials, Cremations.** Under the circumstances and in accordance with the procedures and limitations described below (*see section 6.9*), the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons. See Appendix H for the current maximums.
  
- 10) **Capital Improvements.** The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when:
  - 1) the failure to do so would place the applicant(s) in emergency circumstances;
  - 2) there are no other resources available to effect the capital repair; and
  - 3) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation.

In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.A. § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished

in the same manner as for mortgage payments, as described in subsection (B) "Liens", above.

### Section 6.9—Burials; Cremations

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

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

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

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial

responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

**The Financial Responsibility of Certain Family Members.** Effective November 1, 2017, grandparents, parents, children and grandchildren of the deceased whether or not living in or owning property in Maine, and the spouse or registered domestic partner of the deceased, 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. The Administrator may also seek information from financial institutions holding assets of the deceased. Effective November 1, 2017, Maine law requires a financial institution to disclose the amount deposited in the corporation or association when the municipality or its agents are acting in accordance with section 4313(2) and provide a written request and a notarized affidavit signed by the overseer of the municipality or its agents stating that the named depositor is deceased.

**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 8 days from the date of an application for burial/cremation assistance to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The 8-day eligibility determination period from the date of application 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 8-day period allowed by law to unreasonably delay the municipality's decision.

**The Municipal Obligation to Pay When Legally Liable Relatives or Others Can Contribute.** The figures provided in this section are the maximum benefits provided by

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

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

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

#### Section 6.10—Notice of Decision

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

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator may decide



to render a notice of “ineligibility” and provide the applicant with another application to submit as soon as is practicable for the applicant.

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

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

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

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



## ARTICLE VII

### The Fair Hearing

#### Section 7.1—Right to a Fair Hearing

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

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

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

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

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

- c) the relief sought by the claimant.

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

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

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

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

### Section 7.3—The Fair Hearing Authority

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

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

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

#### Section 7.4—Fair Hearing Procedure

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

- a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his or her agents, counsel and witnesses;
- b) be opened with a presentation of the issue by the fair hearing authority;
- c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;

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

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs (22 M.R.S.A. § 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 7.5—The Fair Hearing Decision

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

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

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

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

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



## ARTICLE VIII

### Recovery of Expenses

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

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

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

The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who has applied for or is receiving Workers' Compensation. Any general assistance applicant who has applied for or who is receiving Workers' Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he or she provides the required

signature. The municipality shall also send a photocopy of that filing to the recipient's Worker's Compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the Workers' Compensation Board. The lien shall be enforced at the time any lump sum Workers' Compensation benefit is issued.

**Recipients of SSI.** All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the DHHS that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 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.A. § 4318).

**Relatives.** The spouse of an applicant, and the parents of any applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A. § 4319). In addition, the grandchildren, children, parents, grandparents, and effective November 1, 2017, the spouse and a registered domestic partner, 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.A. § 4319).

## ARTICLE IX

### 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.

## 2018-2019 GA Overall Maximums

### Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
<b>Bangor HMFA:</b> Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	733	814	1,032	1,294	1,748
<b>Penobscot County HMFA:</b> Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	693	697	908	1,137	1,297
<b>Lewiston/Auburn MSA:</b> Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	669	736	932	1,193	1,461
<b>Portland HMFA:</b> Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	1,058	1,159	1,483	1,986	2,303
<b>York/Kittery/S.Berwick HMFA:</b> Berwick, Eliot, Kittery, South Berwick, York	989	1,039	1,382	1,749	2,433
<b>Cumberland County HMFA:</b> Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	784	831	1,091	1,593	1,820

COUNTY	1	2	3	4	5*
<b>Sagadahoc HMFA:</b> Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	786	875	1,017	1,345	1,636
<b>York County HMFA:</b> Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells	766	884	1,098	1,487	1,515

\*Note: Add \$75 for each additional person.

### Non-Metropolitan Areas

#### Persons in Household

COUNTY	1	2	3	4	5*
<b>Aroostook County</b>	622	662	773	1,016	1,112
<b>Franklin County</b>	650	680	807	1,005	1,431
<b>Hancock County</b>	698	798	1,009	1,274	1,397
<b>Kennebec County</b>	727	756	944	1,241	1,326
<b>Knox County</b>	759	765	944	1,210	1,344
<b>Lincoln County</b>	788	845	1,004	1,259	1,503
<b>Oxford County</b>	694	699	839	1,221	1,426
<b>Piscataquis County</b>	615	681	843	1,115	1,238
<b>Somerset County</b>	679	714	859	1,156	1,219
<b>Waldo County</b>	696	761	903	1,231	1,389
<b>Washington County</b>	679	683	840	1,062	1,212

\* Please Note: Add \$75 for each additional person.

## Appendix B

Effective: 10/01/18 to 09/30/19

### 2018-2019 Food Maximums

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. As of October 1, 2018, those amounts are:

Number in Household	Weekly Maximum	Monthly Maximum
1	44.65	192
2	82.09	353
3	117.44	505
4	149.30	642
5	177.21	762
6	212.56	914
7	235.12	1,011
8	268.60	1,155

**Note: For each additional person add \$144 per month.**



Appendix C

Effective: 10/01/18 to 09/30/19

**2018-2019 GA Housing Maximums  
(Heated & Unheated Rents)**

**NOTE: NOT ALL MUNICIPALITIES SHOULD ADOPT THESE SUGGESTED HOUSING MAXIMUMS!** Municipalities should **ONLY consider** adopting the following numbers, if these figures are consistent with local rent values. If not, a market survey should be conducted and the figures should be altered accordingly. The results of any such survey must be presented to DHHS prior to adoption. **Or**, no housing maximums should be adopted and eligibility should be analyzed in terms of the Overall Maximum—Appendix A. *(See Instruction Memo for further guidance.)*

**Non-Metropolitan FMR Areas**

<b><u>Aroostook County</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	112	483	131	565
1	115	496	140	600
2	133	572	163	700
3	180	776	217	932
4	192	826	236	1,016
<b><u>Franklin County</u></b>				
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	119	511	138	593
1	120	514	144	618
2	141	606	171	734
3	178	765	214	921
4	266	1,145	310	1,335
<b><u>Hancock County</u></b>				
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	124	535	147	633
1	140	602	169	726
2	183	788	215	924
3	230	988	273	1,175
4	246	1,058	299	1,285
<b><u>Kennebec County</u></b>				
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	131	564	154	662
1	131	564	159	684
2	168	724	200	859

3	222	955	266	1,142
4	230	987	282	1,214

**Non-Metropolitan FMR Areas**

<b><u>Knox County</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	139	596	161	694
1	139	596	161	694
2	168	724	200	859
3	215	924	258	1,111
4	234	1,005	287	1,232

<b><u>Lincoln County</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	145	625	168	723
1	151	649	180	773
2	182	783	214	919
3	226	973	270	1,160
4	271	1,164	323	1,391

<b><u>Oxford County</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	123	528	146	629
1	123	528	146	629
2	140	600	175	754
3	218	935	261	1,122
4	253	1,087	306	1,314

<b><u>Piscataquis County</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	110	474	130	559
1	119	512	144	619
2	149	640	179	771
3	203	871	240	1,032
4	220	946	266	1,142

<b><u>Somerset County</u></b>	<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	120	517	143	614
1	121	519	149	642
2	147	631	180	774
3	202	870	246	1,057
4	205	880	257	1,107



### Non-Metropolitan FMR Areas

<u>Waldo County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	123	530	147	631
1	131	565	160	689
2	159	683	190	818
3	220	945	263	1,132
4	244	1,050	297	1,277

  

<u>Washington County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	119	513	143	614
1	119	513	143	614
2	140	601	176	755
3	181	776	224	963
4	203	873	256	1,100

### Metropolitan FMR Areas

<u>Bangor HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	132	567	155	668
1	144	618	173	742
2	185	793	220	947
3	234	1,008	278	1,195
4	328	1,409	380	1,636

  

<u>Penobscot Cty. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	123	527	146	628
1	123	527	146	628
2	156	669	191	823
3	198	851	241	1,038
4	223	958	276	1,185

  

<u>Lewiston/Auburn MSA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	117	503	140	604
1	125	540	154	664
2	165	711	197	847
3	211	907	254	1,094
4	261	1,122	314	1,349

### Metropolitan FMR Areas

<u>Portland HMFA</u>	<u>Unheated</u>	<u>Heated</u>
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Bedrooms	Weekly	Monthly	Weekly	Monthly
0	208	892	231	993
1	224	963	253	1,087
2	289	1,244	325	1,398
3	395	1,700	439	1,887
4	457	1,964	510	2,191
<b><u>York/Kittery/S. Berwick HMFA</u></b>				
	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	192	824	215	924
1	196	843	225	967
2	266	1,143	302	1,297
3	340	1,463	384	1,650
4	487	2,094	540	2,321
<b><u>Cumberland Cty. HMFA</u></b>				
	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	144	618	167	719
1	148	635	177	759
2	202	868	234	1,006
3	304	1,307	347	1,494
4	344	1,481	397	1,708
<b><u>Sagadahoc Cty. HMFA</u></b>				
	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	145	623	168	721
1	158	679	187	803
2	185	795	217	932
3	246	1,059	290	1,246
4	302	1,297	354	1,524
<b><u>York Cty. HMFA</u></b>				
	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	140	600	163	701
1	160	688	189	812
2	203	875	236	1,013
3	274	1,201	323	1,388
4	274	1,201	326	1,403



## Appendix D

Effective: 10/01/18 to 09/30/19

### 2018-2019- ELECTRIC UTILITY MAXIMUMS

**NOTE:** For an electrically heated dwelling also see “Heating Fuel” maximums below. But remember, an applicant is *not automatically* entitled to the “maximums” established—applicants must demonstrate need.

1) **Electricity Maximums for Households *Without Electric Hot Water:*** The maximum amounts allowed for utilities, for lights, cooking and other electric uses *excluding* electric hot water and heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.90	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

**NOTE:** For each additional person add \$7.50 per month.

2) **Electricity Maximums for Households *With Electrically Heated Hot Water:*** The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses *excluding* heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$20.65	\$89.00
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

**NOTE:** For each additional person add \$10.00 per month.

**NOTE:** For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum for heating fuel as provided below.

## Appendix E

Effective: 10/01/18 to 09/30/19

### 2018-2019 HEATING FUEL MAXIMUMS

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

**NOTE:** When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.



**APPENDIX F**

Effective: 10/01/18 to 09/30/19

**2018-2019 PERSONAL CARE & HOUSEHOLD SUPPLIES**  
**MAXIMUMS**

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

**NOTE:** For each additional person add \$1.25 per week or \$5.00 per month.

**SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5**

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<u>Number of Children</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

## APPENDIX G

### Mileage Rate

This municipality adopts the State of Maine travel expense reimbursement rate as set by the Office of the State Controller. The current rate for approved employment and necessary medical travel etc. is 44 cents (44¢) per mile.

Please refer to the Office of State Controller for changes to this rate: Telephone: 626-8420 or visit: <http://www.state.me.us/osc/>

## Funeral Maximums

### **Burial Maximums**

The maximum amount of general assistance granted for the purpose of burial is **\$1,125**. Additional costs may be allowed by the GA administrator, where there is an actual cost, for:

- the wholesale cost of a cement liner if the cemetery by-laws require one;
- the opening and closing of the grave site; and
- 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.

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
- other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

### **Cremation Maximums**

The maximum amount of assistance granted for a cremation shall be **\$785**. Additional costs may be allowed by the GA administrator 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
- transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

## Appendix I

### 26 MRSA §1043 (23)

**Misconduct.** “Misconduct” means a culpable breach of the employee’s duties or obligations to the employer or a pattern of irresponsible behavior, which in either case manifests a disregard for a material interest of the employer. This definition relates only to an employee’s entitlement to benefits and does not preclude an employer from discharging an employee for actions that are not included in this definition of misconduct. A finding that an employee has not engaged in misconduct for purposes of this chapter may not be used as evidence that the employer lacked justification for discharge. [1999, c. 464, §2 (rpr).]

A. The following acts or omissions are presumed to manifest a disregard for a material interest of the employer. If a culpable breach or a pattern of irresponsible behavior is shown, these actions or omissions constitute “misconduct” as defined in this subsection. This does not preclude other acts or omissions from being considered to manifest a disregard for a material interest of the employer. The acts or omissions included in the presumption are the following:

- (1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;
- (2) Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;
- (3) Unreasonable violation of rules that should be inferred to exist from common knowledge or from the nature of the employment;
- (4) Failure to exercise due care for punctuality or attendance after warnings;
- (5) Providing false information on material issues relating to the employee’s eligibility to do the work or false information or dishonesty that may substantially jeopardize a material interest of the employer;
- (6) Intoxication while on duty or when reporting to work or unauthorized use of alcohol while on duty;
- (7) Using illegal drugs or being under the influence of such drugs while on duty or when reporting to work;
- (8) Unauthorized sleeping while on duty;
- (9) Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer;
- (10) Abusive or assaultive behavior while on duty, except as necessary for self-defense;
- (11) Destruction or theft of things valuable to the employer or another employee;
- (12) Substantially endangering the safety of the employee, coworkers, customers or members of the public while on duty;
- (13) Conviction of a crime in connection with the employment or a crime that reflects adversely on the employee’s qualifications to perform the work; or
- (14) Absence for more than 2 work days due to incarceration for conviction of a crime.

## Appendix I

[1999, c. 464, §2 (new).]

B. "Misconduct" may not be found solely on:

- (1) An isolated error in judgment or a failure to perform satisfactorily when the employee has made a good faith effort to perform the duties assigned;
- (2) Absenteeism caused by illness of the employee or an immediate family member if the employee made reasonable efforts to give notice of the absence and to comply with the employer's notification rules and policies; or
- (3) Actions taken by the employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment.

[1999, c. 464, §2 (new).]



**GENERAL ASSISTANCE ORDINANCE  
APPENDIX J  
2018-2019**

The Municipality of Skowhegan Maine adopts the following Ordinance GA Appendix G for the period of Oct. 1, 2018—September 30, 2019. This is in addition to the MMA Model Ordinance GA Appendices A through F.

All applicants for General Assistance that are applying for rental assistance, due to eviction, will be required to have a signed and notarized affidavit of intended eviction from the landlord before assistance will be given. A new affidavit will be required for each instance.

Chapter 8  
TOWN OF SKOWHEGAN

SKOWHEGAN HERITAGE COUNCIL

Adopted Special Town Meeting

July 20, 1999

Amended, Annual Town Meeting March 12, 2001

- A. TITLE: This Ordinance shall be known and cited as the “Heritage Council Ordinance of the Town of Skowhegan, Maine” and will be referred to, hereafter, as “this Ordinance”.
- B. AUTHORITY: This Ordinance is adopted pursuant to the enabling provisions of Article VIII, part 2, section 1, of the Maine Constitution and the provisions of Title 30-A MRSA §3001 (Home Rule).
- C. PURPOSE: The purpose of this Ordinance is to further awareness of Skowhegan’s rich and diverse past; to integrate that heritage into the future development of the community by establishing a Council to provide recommendations on heritage issues to the Planning Board and the Board of Selectmen; and to promote stewardship of the community’s heritage by cultural, educational, and social organizations.
- D. DUTIES OF THE COUNCIL: The Council Shall:
1. Maintain and update the Heritage Profile for the Town of Skowhegan.
  2. Seek to coordinate the activities of heritage related organizations in Skowhegan and to cooperate with other like minded regional entities.
  3. Conduct research into the history and heritage of the Town.
  4. Advise municipal departments and regional, State and Federal agencies on heritage issues.
  5. Undertake projects to develop and support heritage preservation and enhancement.
  6. Keep records of its meetings and activities and make an annual report to the Town.
- E. COMPOSTION OF THE COUNCIL:
1. The Council shall consist of no less than five (5) nor more than eleven (11) members, appointed by the Board of Selectmen.

2. The term of each member shall be five (5) years except that initial appointments shall be staggered to prevent the expiration of the term of more than three (3) members in any one-year.
3. The Board of Selectmen may remove members of the Heritage Council by unanimous vote, for cause, after notice and hearing.

#### F. ORGANIZATION AND RULES

The Council shall elect from its membership a chairperson, a vice-chairperson, and a secretary. The term of all officers shall be one (1) year with the eligibility for reelection.

The Chairperson shall call meetings, as required, to further the purposes of this Ordinance.

The Council shall adopt rules for the transaction of business and a record shall be kept of its resolutions, transactions, and correspondence. All records shall be deemed public and may be inspected at reasonable times.

The Council may, from time to time, appoint subcommittees to help further the purposes of this Ordinance.

G. SEVERABILITY: Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

H. AMENDMENTS: This Ordinance may be amended by a majority vote of the Municipal Legislative Body.

I. EFFECTIVE DATE: This Ordinance shall be effective upon adoption by the Municipal Legislative Body.

Chapter 9  
TOWN OF SKOWHEGAN

**LICENSES AND BUSINESS REGULATIONS\***

**SECTION 1. License and permit schedule.**

The following provisions relative to licenses shall be applicable in the Town of Skowhegan:

(1) *Bowling, pool and shooting galleries.*

(a) See 8 M.R.S.A. Section 1 et seq. or as amended

(b) License issued by municipal officers.

(c) License fee-----\$30.00each

Public Hearing

(2) *Circuses and carnivals.*

a) See 8 M.R.S.A. Section 502, or as amended.

b) Licenses issued by municipal officers.

c) License fee-----\$30.00per day

(3) *Innkeepers and victualers, and lodging houses.*

(a) Refer to Town Ordinance.

(b) Licensed by municipal officers.

(c) License fee-----\$30.00each

Public Hearing

(4) *Junkyards and auto graveyards.S\*

(a)See 30-A M.R.S.A. Section 3756, or as amended.

(b) Licensed issued by municipal officers

(c)License fee-----\$100.00

Public Hearing

(5) *Pinball machines.*

(a) Title 8 M.R.S.A. Section 441 et seq.

(b) Clerk to issue license.

(c) License fee-----\$30.00

*(6) Special Amusement*

- (a) Refer to Town Ordinance.
- (b) License issued by municipal officers.
- (c) License fee-----\$30.00

*(7) Pawnbrokers*

- (a) Refer to Town Ordinance
- (b) Licensed issued by municipal officers.
- (c) License fee-----\$55.00

**TOWN OF SKOWHEGAN  
PARADES AND PROCESSIONS ORDINANCE**

Adopted: Town Meeting, March 8, 1999

Amended: Town Meeting, June 10, 2019

**Section I. Title**

This Ordinance shall be known and cited as the Parades and Processions Ordinance of the Town of Skowhegan, Maine.

**Section II. Purpose**

The purpose of this Ordinance is to protect the health, safety and well-being of any participants in a parade, walk, road race or processions, as well as the citizens of the Town of Skowhegan, by requiring a permit for such event.

**Section III. Permission Required**

- (A) No person, corporation, partnership or other entity may hold, sponsor or organize any such parade or procession, including but not limited to a march, ceremony, exhibition, pageant, walk or foot race upon any public way or in or upon any municipally owned parks, fields, or lands, without first obtaining permission from the Board of Selectmen or their designated agent.
- (B) Exceptions: This Ordinance shall not be applicable to the following:
  - 1. Funeral Processions
  - 2. Town or school sponsored events, providing such conduct is under the immediate direction and supervision of the proper Town or school authorities; or
  - 3. Parades or processions by the United States armed forces.

**Section IV. Permit Application**

- (A) A person, corporation, partnership or other entity seeking a Parade or Procession permit shall file an application with the Town Clerk on a form provided by the Town. The fee will be paid to the Town Clerk upon the filing of the permit application. Non-profit charitable organizations are exempt from payment of the filing fee upon the approval of the Town Clerk, Town Manager or their designee. The current level of Fee is recorded in the Town of Skowhegan Schedule of Fees.
- (B) An application for a Parades and Processions permit must be filed with the Town Clerk no less than seven (7) days prior to the next scheduled Board of Selectmen's meeting.



- (C) An application for the Parades and Processions Permit shall set forth the following information:
1. The name, address, and telephone number of the person,, corporation, partnership or other entity seeking to conduct the parade or procession;
  2. If the parade or procession is proposed to be conducted for, on behalf of, or by a corporation, partnership or other entity seeking to conduct the parade or procession;
  3. The name, address, and telephone number of the person who will be the parade or procession chairperson and who will be responsible for its conduct;
  4. The proposed date of the parade or procession;
  5. The starting point, the route to be traveled and the termination point of the parade or procession;
  6. The approximate number of persons, animals, and/or vehicles that will participate in the parade or procession and a description of the types of animals and vehicles;
  7. The proposed time of day when the parade or procession will begin or terminate.
  8. The identity of any public ways and town parks, fields and lands that will be used for the parade or procession;
  9. If the parade or procession will use a public way or ways; a statement as to whether the parade or procession will occupy all or a portion of the width of the way or ways; and
  10. A description of the nature of the parade or procession (i.e. a road race, parade or march, etc.)

**Section V. Standards for Issuance**

The Board of Selectmen or it’s designated agent shall approve a Parades and Processions Permit Application upon finding after reviewing the application that:

- (A) The conduct of the parade or procession will not substantially interfere with the safe and orderly movement of other traffic on public ways.
- (B) The conduct of the parade or procession will not interfere with proper police and fire protection of, or rescue service to, residents of the Town of Skowhegan.

**Section VI. Special Circumstances for Permit Expedition**

If there is a reasonable need for expedition of the permit, approval can be obtained by the Selectmen’s designated agent after they have consulted with the Selectmen regarding the application.

**Section VII. Notice of Rejection**

If the Board of Selectmen or its designated agent deny the permit application, the Town Manager shall notify the applicant within seven (7) days after the application is received by him/her. If the Board of Selectmen deny the application, they shall notify the applicant in writing of that denial, stating the reasons for that denial.

**Section VIII. Right to appeal**

An appeal from the decision of the Board of Selectmen may be taken to the superior court as provided by applicable law.

**Section IX. Alternative Permit**

The Board of Selectmen, in denying an application for a Parades and Processions Permit, is authorized to approve the conduct of the proposed parade or procession on a date, at a time or over a route different than proposed by the applicant. An applicant desiring to accept an alternative permit shall, within seven (7) days of the date of the Board of Selectmen’s action, file a written notice of acceptance with the Town Clerk. An alternative permit shall conform with all conditions and requirements of this Ordinance.

**Section X. Conditions**

Prior to the actual issuance of a Parades and Processions permit under this Ordinance, the applicant shall obtain insurance in an amount not less than \$300,000 from a company authorized to do business in the State of Maine to protect the Town, its officers, agents and employees from claims and damages for property damage and/or personal injury that may arise out of the parade coverage and listing the Town of Skowhegan and its agents, officials and employees as additional named insured, however, the board of Selectmen may waive the requirement upon good cause shown.

**Section XI. Conduct during Parades and Processions**

- (A) No person shall hamper, obstruct, impede, or interfere with any parade or procession or with any person, vehicles or animal participating in or used in a parade or procession.
- (B) No driver of a vehicle shall drive between persons, vehicles or animals comprising of a parade or procession when such persons, vehicles or animals are in motion and are conspicuously designated as part of the parade or procession.

**Section XII. Penalty**

Any person who violates Section III (A) and X of this ordinance commits a civil violation for which a forfeiture not to exceed two hundred (200.00) dollars may be adjudged.

Chapter 11  
TOWN OF SKOWHEGAN

PLANNING BOARD ORDINANCE

Adopted March 11, 1991, Annual Town Meeting, Article #38  
Amended February 14, 2012, Special Town Meeting, Article #4

1. Establishment. Pursuant to Art. VIII, pt2. Section 1 of the Maine Constitution and 30-A MRSA, Section 3001, the Town of Skowhegan hereby establishes the Skowhegan Planning Board.
2. Appointment.
  - A. Board members shall be appointed by the municipal officers and sworn by the clerk or other person authorized to administer oaths.
  - B. The board shall consist of seven (7) members.
  - B. The term of each member shall be five (5) years, except the initial appointments, which shall be staggered to prevent expiration of the term for more than two (2) members in any one-(1) year.
  - C. When there is permanent vacancy, the municipal officers shall within 60 days of its occurrence appoint a person to serve for the un-expired term. A vacancy shall occur upon the resignation or death of any member, or when a member ceases to be a voting resident of the town, or when a member fails to attend four (4) consecutive regular meeting, or fails to attend at least 75% of all meetings during the preceding twelve (12) month period. When a vacancy occurs, the chairman of the board shall immediately so advise the municipal officer in writing. The board may recommend to the municipal officers that the attendance provision be waived for cause, in which case, no vacancy will then exist until the municipal officers disapprove the recommendation. The municipal officers may remove members of the planning board by unanimous vote, for cause, after notice and hearing.
3. Organization and Rules.
  - A. The board shall elect a chairperson, vice chairperson and a secretary from among its members. The term of all offices shall be one (1) year with eligibility for re-election.
  - B. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.
  - C. The chairman shall call at least one (1) regular meetings of the board each month. Special meetings can be called at the discretion of the Chairman or the Board based on their By-laws. No meeting of the board shall be held without a quorum consisting of four (4) members authorized to vote.

- D. The board shall act by majority vote, calculated on the basis of the number of members present and voting.
- E. The board shall adopt rules for transaction of business and a record shall be kept of its resolutions, transaction, and correspondence, finding and determination. All records shall be deemed public and may be inspected at reasonable times.

4. Duties: Powers

- A. The Board shall serve as the Comprehensive Planning Committee for the Town of Skowhegan as defined by 30-A MRSA Section 4234.
- B. The board shall review and approve or deny all applications for subdivision as defined in Section 30-A, 4401.
- C. The board shall perform those duties and exercise those powers conferred upon it by municipal ordinances and the laws of the State of Maine.
- D. The board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

The Skowhegan Planning Department shall provide administrative and staff support for the Planning Board.

## TOWN OF SKOWHEGAN

### **ORDINANCE FOR THE RECALL OF ELECTED MUNICIPAL OFFICIALS**

Adopted, Special Town Meeting, October 25, 2001

#### SECTION 1. Applicability and Establishment

Any elected Official of the Town of Skowhegan, except school Board members, may be recalled and removed from office as herein provided.

#### SECTION 2. Petitions for Recall

- a. Recall shall be initiated by petition.
- b. The petition for recall must contain only signatures of the registered voters of the Town of Skowhegan, equal to ten percent (10%) of the number of votes cast in Skowhegan in the last Gubernatorial election.
- c. The petition shall be addressed to those members of the Board of Selectmen having no interest in the subject matter of the petition, but the petition shall in every case, be filed with the Town Clerk or Deputy Town Clerk.
- d. The petition shall state the name and office, or offices, of the person whose removal is being sought.
- e. If recall of more than one official is being sought there shall be a separate petition for each official whose removal is being sought.
- f. Each page of the petition shall be ruled, and each line shall provide a space for the voters' signatures, address and printed name.
- g. All pages of a single petition shall be filed as one document. The Town Clerk or Deputy Town Clerk shall not file the petition until at least one person supplies contact information on behalf of the petitioners.

#### SECTION 3. Clerk's Certification

Within ten (10) calendar days of receipt of the petition the Town Clerk or Deputy Town Clerk shall certify the signatures contained on the petition and shall determine if the petition meets all of the requirements as set forth in Section 2 of this Ordinance. Should the petition be found insufficient, the petition will be retained in the Town Clerk's Office and the person who filed the petition will be notified.

#### SECTION 4. Calling the Recall Election

- a. If the petition is certified by the Town Clerk or Deputy Town Clerk to be sufficient, he or she will submit the same with his or her certification to the Board of Selectmen at their next regular meeting and shall notify the official or officials whose removal is being sought of such action.
- b. The Board of Selectmen upon receipt of the certified petition shall within ten (10) days time of receipt order an election by secret ballot, pursuant to 30-A MRSA §2528, to be held forty-five (45) days thereafter.
- c. No petition for recall will be accepted during the first ninety (90) days or during the last ninety (90) days of a multi year term.
- d. Once a recall petition has been called and failed, no recall may be filed within ninety (90) days after such vote.

SECTION 5. Ballots for Recall Election

Unless the official, or officials, whose removal is being sought have resigned within ten (10) days of receipt of the petition by the Board of Selectmen, the ballots shall be printed and shall read “SHALL \_\_\_\_\_ BE RECALLED FROM THE OFFICE OF \_\_\_\_\_?” (with the name of the official whose recall is being sought inserted in the blank space.) If the petition seeks the recall of a person from more than one office, each office must be named.

SECTION 6. Result of the Election

In the event of an affirmative vote for removal, such vote shall take effect the day following the day of voting.

SECTION 7. Vacancies to be Filled

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

Give under our hands this \_\_\_\_\_ day of \_\_\_\_\_

Adopted by the voters the \_\_\_\_\_





# **Town of Skowhegan Sign Ordinance**

**Adopted October 28, 2014, Special Town Meeting**

## **ARTICLE I. GENERAL PROVISIONS**

### **SECTION 1. PURPOSE**

The purpose of this ordinance is to regulate the placement of business and institutional signs within the Town of Skowhegan in order to protect the health, safety, and general welfare of residents and travelers within the town.

### **SECTION 2. AUTHORITY**

This ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A., § 3001. Provisions within this ordinance are authorized under the Maine Traveler Information Services Act, 23 M.R.S.A. § 1914.

### **SECTION 3. VALIDITY AND SEVERABILITY**

Should any section or provision of this ordinance be declared by a court of law to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

### **SECTION 4. CONFLICT WITH OTHER ORDINANCES.**

Whenever a provision of this ordinance conflicts with, or is inconsistent with, another provision of this ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control.

### **SECTION 5. EFFECTIVE DATE**

This ordinance shall become effective on October 28, 2014.

## **SECTION 6. PENALTY AND ENFORCEMENT**

Any person, firm, or corporation being the owner or having control over a structure found to be in violation of this ordinance shall be subject to a civil penalty in accordance with 30-A M.R.S.A. §4452(3). Each day such a violation is in existence shall constitute a separate offence.

## **ARTICLE II. PROCEDURAL REQUIREMENTS**

### **SECTION 1. APPLICABILITY**

A. This ordinance shall apply to signs erected or placed within the Town of Skowhegan for commercial or institutional purposes, except as provided in subsection (C), below. This includes replacement of signs where the replacement includes relocation, addition or expansion of sign area. Repair or repainting of existing signs to the extent that the signs remain in the same location and size as they existed, is not subject to the requirements of this ordinance.

B. This ordinance shall apply to all changeable message signs, regardless of whether they were in existence on the effective date of this ordinance.

C. This ordinance shall not apply to the following categories of sign:

1. Displays and signs placed in, on, or behind windows.
2. Flags, banners, sidewalk sandwich boards, or other displays commonly removed at the end of a business day.
3. Signs which are in place for fewer than sixty (60) days per year.
4. Signs in support of a political candidate or election issue.

### **SECTION 2. PERMIT REQUIRED**

A permit from the Town of Skowhegan is required for all signs subject to the provisions of this ordinance, and there shall be no charge. The permit shall be issued by the Code Enforcement Officer, subject to the procedures in Section 3 of this Article, except that signs associated with development subject to the Skowhegan Site Plan Review Ordinance are considered permitted to the extent that they comply with the approval of the development under that ordinance.

### **SECTION 3. PERMITTING PROCEDURE**

A. An applicant for a permit shall submit an application to the office of the Code Enforcement Officer. The application shall contain an image of the sign or signs to be placed, a rough site layout showing the placement of the sign(s), and a brief narrative description of the proposed sign(s).

B. The Code Enforcement Officer shall approve or reject the application for a sign permit and issue the permit if approved within five (5) working days of its submittal. Any conditions applying to the approval of the permit shall be stated in writing. If an application is rejected, the reasons for rejection shall be stated in writing.

C. The Code Enforcement Officer shall approve an application and issue a permit for any signs which comply with the standards set forth in Article 3 of this Ordinance.

D. Signs shall be erected in substantially the manner described in the application.

#### **SECTION 4. APPEAL AND VARIANCE**

A. The applicant for a sign permit or any party aggrieved by the decision of the Code Enforcement Officer may appeal the decision of the Code Enforcement Officer to the Town of Skowhegan Board of Appeals. Appeals shall be heard as administrative appeals.

B. An applicant for a sign permit may request a variance from dimensional standards in Article III of this ordinance. Variance requests shall be heard by the Town of Skowhegan Board of Appeals under the conditions provided for in 30-A M.R.S.A. §4353(4).

### **ARTICLE III. STANDARDS FOR SIGN PLACEMENTS**

#### **SECTION 1. GENERAL STANDARD**

All signs shall conform to the standards of the *Maine Traveler Information Services Act*, 23 M.R.S.A. §1901 et seq. or successor statute, except as provided below. Unless licensed as an Official Business Directional Sign in accordance with 23 M.R.S.A. §1918, or successor statute, signs must be located on the property of the business or institution offering the goods or service being advertised, except that signs are permitted to advertise community events provided that the owner of the sign receives no compensation for the advertising.

#### **SECTION 2. LOCATION AND PLACEMENT OF FREE-STANDING SIGNS**

A. In order to maintain vehicle and pedestrian safety, signs shall not be placed at a height or location which obstructs views from the road of sidewalks or driveway entrances.

B. Signs shall not be placed within five (5) feet of a property line, and shall not be erected more than twenty (20) feet in height as measured from the elevation of the road centerline.

C. Signs shall be sufficiently affixed to the ground to withstand strong winds.

D. Free-standing signs are not permitted on the Flatiron Block. The Code Enforcement Officer is authorized to waive this prohibition upon a showing that visibility is not affected, sidewalk access is not impeded, and a freestanding sign is the best option.

### **SECTION 3. CHANGEABLE MESSAGE SIGNS**

A. The message displayed on a sign shall not change more often than once every ten (10) seconds. Signs which display exclusively time and temperature may change once every four (4) seconds.

B. No lighting element within a changeable message sign may flash, blink, or change color with a duration of less than one-half (1/2) second. This means that messages are not permitted to scroll, travel, or be otherwise animated. Video or graphic animation is prohibited. Messages are permitted to dissolve or blend provided they do so without flashing.

C. Illumination between the hours of sunset and sunrise shall not exceed five hundred (500) nits. Sign capable of producing more than 500 nits shall be equipped with a daylight sensor or timer so that illumination will be reduced during regulated hours.

### **ARTICLE IV: DEFINITIONS OF TERM USED IN THIS ORDINANCE**

Words and terms used in this ordinance shall have their ordinary dictionary meaning, except as provided below.

**CHANGEABLE MESSAGE SIGN:** A sign containing a text or graphic display which changes on a regular or periodic basis, whether electronically, digitally, mechanically or by other means.

**COMMUNITY EVENT:** An organized gathering of limited duration sponsored by a governmental or non-profit organization and located within the Town of Skowhegan.

**FLATIRON BLOCK:** Water Street between the Margaret Chase Bridge and Commercial Street, Commercial Street between Water Street and Madison Ave., and Madison Ave. between Commercial Street and Water Street.

**FREE STANDING SIGN:** A sign which is physically separated and not attached to a building.

**NIT:** A unit of luminance commonly used in sign illumination, which is equal to one candela (one candle) per square meter.

**SIGN:** Any structure, fixture, graphics, illustration, statue, or other device visible from off the premises designed or intended to advertise, identify, attract attention to, or convey information regarding any goods, product, service, business, location, institution, or activity.

TOWN OF SKOWHEGAN  
**SPECIAL AMUSEMENT ORDINANCE**

Adopted: Town Meeting March 8, 1999  
Amended: Town Meeting August 10, 2004  
Amended: Town Meeting June 11, 2018  
Amended: Town Meeting, June 10, 2019

**Section 1. Title**

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Skowhegan, Maine.

**Section 2. Purpose**

The purpose of this ordinance is to control the dancing, or entertainment in facilities licensed by the State of Maine to sell liquor as required by Title 28-A M.R.S.A.1054 with the exception of a radio or other mechanical musical device.

**Section 3. Repeal**

All ordinances or parts thereof, inconsistent with the terms and provisions of this Ordinance are hereby replaced.

**Section 4. Severability**

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

**Section 5. Authority**

This Ordinance is enacted pursuant to Title 28-A, M.R.S.A., Section 1054 and Title 30-A, M.R.S.A., Section 3001.

**Section 6. Enforcement**

This Ordinance shall be enforced by the Skowhegan Police Department.

## Section 7. Definitions

The following words, terms or phrases, when used in this Ordinance, shall have the same meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***Available to the public*** means that the matter or performance or act may be purchased or attended on a subscription basis, on a membership fee arrangement, or for a separate fee for each item or performance or act, or available merely by being a patron of or present in an establishment that is licensed to sell liquor.

***Dancer:*** means a person, other than a patron, under the licensee's control and dancing on the licensee's premises to entertain patrons.

***Disseminate*** means to transfer possession of, with or without consideration.

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

***Exotic Dancing*** shall mean the appearance of a person or persons, on the licensed premises, in such a manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals or any simulation thereof, or when any female appears on a licensee's premises in such a manner or attire as to expose to view any portion of the breast referred to as the aureole, nipple, or simulation thereof. "Expose to view" shall be interpreted to mean, without limitation, clear, see-through or clothing which is otherwise non-opaque.

***Licensee*** shall include any person, individual, partnership, firm, association, corporation or other legal entity which is the holder of a license for sale of liquor to be consumed on premises owned by said licensee, or any agent or employee of any such license.

***Material*** means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statute or other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction or any other articles, equipment or machines.

***Nudity*** or a ***State Of Nudity*** means the appearance of a human anus, pubic area, male genitals, or female genitals with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

***Obscene*** shall mean to the average person applying contemporary community standards the predominant appeal of the matter or act taken as a whole, is to prurient interest, and the matter or act depicts or describes in a patently offensive manner sexual conduct or lewd exhibition of the genitals or other body parts mentioned in this Section above, and the manner or act or



performance considered as a whole lacks serious literary, artistic, political or scientific value; or any matter or acts or performance which are prohibited by the statutes of the State of Maine.

*Performance* means any preview, play, show, skit, film, dance, or other exhibition, or entertainment performed before an audience.

*Performer* means an entertainer who performs a dramatic or musical work for an audience.

*Promote* shall mean to cause, permit, procure, counsel or assist.

*Service to patron* means the provision of services to customers, patrons, or any other persons present in establishments providing food and beverages, including but not limited to hostessing, hat-checking, cooking, bartending, serving, table setting and clearing, waiter and waitressing, and entertainment.

**Section 8. Penalty**

Except as otherwise provided by state law, anyone found guilty of violating any provision of this ordinance shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) to be recovered for the use of the Town of Skowhegan and shall be subject to such other legal and equitable remedies as may be available to the Town. Each day such violation occurs shall constitute a new and separate offense.

**Section 9. General Requirements**

- a) A licensed hotel, Class A restaurant, Class A tavern, or restaurant malt liquor licensee, as defined in the Maine Revised Statutes, may charge admission.
- b) With the exception of New Year's eve festivities, all music, dancing and/or entertainment subject to regulation under this ordinance, shall end no later than 01.00 A.M. Music, entertainment and dancing on January 1 shall end no later than 02.00 A.M.
- c) For any outdoor events, the Licensee of the premises shall contact the Chief of Police to determine what arrangements, if any, are needed for hiring a law enforcement officer or officers for the purpose of maintaining order and insuring the safety of the general public. The cost of hiring an officer or officers shall be incurred by the Licensee.

**Section 10. Conduct Constituting Offenses by Licensee**

- a) The Licensee shall not allow to remain on the premises any person or persons who are visibly intoxicated, or any person or persons exhibiting confrontational behavior; or to permit or gather a crowd, or audience, or patrons to witness any entertainment, amusement or show so as to create a dangerous condition because of fire or other risks in derogation of the public health, safety or welfare.

- b) The Licensee shall not allow on any licensed premise the making, creation, or maintenance of excessive, unusually loud noise, which disturbs or endangers the peace, health or safety of an individual or individuals. This is to be judged on a case by case basis at the discretion of the Police Officer that responds to any complaint(s).
- c) The Licensee shall not knowingly allow any licensed premises to be so conducted or operated so as to be in violation of any ordinances, rules or regulations of the municipality, or any statutes of the State of Maine.
- d) The Licensee shall not allow on any licensed premises the use or occupancy thereof for gambling or games of chances as prohibited by the statutes of the State of Maine (Title 8, Chapter 31).
- e) The Licensee, on any licensed premises, shall not:
  - 1) Knowingly disseminate, distribute or make available to the public any obscene material; or
  - 2) Knowingly make available to the public any obscene performance; or
  - 3) Knowingly engage in commerce and/or for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements, or any public sales efforts that promote such commerce primarily on the basis of the prurient appeal; or
  - 4) Provide service to patrons in such a manner as to expose to public view:
    - i) The Licensee's or any of his agent's or employee's genitals, pubic hair, perineum, anal region, or pubic hair region; or
    - ii) Any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, perineum, anal region or pubic hair region.
  - 5) Knowingly promotes the commission of any of the above listed acts of this section.

**Section 11. Regulations for Entertainment.**

The following regulations apply to the activities of performers hired by the Licensee to provide entertainment in establishments holding a license to sell liquor:

- a) No dancer shall dance in the establishment except within a designated area that is clearly defined and separated from patrons.
- b) No dancer shall dance closer than ten (10) feet from any patron.
- c) There shall be no fondling, mingling, or caressing in the establishment between any patron and any dancer with the intent to sexually arouse or excite a person's sexual desire.

d) For establishments that have fewer than six (6) performances of adult entertainment in a calendar year: The Licensee shall provide on the premises a separate dressing area for use by dancers only.

For establishments that have six (6) or more performances of adult entertainment in a calendar year: The Licensee shall provide on the premises a separate dressing area and toilet facilities for use by dancers only.

e) Any licensed premises allowing exotic dancing shall be located at least seven hundred and fifty (750) feet from any church, public or private school, library or any municipally owned or state-owned park, athletic field or recreational facility that is open to the public where children are the primary users.

For the purpose of this Ordinance, measurements shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises for exotic dancing to the nearest property line of a church, school, library or to the nearest boundary of a park, athletic field or recreational facility.

f) There shall be no graphic evidence on the exterior of any facility licensed under this Ordinance of the dancers, either live or simulated, requiring the licensee, if necessary, to black out windows or install curtains to prevent viewing of the dancers from the outside; provided, nothing in this paragraph shall prohibit the establishment from advertising, by words, the nature of the entertainment.

## **Section 12. Inspections of Businesses**

Whenever inspections of the licensed premises is required by ordinance, state law or is reasonably necessary to secure compliance with any town ordinance, code, regulation or state law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any law enforcement officer, official or employee of the town authorized to make the inspection at any reasonable time that admission is requested.

**TOWN OF SKOWHEGAN**  
**STREET NAMING AND HOUSE NUMBERING ORDINANCE**  
APPROVED AT THE ANNUAL TOWN MEETING ON MARCH 11, 1996  
AMENDED SPECIAL TOWN MEETING, AUGUST 2, 2001  
AMENDED MARCH 8, 2004

SECTION 1: Purpose

The purpose of this ordinance is to protect the public health, safety, and welfare by providing easy and rapid location of properties for law enforcement, fire, rescue and emergency medical services personnel; and to establish an official street naming and house numbering method for the Town of Skowhegan that will provide an actual physical location, in conformity of address, between local property tax maps, mailing and other delivery services, and the enhanced 911 telephone system.

SECTION 2: Authority

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

SECTION 3: Area of Applicability

This Ordinance shall apply to any street, public, or private; any building occupied or vacant and any lot in the Town of Skowhegan.

SECTION 4: Administration

The Selectmen shall have the right to adopt guidelines to assist in the administration of this ordinance.

SECTION 5: Authorization of Street Numbering

The Board of Selectmen shall appoint an Addressing Officer who shall have the sole authorization to assign street numbers to any building or lot within the boundary lines of the Town of Skowhegan. That number shall be the official address used for property identification on Town records.

SECTION 6: Method of Street Numbering

- A. Numbers shall be assigned every 50 (fifty) feet in rural areas, and every 10 or 25 feet in urban areas along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, as the numbers ascend from the point of origin.

B. All corner lots will be reserved a number for each street/road etc. it borders on, which will allow for a building or vacant lot to be numbered according to the front property line.

C. Lowest numbers will start at the North Channel Bridge at the Kennebec River and proceed sequentially toward the farthest most points.

NOTE: An exception to the above numbering system may be necessary to conform with existing numbering systems in the contiguous towns.

D. In the event where more than one residence, commercial or industrial building is on a lot, the rear dwelling or structure shall be numbered with a separate number.

#### SECTION 7: Numbers Affixed to Buildings

Upon written notification to do so from the Town, the owner or person in charge of any residence, business, or other building shall, within thirty (30) days, cause to be affixed to such residence, business, or other building the designated number. The number shall be of reflective material, not less than three inches in height, and of a color that contrasts with the background color, and placed on the building in such a manner as to be plainly visible and legible from the street or to a person approaching from the street. Where the building is placed at such a distance from the street or road that a number placed on it is not plainly visible, the number shall be placed on a post or other suitable object in such a manner as to be visible from the street. Any person who neglects or refuses so to number such structure or erects a number other than that assigned shall be in violation of this Ordinance.

#### SECTION 8: Naming System

All roads that serve two or more properties shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel, or dirt thoroughfare. "Property" refers to any property on which a more or less permanent structure has been or could be placed.

The Board of Selectmen shall have the sole authority to provide the name of a new street that is to be maintained by the Town of Skowhegan. However, a subdivision street will also be subject to approval by the Planning Board. All new streets to be maintained by the Town shall have green signs.

#### SECTION 9: Privately Owned Ways

All private roads or ways, serving two or more numbered structures or providing access to other privately owned ways, shall be named, approved by the Addressing Officer, and a sign that conforms with municipal sign regulations shall be erected bearing that name. New privately owned ways shall have blue signs. The expense of the sign shall be borne by the owner of the property underlying the private road or way. Failure to erect such sign shall cause the proper sign to be erected by the Town at the expense of the owner.

#### SECTION 10: Enforcement and Penalties

The provisions of this Ordinance shall be enforced by the Code Enforcement Officer of the Town of Skowhegan. Upon finding a violation of this Ordinance, the Code Enforcement Officer shall give written notice to any or all of the owners, or persons in charge of the residence, business or other building, stating the action necessary to achieve compliance and a compliance date by which such action must be taken. If the person to whom the notice is addressed does not correct the violation by the compliance date, such person commits a civil violation for each day the violation remains uncorrected after the compliance date and is subject to civil penalties of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for each subsequent violation.

#### SECTION 11: Appeal

Any persons aggrieved by the administration or enforcement of this Ordinance may appeal that action to the Town of Skowhegan Board of Appeals at any time within thirty (30) days of notification, by informing the Town Clerk, in writing, of said appeal. No appeal shall be considered to be a “de novo” action.

#### SECTION 12: Validity, Severability and Conflict with other Ordinances

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

#### SECTION 13: Effective Date

This Ordinance shall become effective immediately upon adoption, or amendment, by vote of the municipal legislative body.



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Chapter 15  
TOWN OF SKOWHEGAN

**ORDINANCE GOVERNING VICTUALERS LICENSES FOR  
FOOD SERVICE ESTABLISHMENTS, INNKEEPERS, AND LODGING HOUSES**

Adopted: Town Meeting, March 8, 1999

THE TOWN OF SKOWHEGAN HEREBY ORDAINS the following ordinance governing victualers licenses for food service establishments, innkeepers, and lodging houses.

**TITLE:**

This Ordinance shall be know as the Town of Skowhegan, Maine, Victualers, Innkeepers, and Lodging House Ordinance, and shall be referred to hereinafter as the “Ordinance”.

**AUTHORITY:** This Ordinance has been prepared in accordance with the provisions of Title 30-A, Section 3812 of the Maine State Revised Statutes Annotated. (M.R.S.A.)

**PURPOSE:** The purpose of this Ordinance is to control the issuance of licenses to the various food service establishments in the Town of Skowhegan.

**DEFINITIONS:** For the purposes of this Ordinance, the following definitions shall mean:

1. Innkeeper. “Innkeeper” means a person who keeps an inn, bed and breakfast establishment, hotel or motel to provide lodging to travelers and others for compensation and also to provide meals.
2. Licensing Board. “Licensing Board” means the Municipal Officers of the Town of Skowhegan.
3. Lodging House. “Lodging House” means a building in which three (3) or more rooms are rented, but does not include 1) a house where lodgings are rented to persons within the second degree of kindred to the person operating the lodging house; 2) the dormitories of charitable, educational or philanthropic institutions; or 3) the emergency use of private dwelling houses at the time of conventions or similar public gatherings.
4. Victualer. “Victualer” means a person who serves food or drink prepared for consumption on the premises by the public.
5. Premises. “Premises” means all lands, buildings, structures, places and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to, or is otherwise used in connection with any such business conducted on such premises.

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LICENSE REQUIRED:

No person shall operate as a victualer within the Town of Skowhegan unless licensed to do so by the Town, unless specifically waived by the Town. Applications for victualers' licenses shall be made in writing upon forms supplied by the Skowhegan Town Clerk and shall state the name of the applicant; his residence and mailing addresses; the name of the business to be conducted; his business address; the location(s) to be used; residence and business telephone numbers; and the date of the application. Upon receipt of the application, the Town Clerk shall refer the same to the Code Enforcement Officer for a determination to assure compliance with the ordinances, statutes and regulations of the Town of Skowhegan and the State of Maine.

HEARING:

The Board of Selectmen shall hold a hearing on any original application for a license for food service within thirty (30) days of the date of the request received at which time the testimony of the applicant and that of any interested members of the public shall be taken. The applicant shall be notified of the hearing date.

The municipal officers shall grant a license unless they find that issuance of such license will be detrimental to the public health, safety or welfare, or would be in violation of any Town or State ordinance, rules or regulations.

SUSPENSIONS AND REVOCATIONS:

The municipal officers may, after a public hearing, suspend or revoke any license for non-compliance with the ordinances, statutes and regulations of the Town of Skowhegan and the State of Maine.

FEES AND EXPIRATION:

Each person initially licensed as an innkeeper or victualer shall pay to the Town Clerk a fee of thirty dollars (\$30.00). All licenses, unless otherwise provided, expire May 31 of each year. Renewal of said victualer's license shall be thirty dollars (\$30.00).

ANNUAL VICTUALERS LICENSE HEARING:

The licensing board shall meet annually during the month of May on a date and at a time and place in the municipality that they determine. At least seven (7) days before the meeting they must post notices stating the purpose of the meeting in at least two (2) public places in the municipality.

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PENALTY:

Any person who violates any section of this Ordinance commits a civil violation for which a forfeiture of not more than fifty dollars (\$50.00) for the first offense or any subsequent offense may be adjudged. All forfeitures to be recovered, on complaint, will be to the use of the Town of Skowhegan.

**ZONING BOARD OF APPEALS ORDINANCE  
FOR THE TOWN OF SKOWHEGAN  
Adopted: March 8, 1999**

**I. GENERAL PROVISIONS:**

- A. The business of the Board shall be conducted in accordance with Maine Statutes, Town Ordinances, and Roberts' Rule of Order.
- B. It shall be the responsibility of the members of the Board to become familiar with all the duly enacted ordinances of the Town which they may be expected to act upon, as well as with the applicable State statutes.
- C. It shall be the responsibility of the members of the Board to become familiar with the community goals, desires, and policies as expressed in the Town of Skowhegan's Comprehensive Plan, now in effect, and grant the minimum relief which will insure that the goals and policies of the plan are preserved and substantial justice is done.

**II. APPOINTMENTS:**

- A. The Board shall consist of five members appointed by the municipal officers of the Town of Skowhegan for terms of five years.
- B. Neither a municipal officer nor his or her spouse may be a member of the Board.
- C. Any member of the Board may be removed from the Board, for cause, by the municipal officers, before expiration of his/her term, but only after notice and an opportunity for a hearing at which the member in question has an opportunity to refute specific charges against him/her. The term "for cause" shall include, but not be limited to, failure to attend four consecutive Board meetings or hearings without sufficient justification or voting when the member has a conflict of interest.
- D. When there is a permanent vacancy the Chairperson shall immediately notify the Town Clerk. The municipal officers shall, within sixty (60) days, appoint a person to serve for the unexpired term.

**III. OFFICERS AND DUTIES:**

- A. The officers of the Board shall consist of a Chairperson, Vice Chairperson, and Secretary who shall be elected annually by a majority of the Board.
- B. **CHAIRPERSON.** The Chairperson shall perform all duties required by law and this Ordinance and preside at all meetings of the Board. The Chairperson shall rule on issues of evidence, order and procedure and shall take such other

actions as are necessary for the efficient and orderly conduct of hearings, unless directed otherwise by a majority of the Board.

- C. VICE CHAIRPERSON. The Vice Chairperson shall serve in the absence of the Chairperson and shall have all the powers of the Chairperson during the Chairperson's absence, disability, or disqualification.
- D. SECRETARY. The Secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board. The Secretary is responsible for maintaining those records which are required by statute or this Ordinance as part of the various proceedings which may be brought before the Board. The Board may provide, by regulation, which shall be recorded by the Secretary, for any matter relating to the conduct of any hearing, provided that the chair may waive any regulation upon good cause shown. All records to be maintained or prepared by the Secretary are public records, shall be filed in the Town Clerk's office, and may be inspected at reasonable times.

IV. ADMINISTRATIVE DUTIES:

Administrative duties, subject to the direction of the Board, Chairperson, and the Secretary, shall be performed by a member of the municipal office staff who shall take minutes of all Board proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The staff person shall also arrange proper and legal notice of a hearing, attend to correspondence of the Board, and to other normal clerical duties of the Board. The staff person shall make a record of all resolutions, transactions, correspondence, findings and determinations of the Board, and shall prepare a complete record of each hearing including: date(s), time (s), place(s) of the hearing (s); subject of the hearing; identification of each participant; any agreements made between parties and the Board regarding procedures; the testimony presented; findings of the facts and conclusions; the decision of the Board; and the date of issuance of the decision. All records shall be forwarded to the Secretary for review and comment and inclusion in the public record.

V. CONFLICT OF INTEREST:

Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, excluding the member whose potential conflict is under consideration.

The term "conflict of interest" shall be construed to mean a direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (grandfather, father, wife, son, grandson, etc.) or to his employer or the employer of any member of the person's immediate family.

VI. POWERS AND LIMITATIONS:

The Board shall have the following powers to be exercised only upon receipt of a written appeal by an aggrieved party:

- A. The Board may interpret the provision of any applicable Town Ordinance.
- B. The Board may approve the issuance of a special exception permit, or conditional use permit, in strict compliance with any applicable Town ordinances.
- C. The Board may grant a variance only where strict application of any Town ordinance, or provision thereof, that would cause undue hardship to the petitioner and the property. The words “undue hardship” as used in the subsection means:
  1. The property in question can not yield a reasonable return unless a variance is granted; and
  2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
  3. The granting of a variance will not alter the essential character of the locality; and
  4. The hardship is not a result of action taken by the applicant or prior owners.
- D. The Board shall have the power to hear and determine all appeals by any person directly affected by any decision, action or failure to act with respect to any permits, variance or other required approval (hereinafter a Decision):
  1. rendered by the Code Enforcement Officer or the Planning Board pursuant to the Shoreland Zoning Ordinance;
  2. rendered by the Code Enforcement Officer or the Building Inspector relating to building code enforcement pursuant to any statute or Town ordinance;
  3. rendered by the Planning Board pursuant to the Town of Skowhegan’s Subdivision Standards Ordinance or the Maine subdivision statute;
  4. rendered by the Planning Board or Code Enforcement Officer pursuant to the Ordinance relating to Flood Hazard Building Permit System and Review Procedures;



5. rendered by the Planning Board pursuant to the Site Plan Review Ordinance.

VII. MEETINGS:

- A. The meetings of the Board shall be held as necessary.
- B. An annual organizational meeting of the Board shall be held in April.
- C. Meetings of the Board shall be called by the Chairperson. The Chairperson shall also call meetings of the Board when requested to do so by a majority of the members or by the municipal officers. At least forty-eight (48) hours written notice of the time, place and business of the meeting shall be given to each member of the Board, the Selectmen, the Planning Board and the Code Enforcement Officer.
- D. The order of business at meetings of the Board shall be as follows:
  1. roll call,
  2. reading and approval of the minutes of the preceding meeting,
  3. action on held cases,
  4. public hearing (when scheduled),
  5. other business
  6. adjournment.
- E. All meetings of the board shall be open to the public, except executive sessions. No votes may be taken by the Board except in public meeting. The Board shall not hold executive session except for consultation between the Board and its legal counsel concerning litigation or other legal matters.
- F. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the Board, and the exhibits, together with all papers and requests filed in the proceeding, constitutes the public record. All decisions become a part of the record and must include a statement of finding and conclusions, as well as the reasons or basis for the findings and conclusions, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. Notice of any decision must be mailed or hand delivered to the petitioner, the petitioner's representative or agent, the Planning Board, agency or officer and the municipal officers within seven (7) days of the Board's decision.

VIII. VOTING:

- A. A quorum shall consist of three members of the Board.

- B. No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum.
- C. All matters shall be decided by a roll call vote. Decisions on any matter before the Board shall require the affirmative vote of a majority of the entire membership of the Board unless otherwise specified herein.
- D. A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the application under consideration.
- E. If a member has a conflict of interest, he/she shall not be counted by the Board in establishing the quorum for such matter.
- F. No member shall vote on the determination of any matter requiring public hearing, unless he or she has attended the public hearing thereon, however, where such a member has familiarized themselves with such matter by reading the record, he or she shall be qualified to vote.

IX. APPEAL PROCEDURE:

Any person aggrieved by an action which comes under the jurisdiction of the Board pursuant to Section VI must file such application for appeal, in writing on forms provided within thirty (30) days of the granting or denial of a permit. The applicant shall file this appeal at the office of the Town Clerk, setting forth the ground for his/her appeal. Upon receiving the application for the appeal, the Town Clerk shall notify the Chairperson of the Board.

X. HEARING:

- A. The Board shall schedule a public hearing on all appeals applications within thirty (30) days of the filing of a completed appeal application.
- B. The Board shall cause notice of the date, time and place of such hearing, the location of the building or lot, and the general nature of the question involved, to be given to the person making the application and to be published in a newspaper of general circulation in the municipality, the date of the publication to be at least seven (7) days prior to the hearing. The Board shall also cause notice of the hearing to be given to owners of the property abutting that for which the appeal is taken at least seven (7) days prior to the date of the hearing.
- C. The Board shall provide as a matter of policy for exclusion of irrelevant, immaterial, or unduly repetitious evidence.
- D. The Order of business at a public hearing shall be as follows:
  - 1. The Chairperson calls the hearing to order.
  - 2. The Chairperson determines whether there is a quorum

3. The Chairperson gives a statement of the case, reads all correspondence, and reports received.
4. The Board determines whether it has jurisdiction over the appeal.
5. The Board decides whether the applicant has the right to appear before the Board.
6. The Board determines which individuals attending the hearing are “interested parties”. “Interested parties” are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include abutting property owners and those who might be adversely affected by the Board’s decision. Parties may be required by the Board to consolidate or join their appearances in part or in whole, if their interests or contentions are substantially similar and such consolidation would expedite the hearing. Municipal officers, the Planning Board, the Code Enforcement Officer shall automatically be made parties to the proceeding.

Other persons attending the hearing and Federal, State, Municipal and other governmental agencies may be permitted to make oral or written questions through the Chair.

7. The appellant is given the opportunity to present his or her case without interruption.
8. The Board and interested parties may ask questions of the appellant through the Chair.
9. The interested parties are given the opportunity to present their case. The Board may call its own witnesses, such as the Code Enforcement Officer.
10. The appellant may ask questions of the interested parties and Board witnesses through the Chair.
11. All parties are given the opportunity to refute or rebut statements made throughout the hearing.
12. The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All participants should be notified of the date, time and place of the continued hearing.

The Chairperson, after an affirmative vote of the Board, may waive any of the above if good cause is shown.

## XI. DECISION:

- A. Decision by the Board shall be made within thirty (30) days from the date of the final hearing.
- B. The final decision on any matter before the Board shall be made by written order signed by the Chairperson. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons and basis therefor, upon all material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof.
- C. The Board, in reaching said decision, shall be guided by standards specified in the applicable State laws, local ordinances, policies specified in the Comprehensive Plan and by Findings of Fact by the Board in each case.
- D. In reviewing an application on any matter, the standards in any applicable local ordinance or State statute shall take precedence over the standard of these rules whenever a conflict occurs. In all other instances, the more restrictive rules applies.
- E. The Board may reverse the decision or failure to act, of the Code Enforcement Officer or the Planning Board only upon a finding that the decision or failure to act, was clearly contrary to specific provisions of this Ordinance or unsupported by substantial evidence in the record.
- F. Notice of the Board's decision shall be sent by certified mail to the applicant, his representative or agent, the Planning Board, the Code Enforcement Officer, and the municipal officers within seven (7) days of the decision.
- G. Decisions of the Board shall be immediately filed in the office of the Town Clerk and shall be made public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.
- H. Unless otherwise specified, any order or decision of the board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within ninety (90) days from the date of the decision; however, the Board may extend this time by an additional ninety (90) days.

## XII. RECONSIDERATION:

- A. The Board may reconsider any decision. The Board must decide to reconsider any decision, notify all interested parties and make any changes in its original decision within thirty (30) days of its prior decision.
- B. The reasons for reconsideration shall be for, but not limited to, one of the following:
  - 1. The record contains significant factual errors due to fraud or mistake, regarding facts upon which the decision was based on.
  - 2. The Board misinterpreted the Ordinance, followed improper procedures, or acted beyond its jurisdiction.

XIII. APPEAL TO SUPERIOR COURT:

The decision of the Board of Appeals may be appealed, within forty-five (45) days after the decision is rendered, by any party to Superior Court in accordance with the Maine Rules of Civil Procedure.

XIV. SEVERABILITY:

The invalidity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision of this Ordinance.

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Chapter 22  
TOWN OF SKOWHEGAN

AN ORDINANCE TO PROHIBIT JUMPING, DIVING, OR SWIMMING FROM SEVERAL BRIDGES IN THE TOWN OF SKOWHEGAN, PROVIDING PENALTIES THEREOF

Approved Annual Town Meeting, March 9, 1999

**ARTICLE I**

SECTION 1 Title

This ordinance shall be known as and may be cited as the “Ordinance Prohibiting Jumping, Diving, or Swimming from Several Bridges in the Town of Skowhegan, Providing Penalties Thereof” and shall be referred to herein as the “Ordinance”.

SECTION 2 Purpose

The purpose of this Ordinance is to protect the health, safety, and well-being of the citizens of Skowhegan by prohibiting the jumping, diving, swimming or other dangerous acts from several bridges in the Town where shallow water, hidden obstruction, improper pedestrian use, and / or boat and vehicle traffic may endanger the safety of the person crossing, standing, jumping, diving, or swimming from the bridges or the safety of motorist or boaters.

**ARTICLE II**

SECTION 1 Restrictions

No person shall be permitted to jump, dive, or swim from any of the bridges listed in Article 3 section 1 of this Ordinance.

No person shall be permitted to traverse, stand or remain on any of the bridges listed in Article 2 section 1 of this Ordinance in a manner which endangers their health, safety and welfare.

SECTION 2 Penalties

Any person who violates any section of this Ordinance commits a civil violation for which a forfeiture not to exceed one hundred dollars (\$100.00) may be adjudged.

SECTION 3 Enforcement

This Ordinance shall be enforced by the Skowhegan Police Department.



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## ARTICLE III

### SECTION 1 Schedule of Bridges

Bloomfield Bridge - Spanning a portion of the Kennebec River between the River View parking lot and Mt. Pleasant Ave.

Half-Moon Bridge - Spanning the Wesserunsett Stream on the Parkman Hill Road.

North Channel Bridge - Spanning a portion of the Kennebec River on Island Ave.

South Channel Bridge - Spanning a portion of the Kennebec River on Island Ave.

Swinging Bridge - Spanning a portion of the Kennebec River between Alder Street and Weston Street.

Wesserunsett Bridge - Spanning the Wesserunsett Stream on the Canaan Road.

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Chapter 28  
TOWN OF SKOWHEGAN

**PUBLIC CARRIAGES**

**Approved Selectmen's Meeting, July 27, 1999, Effective August 30, 1999  
Amended Selectmen's Meeting, November 26, 2002; Effective December 26, 2002**

Sec. 1 DEFINITIONS

For the purpose of this article the following terms are to be deemed and construed to have the meaning indicated in this section.

- (A) Driver Permit Year: The term "driver permit year" shall mean the period of time commencing on the first day of January of one year and expiring on the thirty first day of December of the same year.
- (B) Holder: The term "holder" shall mean the person, firm, association, partnership, or corporation to whom a license to operate a taxicab has been granted.
- (C) Limousine: The term "limousine" shall mean a taxicab with a seating capacity of seven (7) passengers or more, including the driver.
- (D) Board of Selectmen: The term "Board of Selectmen" shall mean the Board of Selectmen of the Town of Skowhegan.
- (E) Town: The term "Town" shall mean the Town of Skowhegan.
- (F) Taxicab: The term "Taxicab" shall mean a sedan, station wagon, or minivan used for hire, with a driver, and a seating capacity of fewer than five (5) persons behind the driver, operated on call and demand, without fixed routes or termini, and the destination and route of which are under the control of the passenger or passengers being carried therein; the fares for which are at a rate per mile or wait time or both.
- (G) Driver: The term "driver" shall mean any person who is engaged in the driving of a taxicab for hire.
- (H) Vehicle Permit Year: The term "vehicle permit year" shall mean the period of time commencing on the first day of January and expiring on the 31<sup>st</sup> day of December of that same year.

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- (I) Taximeter: The term “taximeter” shall mean a mechanical instrument or device by which the fare for hire of the taxicab and the distance traveled by the taxicab are mechanically measured, calculated, and displayed.

Sec. 2 UNAUTHORIZED AND UNLICENSED TAXICABS PROHIBITED.

It shall be unlawful for any person, firm, association, partnership or corporation, situated within or outside of the Town of Skowhegan, to operate or cause or permit to be operated in the Town, any taxicab not authorized in accordance with the provisions of this Ordinance without having first obtained a taxicab license in accordance with the provisions of section 3 & 4 of this Ordinance unless such person, firm, association, partnership or corporation holds a valid license issued under a municipal ordinance whose provisions and requirement(s) are substantially similar to the provisions of section 3 & 4 of this Ordinance.

Sec. 3 INSPECTIONS

Before a taxicab license may be issued it shall be inspected to determine whether the taxicab:

- (A) Has a valid State of Maine motor vehicle registration under title 29-A M.R.S.A. §501(1)(3);
- (B) Complies with the requirements of all laws, ordinances, rules and regulations relating to the examination, inspection and safe operation of motor vehicles registered in the State of Maine;
- (C) Is in a clean and sanitary condition;
- (D) Meets the identifying lights and identifying design requirements of section 8 of this Ordinance;
- (E) Has the rate fare schedule conspicuously posted so that it is visible to passengers;
- (F) Is in all other respects, safe and suitable for taxicab service.
- (G) If equipped, has a statement from the sealer of weights and measures indicating the taximeter accurately calculates the charged mileage and/or time rate of fare.

The Chief of Police or his/her designee shall have the right to require re-inspection of any taxicab for which he has good cause to believe no longer meets the standard set forth herein. If a taxicab fails any re-inspection, the Chief of Police, or his/her designee, shall give the owner written notice of the deficiencies which must be corrected and a clear warning that failure to correct these deficiencies within ten (10) days of mailing of the notice shall constitute good cause for suspending or revoking the taxicab license pursuant to section 9. Nothing herein shall be construed to limit the authority of any law enforcement officer, including

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the Chief of Police, his/her designee, to prevent by impoundment, or otherwise, continued operation of a motor vehicle determined by the officer to be unsafe to operate.

Sec. 4 TAXICAB LICENSES REQUIRED, TERMINATION, EXPIRATION OF LICENSES, APPEAL UPON DENIAL OF APPLICATION.

- (A) A taxicab license may be issued by the Board of Selectmen upon the recommendation of the Chief of Police or his/her designee. The Chief of Police shall have the authority to deny a holder's request for a taxicab license if the requirements as set forth in sections (3) and (4) (B) (1-8) have not been satisfactorily met. No taxicab license may be issued unless each taxicab authorized to operate in the Town by a holder is licensed in accordance with the provisions of this section. Such license shall only be valid until December 31<sup>st</sup> of the current year unless earlier suspended or revoked under section 9 of this Ordinance, and must be renewed annually in the same manner and subject to the same terms and conditions as in the case of an initial application. Such taxicab licenses shall be non-transferable. No taxicab license shall be issued or continued in operation unless the holder thereof has paid the annual required fee for each vehicle operated under the license. A taxicab license must be signed by the chairman of the Board of Selectmen or his/her designee and shall be numbered in the order issued. Renewal taxicab licenses shall receive the same number as was issued on the original license. A taxicab license identification placard shall be issued bearing the name of the holder or applicant, a description of the vehicle so licensed, license number and expiration date. The taxicab license identification placard shall be conspicuously posted within the interior of the taxicab. The taxicab license identification placard is not valid unless it bears the signature of the Town Clerk or his/her designee.
- (B) Application for taxicab license. Application for a taxicab license shall be made on a form furnished by and filed with the Skowhegan Police Department. A nonrefundable license fee of fifty dollars (\$50.00) for each taxicab shall accompany the application. For new taxicab license application submitted within ninety (90) days prior to the vehicle permit year expiration date, the nonrefundable license fee for each taxicab shall be twenty-five dollars (25.00). Each completed application form shall be signed, verified by the applicant and contain:
- (1) The address of the applicant for purposes of any and all notices and other mailings required to be given under this Ordinance;
  - (2) The name, residence and business addresses, residence and business telephone numbers, date and place of birth of each person required to sign and verify the application form, and of each person having management authority in the business of the applicant.
  - (3) A record of conviction for any criminal offense punishable by incarceration for

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any period of time, regardless of whether a sentence of incarceration was in fact imposed or served, or a statement that no such conviction exists, for each applicant or holder identified in subsection (4) (a).

- (4) The identity of each municipality in which the applicant or holder identified in subsection (4) (a) has operated or is operating a taxicab service, whether the right to operate in any such municipality at any time has been suspended or revoked, and a detailed explanation of the reasons for and the circumstances surrounding any such suspension or revocation;
- (5) The number of taxicabs for which authorization to operate is sought;
- (6) The make, type, year of manufacture, vehicle identification number, registration plate number and seating capacity (including the driver) of each taxicab for which authorization to operate is sought;
- (7) Documentation that each taxicab is properly insured as required in section 5; and
- (8) Their rate fare schedule, unless the setting of rates is established by the Board of Selectmen.

#### Sec. 5. INSURANCE

- (A) Each taxicab shall be insured for the period over which the taxicab license is to remain in force, insuring persons and property from liability for injuries and damages resulting from the use and operation for such taxicab. The minimum insurance requirements for vehicles used to transport passengers for hire will be those set forth in Title 29-A M.R.S.A Section 1611 (2).
- (B) The underwriter, who insures each taxicab placed in operation by the holder, shall immediately notify the Town of Skowhegan, in writing, when:
  - (1) The policy has not been renewed or is cancelled by the holder; or
  - (2) The underwriter terminates the policy.
- (C) The holder of a taxicab license shall notify the underwriter of the requirements as set forth in section (5) (B) no later than the same day the policy is scheduled to go into effect.

#### Sec. 6. APPEAL OF DENIAL OF TAXICAB LICENSE.

If an applicant for a taxicab license is denied by the Chief of Police, the unsuccessful applicant may appeal such denial to the Board of Selectmen within ten (10) days after

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notification thereof is mailed to the applicant. An appeal from the decision of the Board of Selectmen may be taken to the Superior Court as provided by applicable law.

**Sec. 7. FARE SCHEDULE POSTED; BOARD OF SELECTMEN SETTING RATES OF FARE; RATE REVIEW COMMITTEE.**

(A) Taxicabs other than limousines. All taxicabs must conspicuously display within the interior of the taxicab a rate schedule which is visible to passengers in the front and rear seating compartment. Such rate schedule will indicate the fees for the following:

- (1) Cost per mile or part thereof; and
- (2) Transporting more than one passenger to the same destination; and
- (3) Handling luggage or groceries; and
- (4) Minimum call out after normal operating hours; and
- (5) Passenger requests to stand and wait.

(B) With the exception of limousines, the Board of Selectmen reserves the right to set rates of fare for all taxicabs licensed by the Town after a public notice and hearing;

(C) A rate review committee is an advisory board comprised of three (3) people who are appointed by the Board of Selectmen. The committee will meet upon the request of the Town Manager or Chief of Police. The committee will report its findings and make recommendations to the full Board of Selectmen regarding rates of a fare for holders approved to operate in the Town. The rate review committee will base its report, findings and recommendations on the following local issues and factors:

- (1) Mill rate;
- (2) Unemployment rate;
- (3) The holders business related expenses;
- (4) Cost of living adjustment;
- (5) Impact to citizens who rely on taxicabs for their primary or secondary source of transportation.
- (6) Rates comparable with other municipalities of like size and/or valuation.

**Sec. 8. IDENTIFICATION AS TAXICAB.**



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In addition to the exterior lights required by law, each taxicab shall be equipped with an identity light attached to its roof. Such identity light shall be constructed in one unit not exceeding eight (8) inches in height and twenty-three (23) inches in length and shall consist of an illuminated plate or cylinder upon which is printed "taxicab" or the name of the owner. Such identity light shall be illuminated during the period between sunset and sunrise when the taxicab is available for hire. Each taxicab shall be identified by the permanent placement on the exterior of one door on each side of the taxicab one of the following:

- (A) The name of the owner and word "taxicab" or "taxi" or "cab" in letters at least two and one-half (2 ½) inches high; or
- (B) A graphic design, logo, or insignia at least eight (8) inches in diameter and which contains the owner's name or trade name and the word "taxicab" or "taxi" or "cab".
- (C) This section does not apply to limousines.

#### Sec. 9. SUSPENSION, REVOCATION OF LICENSE; HEARING.

A taxicab license issued under the provisions of this Ordinance may be revoked or suspended by the Board of Selectmen for a period not to exceed ninety (90) days if the holder thereof has:

- (A) Knowingly made an incorrect statement of a material nature in support of its application; or
- (B) Terminated, allowed to lapse, or fails to meet the minimum requirements for taxicab vehicle insurance as specified under section 5; or
- (C) Consistently demonstrated a conscious disregard in the operation of his/her taxicab service for the public health, safety and welfare, and for the safe care, custody and transportation of passengers; or
- (D) Consistently been operating in violation of section 10 of this Ordinance relating to taxistands and solicitation; or
- (E) If so equipped, the taximeter or any part affecting the operation of the taximeter has been adjusted to intentionally misrepresent the distance actually traveled by the taxicab or other information required to be measured by the taximeter, by or with the knowledge of the holder; or
- (F) Failed to provide those vehicle accessories needed for the safe operation and transportation of passengers by a taxicab driver who has a physical disability; or

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- (G) Failed to conspicuously post the taxicab license identification placard within the interior of the vehicle.

Sec. 10. TAXISTANDS AND SOLICITATION.

The Board of Selectmen may assign to each and every licensed taxicab owner a suitable taxistand space on public streets and ways.

- (A) Standing in other than designated areas prohibited. In other than assigned taxistand, no holder shall permit their licensed taxicab to solicit passengers in any public place, street, lane, avenue, drive or square.
- (B) Passenger solicitation. No driver of a taxicab shall solicit any passenger or passengers within fifty (50) feet of such assigned taxistand except while parked therein.

Sec. 11. TAXICAB DRIVER'S PERMIT REQUIRED; APPLICATIONS; ISSUANCE OF PERMIT; APPEAL UPON DENIAL OF APPLICATION; IDENTIFICATION CARDS; TERM OF PERMIT.

It shall be unlawful for any person to operate a taxicab or limousine for hire in the Town without first having obtained a taxicab driver's permit in accordance with the provisions of this section. Such permit shall only be valid until December 31<sup>st</sup> of the current year unless earlier suspended or revoked. Permits shall be renewed annually in the same manner and subject to the same terms and conditions as an initial application. A taxicab driver's permit may be issued by the Town's Board of Selectmen upon the recommendation of the Chief of Police or his/her designee. The Chief of Police shall have the authority to deny a taxicab driver's permit if the applicant has not fulfilled or met the requirements as set forth in section 11 (A) (1-6), section 11 (B) (1,2), section 12 (A) or has disqualifying criminal or motor vehicle conviction as set forth in section 12 (B) (C) (D). In order to be valid, a taxicab driver's permit application must be approved by the chairman of the Board of Selectmen or his/her designee and shall be numbered in the order issued. Renewed driver permit applications shall receive the same number as was issued with the original permit.

(A) Application for permit. Application for taxicab driver's permit shall be made on a form furnished by and filed with the Skowhegan Police Department. A nonrefundable permit fee of twenty-five dollars (\$25.00) shall accompany the application. For new taxicab driver's permit applications submitted within ninety (90) days prior to the expiration of the driver permit year, the nonrefundable permit fee shall be twelve dollars and fifty cents (\$12.50). A completed application form shall be signed, verified by the applicant and contain:

- (1) The address of the applicant for purposes of any and all notices and other mailings required to be given under this Ordinance;

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- (2) A record of conviction for any criminal offense punishable by incarceration for any period of time, regardless of whether a sentence of incarceration was in fact imposed or served, or a statement that no such convictions exist;
  - (3) The identity of each municipality in which the applicant has operated a taxicab for hire, whether the right to operate in any such municipality has ever been suspended or revoked, and a detailed explanation of the reasons for and circumstances surrounding any such suspension or revocation;
  - (4) A record of conviction of any moving violation, the date of such conviction, the punishment imposed, and the location of the court in which such conviction was entered, or a statement that no such conviction exists;
  - (5) Authorization by the applicant to all persons and governmental agencies having information relevant to subsection(A) (1) through (A) (4) above to release upon request of the police department such information which may aid their determination of whether to issue, suspend or revoke a taxicab driver's permit; and
  - (6) Such other information as the applicant deems appropriate or as the police department may reasonably require to protect the public health, safety and welfare, and to ensure the safe care, custody and transportation of customers.
- (b) Evidence in support of application. In addition to filing a completed application form, an applicant for a taxicab driver permit must satisfy each of the following requirements;
- (1) Present a valid State of Maine operator's license;
  - (4) Demonstrate to the satisfaction of the Chief of Police or his/her designee, by submission of two (2) letters of character references, that the applicant is at present of such good moral character that he/she can be entrusted with the safe care, custody and transportation of taxicab passengers; provided, that conviction of any criminal offense identified in subsection (A) (2) above shall create a rebuttal presumption that the applicant does not satisfy the requirements of this paragraph.
- (c) Identification card. An identification card will be issued to the taxicab driver bearing the name and photograph of the permittee and the driver permit number. An identification card is not valid unless it bears the signature of the Town Clerk or his/her designee. Identification cards must be conspicuously visible upon the clothing of the permittee at all times while operating a taxicab within the Town of Skowhegan.

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Sec. 12. DENIAL OF TAXICAB DRIVER PERMIT.

An application for a taxicab driver's permit shall be denied if the applicant;

- (A) Is under the age of eighteen (18) or does not have a valid State of Maine operator's license; or
- (B) Has a disqualifying criminal record based on a conviction in the State of Maine for crimes of felony murder, manslaughter, gross sexual assault, kidnapping or an equivalent offense in another State.
- (C) Has a disqualifying criminal record based on a conviction within the past three (3) years for burglary, elevated aggravated assault, aggravated assault, unlawful sexual contact, visual sexual aggression against a child, sexual misconduct with a child under fourteen (14) years of age, theft by deception or unauthorized taking or transfer where the value of the property exceeds two-thousand dollars (\$2,000.00), perjury, robbery, aggravated promotion of prostitution, unlawful trafficking in scheduled drugs, aggravated trafficking or furnishing of scheduled drugs, unlawfully furnishing scheduled drugs and trafficking in hypodermic apparatuses or an equivalent offense in another State.
- (D) The applicant has been convicted during the preceding two (2) years of operating or attempting to operate a motor vehicle while under the influence of intoxicating liquor or drugs, operating to endanger or an equivalent offense in another State.

Sec. 13. APPEAL OF DENIAL OF PERMIT.

If an applicant for a taxicab drivers permit is denied by the Chief of Police, the unsuccessful applicant may appeal such denial to the Board of Selectmen within ten (10) days after notification thereof is mailed to the applicant. An appeal from the decision of the Board of Selectmen may be taken to the Superior Court as provided by applicable law.

Sec. 14. SUSPENSION OR REVOCATION OF TAXICAB DRIVER PERMIT.

The Board of Selectmen may, after notice to the permittee and public hearing, suspend for a period of not more than ninety (90) days or revoke the permit of a taxicab driver if the Board of Selectmen find:

- (A) That the permittee has been convicted of a traffic or criminal violation while transporting a passenger in a taxicab; or
- (B) That the permittee has consistently failed to wear the identification card issued to him as required under section (11) (C) of this Ordinance; or

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- (C) That the permittee has a disqualifying criminal conviction as indicated in section 12 (B) (C) (D) of this Ordinance; or
  - (D) That the permittee in one or more instances knowingly took a longer route to the requested destination than was necessary, unless so requested to do so by the passenger; or
  - (E) Knowingly conveyed any passenger to a place other than that to which the passenger specified; or
  - (F) Transporting any person other than the passenger first engaging the taxicab without the expressed consent of such first passenger; or
  - (G) Upon demand of a passenger, failing to render to such passenger a receipt for the amount paid. Such receipt shall bear the name of the owner, name of the taxi, the date of the transaction and the amount paid; or
  - (H) The permittee has a physical disability and is operating a taxicab which isn't modified with the accessories needed for the safe operation of the vehicle and transportation of passengers; or
  - (I) If so equipped, adjusts the taximeter to intentionally misrepresent the distance traveled by the taxicab or other information required to be measured by the taximeter.

#### Sec. 15. TAXIMETER

(A) Each taxicab, which is equipped with a taximeter tested, approved, and sealed by the sealer of weights and measures, shall accurately measure the distance traveled by the taxicab and the fare being charged. Said taximeter shall be adjusted to accurately calculate no more than the maximum posted rates of fare as set forth in section 7 or by the Board of Selectmen. The taximeter shall clearly show the fare in clear and distinct figures and shall clearly show the type of fare being charged mileage and/or time. The taximeter shall be placed so that the dial thereof is in plain view of the passenger while being transported in such taxicab and shall be illuminated during the period between sunset and sunrise to enable the passenger to read the figures indicated thereon. If so equipped, taximeters shall be permanently affixed to the taxicab and sealed by the sealer of weights and measures. Upon request, it shall be the responsibility of the holder to submit his/her taxicab or taxicabs for inspection to the sealer of weights and measures, Chief of Police or Town Manager. If upon inspection of the taximeter, the sealer of weights and measures determines that the taximeter meets the requirements of this section, he/she shall then issue a statement to the holder indicating the same.

(B) After public notice and hearing, the Board of Selectmen may require all taxicabs

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licensed to operate in the Town to be equipped with taximeters.

- (C) The holder shall be responsible for any and all fees associated with the testing by and the approval of the taximeter by the sealer of weights and measures.
- (D) This section does not apply to limousines.

#### Sec. 16. PENALTIES

- (A) Any holder who violates any provision of section 2 of this Ordinance commits a civil violation for which a forfeiture not to exceed three hundred dollars (\$300.00) may be adjudged for each and every offense. Any such civil forfeiture may be in addition to any suspension or revocation imposed in accordance with the provisions of section 9.
- (C) Any taxicab driver who violates any provisions of section 11 of this Ordinance commits a civil violation for which a forfeiture not to exceed three hundred dollars (\$300.00) may be adjudged for each separate offense. Any such civil forfeiture may be in addition to any suspension or revocation imposed in accordance with the provisions of section 14.

#### Sec. 17. TEMPORARY TAXI DRIVER AND TAXICAB PERMITS

Within fourteen (14) days from the date of the application and upon the approval from the Chief of Police and the Town Manager, or their designees, temporary taxi driver and taxicab permits may be issued pending final approval from the Board of Selectmen. Persons issued temporary taxi driver and taxicab permits must comply with all applicable provisions of this Ordinance.

Final approval of taxi driver and taxicab permits by the Board of Selectmen must occur within sixty (60) days of the receipt of the application.

Upon written notice, temporary taxi driver permits may be revoked by the Chief of Police and the Town Manager, or their designees, for violations of Sections 9 and 14. Temporary taxi driver permits shall be revoked for violations of Sections 12 (b), (c), or (d).

Upon written notice, temporary taxicab permits may be revoked by the Chief of Police and the Town Manager, or their designees, for violations of Section 3. Temporary taxicab permits shall be revoked for violation of section 5 (a).

#### Sec. 18. SEVERABILITY

The provisions of this Ordinance are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.



## TOWN OF SKOWHEGAN, MAINE

### Controlled Substance Facilities Ordinance

Adopted June 13, 2016

The Skowhegan Board of Selectmen devise this Public Safety Ordinance, and ordain that:

- 1) This Ordinance regulates facilities involved in the production and/or distribution of controlled substances including but not limited to medical marijuana dispensaries and opioid treatment centers (methadone clinics). For the purpose of this Ordinance, “facility” means the location of an operation to dispense methadone or other controlled substances, or to grow or dispense marijuana. Individual Registered Patients, licensed hospitals and pharmacies, and Registered Primary Caregivers under DHHS supervision are not governed by this ordinance.
- 2) All operations in Skowhegan under the Statute and the DHHS Rules must be performed in such a way as to protect the required confidentiality of identity of applicants, patients, caregivers, and physicians.
- 3) Locations Restricted: A registered facility shall only be located on US Route 201 or US Route 2 east of ME Route 150, or Northgate Industrial Park or Southgate Industrial Park. A facility may not locate within one thousand (1,000) feet of the property line of any pre-existing public or private school, or any safe zone as designated by the Town of Skowhegan in accordance with state law, 30-A MRSA, section 3253. (Current safe zones are: Bucky Quinn Ball Field on South Factory Street, Pat Quinn Ball Field on East Maple Street, Memorial Field on East Maple Street, Carl Wright Ball Fields at the Community Center, the Community Center.)
- 4) No registered facility governed by this ordinance may be sited in the Shoreland Zone, or in a Floodplain or Wetland or any other Ordinance required by the Town of Skowhegan.
- 5) A marijuana growing facility is considered primarily a nursery for plants and must be fenced, completely enclosed, and secured by locks, lights, motion detection devices, and such other security systems as may be required by the DHHS. This growing facility may NOT be or contain an open field or garden. It may be sited with the dispensary or may be on a different lot.
- 6) All facilities will be designed in such a way as to minimize the impact on neighboring properties and public services. At a minimum, the facility shall conform to the design provisions of the following sections of the Skowhegan Site Plan Review Ordinance (2008, or as amended):
  - a. Section 3.A.3 (public safety)
  - b. Section 3.A.5 (waste disposal and storage)
  - c. Section 3.B (vehicle access and parking)
  - d. Section 3.C.1 (exterior lighting), and
  - e. Section 3.C.3 (buffering)

The Skowhegan Code Enforcement Officer shall be responsible for conducting such reviews and inspections as are necessary to assure compliance with all other codes and ordinances.

- 7) For confidentiality and public safety reasons, no interior layout plans or details of security features for any facility will be required to be submitted, except the minimum needed for a building permit..
- 8) No application for a Certificate of Occupancy shall be approved for a facility unless it has been issued a valid registration certificate by the State pursuant to 22 M.S.S.A. § 2428(2) and meets all other State and local laws and regulations.
- 9) Because the products in medical marijuana have proliferated to include extracts, pills, sprays, and topical products (ointments, salves, and lotions) due to differing needs of patients, different prescriptions by physicians, and increasing knowledge of various effects of the complex chemistry of the several *cannabis* species and strains, multiple facilities may share in the DHHS approved process of manufacturing, preparing, and packaging the usable marijuana.
- 10) Municipal Officers, Town Officials, and Citizens are referred to the State Statute and to the DHHS Rules, as amended.
- 11) Additional sections of this ordinance may be added if additional controlled substances are legislated for local or regional distribution under DHHS or State-administered control.
- 12) Severability: The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any of them shall be declared unconstitutional, invalid, or unenforceable, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.
- 13) This Ordinance and subsequent amendments take effect on the date of enactment by Town Meeting vote.

**Chapter 38**  
**TOWN OF SKOWHEGAN**

**ROAD AND ENTRANCE**

**DESIGN STANDARDS ORDINANCE**

Adopted February 14, 2012, Special Town Meeting, Article #3  
Amended June 10, 2013

ARTICLE ONE: ADMINISTRATION

1.1 TITLE

This ordinance shall be known as the Road and Entrance Design Standards Ordinance of the Town of Skowhegan and will be herein referred as “this ordinance”.

1.2 AUTHORITY

This Ordinance is adopted pursuant to the “home rule” provisions of M.R.S.A. Title 30-A, Section 3001.

1.3 PURPOSE

- A. To promote the public health, safety and general welfare in their use of public ways through establishment of minimum specifications for the design and construction of public and private roads and entrances.
- B. To establish minimum requirements for a road to qualify for Town acceptance.

1.4 APPLICABILITY

- A. This ordinance shall apply to the design and construction of all public and private roads and entrances onto public roads within the Town of Skowhegan.
- B. This ordinance shall not apply to routine maintenance of public or private roads or to improvements to an existing entrance.
- C. This ordinance shall apply to the design and construction of all public roads that are being completely rebuilt.
- D. This ordinance shall not apply to road construction or improvement activities of the state or federal government.

1.5: EFFECTIVE DATE

This Ordinance was adopted by voters of Skowhegan on February 14, 2012 and takes effect upon enactment by the Town Meeting. The enactment of this ordinance automatically repeals the following Town ordinance sections:

Town of Skowhegan Subdivision Standards: Sections 12.1, 12.2, 12.3  
Town of Skowhegan Street and Sidewalks: Article II

1.6: COORDINATION WITH ORDINANCES

This ordinance is designed to work in conjunction with applicable State laws and Skowhegan ordinances. Whenever this ordinance conflicts with or is inconsistent with another provision of this ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control.

1.7: VALIDITY AND SEVERABILITY

Should any section or provision of this ordinance be declared by a court to be invalid, such decision shall not invalidate any other provision of this ordinance.

1.8: AMENDMENTS

Amendments to this ordinance shall be enacted by a majority vote of a Town Meeting. The Board of Selectmen shall conduct a public hearing on any proposed amendments prior to the Town Meeting.

1.9: APPLICATION FEE

Applications authorized under this ordinance shall be accompanied by a fee sufficient to cover the costs associated with issuance of the permit. Fees shall be set and may from time to time be amended by the Board of Selectmen, provided that no permit fee will be charged for access permits under section 2.2.1.

1.10 ENFORCEMENT

It shall be the duty of the Code Enforcement Officer (CEO) to enforce the provisions of this ordinance, with technical assistance from the Road Commissioner. If the CEO or his/her designee shall find that any provision of this ordinance is being violated, he/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.

Any person, firm, or corporation being the owner of or having control or use of any premises found to be in violation of any of the provisions of this ordinance, shall be fined in accordance with Title 30-A M.R.S.A. sec. 4452, except that the fine for failure to obtain a permit for access under section 2.2.1 of this ordinance shall be limited to twenty-five (25) dollars. The Board of Selectmen, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action.

1.11: DEFINITIONS

Access: The point at which a driveway, entrance or public or private road enters the public road system.

Completely Rebuilt: A road is considered “completely rebuilt” if all of the paving and base material is removed and replaced, or if the alignment shifts significantly enough to require placement of a new base.

Development: Any improvement to property which falls within the applicability requirements of the Town of Skowhegan *Site Plan Review Ordinance*.

Driveway (*or* entrance): Vehicular access for undeveloped land, or two (2) or fewer residential properties, or which provides access to a commercial parking lot.

Street: Any vehicular way that serves three (3) or more residential properties or multiple commercial properties. For the purpose of this ordinance, a street shall be classified as one of the following:

Arterial Street: A major thoroughfare, which serves as a major traffic way for travel between and through municipalities. The following Skowhegan roadways shall be considered arterial streets: US Route 2, US Route 201, ME Route 150, and ME Route 104.

Collector Street: A street which has two or more intersections with the public road system and carries at least 200 vehicle trips per day on average.

Commercial Street: Streets servicing industrial or commercial traffic generators.

Minor Street: A street which is not an arterial, collector or commercial street.

Town Way/Public Road: A road which is designed and intended for acceptance as a town way, or is already designated as a town way.

Private Road: A road which is intended to be maintained exclusively by users of the road. Evidence of non-governmental maintenance responsibility shall be in place to qualify a road as “private”.

Sight Distance: The line of sight along a roadway sufficient for the safe operation of the access point. Sight distance shall be measured from a point ten (10) feet behind the curb line or edge of pavement of the road being accessed, with the height of the eye 3.5 feet, to the top of an object on the roadway 4.25 feet above the pavement.

Temporary use of an Access: The use of an access point for a temporary road or driveway, typically for construction or property improvement, which is limited to a period of less than twelve (12) months.

Upgrade/Access Points: The use of an access point for a more intensive use of the property than previously approved or utilized. The term “upgrade” does not include improvement to an existing driveway unless for the purpose of providing for a more intensive use of the property.

Upgrade/Public Ways: An existing public way is upgraded if it is improved for the purpose of accommodating more intensive use, including, but not limited to, the establishment of a residential subdivision or new or expanded commercial development.

## ARTICLE TWO: ACCESS TO PUBLIC STREETS

### 2.1: GENERAL REQUIREMENT

No new or upgraded driveway, entrance, or public or private road, street, or other way shall be permitted to access a public way within the Town of Skowhegan, without a permit as provided below.

### 2.2: PERMITTING

2.2.1 An access proposed to service an individual property, residence, or business which is not a development subject to review under section 2.2.2 must receive a permit from the Skowhegan Road Commissioner prior to commencement of construction. A permit shall be issued upon determination that the proposed access meets the standards in section 2.3 of this ordinance. A permit shall be issued within five (5) working days of application.

The Road Commissioner shall develop forms and procedures for receiving and acting on applications for access permits, and for inspections to determine that construction has been completed in compliance with the permit.

2.2.2 An access proposed to service a development subject to approval under the Town of Skowhegan Subdivision Ordinance or Site Review Ordinance is presumed to be permitted upon approval of the application for development. Driveways from individual lots within a subdivision, if not shown as part of an overall development design, must receive permits under section 2.2.1, if accessing a public road.

2.2.3 An access required to be permitted by the Maine Department of Transportation, under its Access Management Rules, shall not be required to obtain a separate permit under this ordinance. This provision shall not be interpreted to relieve the developer of the obligation to obtain any other federal, state, or municipal permits required.

### 2.3 ACCESS DESIGN AND CONSTRUCTION STANDARDS

2.3.1 Standards for all Access Points:

2.3.1.1 Unless the access is constructed and intended for temporary use, adequate sight distance shall be provided. An access point shall be placed such that there is a minimum of two hundred fifty (250) feet of clear sight distance on either side for a street with a speed limit of 25 MPH or less, and three hundred fifty (350) feet on all other streets. The Road Commissioner shall waive this requirement if adequate sight distance is not available anywhere along the frontage, but shall require placement of the access where the greatest possible sight distance can be obtained.

2.3.1.2 Culverts shall be required where the Road Commissioner determines that the proposed access will interfere with roadside drainage patterns. If culverts are



required, they will be purchased and delivered to site at owner's expense. Culverts shall be installed and maintained by the Town where they are within the right of way. The Road Commissioner will specify the size (diameter, length and type) of the culvert. Culvert materials will meet the specification of section 706 (for non-metallic pipe) or section 707 (metallic pipe) of *Maine DOT Standard Specifications for Highways and Bridges (2002)*

Culverts and other drainage features within the public right-of-way shall be in accordance with Maine Best Management Practices and shall be approved by the Road Commissioner or his agent.

2.3.1.3 Driveways shall be constructed in such a manner as to prevent deposition of water, snow, gravel, or other debris onto the public way.

2.3.1.4 No more than two (2) access points for the same property shall be allowed per one hundred (100) feet of frontage on a street.

2.3.1.5 Drainage facilities shall be relocated only after approval of the Road Commissioner and according to the specifications of this ordinance. The applicant shall bear all expenses.

2.3.1.6 The grade of existing sidewalks may be altered when such change will not adversely affect or damage adjoining walks and property, and then only as approved by the Road Commissioner.

### 2.3.2 Standards for Residential and Commercial Access Points

2.3.2.1 Where property fronts on collector/commercial roads, no more than two access points shall be permitted, unless the frontage exceeds one thousand (1,000) feet in length. Additional access points may be permitted onto adjoining roads.

2.3.2.2 Driveway entrances shall be no less than twenty (20) feet in width at the curb line or edge of shoulder. The driveway itself shall be no less than twelve feet (12') nor more than forty-two (42) feet in width, measured before it flares into the road.

2.3.2.3 The edge of a driveway at the point of access shall be well-defined. Where the existing road is curbed, curbing shall continue into the driveway for a minimum of five (5) feet, except as needed to continue sidewalks. In other cases, the edge will be defined by a sloped shoulder or vegetated verge.

2.3.2.4 Access points shall be surfaced with a suitable all-weather surface resistant to erosion for a distance of at least fifty (50) feet from the public road. Paving, if provided, shall be firmly joined and blended with existing street pavement.

2.3.2.5 Access points and commercial driveways subject to the *Town of Skowhegan Site Plan Review Ordinance* are required to meet the additional design standards in that ordinance.

2.3.2.6 No driveway shall be built within fifty (50) feet of the intersection of two (2) streets as measured along the near edge of pavement of the streets, except upon approval by the Road Commissioner. The Road Commissioner may consult with the Town Manager and Board of Selectmen prior to granting approval.

2.3.2.7 Safety islands of not less than ten (10) feet in length shall be required where two (2) driveways are provided for the same property on the same street.

### ARTICLE THREE: CONSTRUCTION OF ROADS AND STREETS

#### 3.1 GENERAL REQUIREMENT:

No public way shall be established or upgraded within the Town of Skowhegan except in conformance with the provisions of this Article. Public ways may not serve new development that would exceed the capacity of the road until and unless upgraded to the standards of this ordinance, provided that the Town of Skowhegan shall not be required under this ordinance to upgrade roads to accommodate private development.

#### 3.2 PERMITTING AND ACCEPTANCE:

##### 3.2.1 Permitting Requirements and Procedures

The establishment or upgrade of a public way shall be approved by the planning board. If the road is part of a subdivision, subdivision approval will serve as approval for the road. If the road is not associated with a subdivision, the planning board shall review the proposal on its own merits.

3.2.1.1 An applicant for a permit shall submit road construction plans to the planning board prior to commencement of construction or improvement. If the improvement is, or is intended as, a town way, drawings shall be prepared by a professional engineer licensed to practice in the State of Maine.

The Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet (100') to the inch. Plans shall be no larger than 24 by 36 inches in size. Plans and attachments shall include the following information:

- Proposed name of street and the municipality(ies) in which it will be located.
- For roads proposed to become public, an actual field survey of the boundary lines of the right-of-way, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The right-of-way boundaries shall be located on the ground and marked by monuments. The

survey shall indicate the type of monument set at each corner.

- Each plan page shall show the date the Plan was prepared, magnetic and true north arrow, graphic map scale, and names and addresses of the record owner, subdivider and individual or company who prepared the Plan.
- Construction plans shall include a plan view, profile view and typical cross section. In addition to street dimensions, plans shall show the location and size of existing and proposed sewer lines, water mains, manholes, fire hydrants, utilities, culverts and drainage ways on or adjacent to the right-of-way.
- The Plan shall contain sufficient data to allow the location, bearing and length of every street line, curve, and boundary line to be readily determined and be reproduced upon the ground.
- Plans shall include a Soil Erosion and Sedimentation Control Plan, prepared in accordance with the standards contained in *Maine Erosion and Sediment Control BMPs* (Maine DEP, 2003 or as revised).
- For roads proposed to become public, plans shall include a Stormwater Management Plan prepared by a Registered Professional Engineer, in accordance with the standards contained in *Stormwater Management for Maine*, (Maine DEP, 2006 or as revised).
- For roads proposed to become public, a properly executed Performance Guarantee, as specified by the Board of Selectmen.

3.2.1.2 The planning board will determine whether an application has all the required elements prior to undergoing a review of the application on its merits. Once that determination has been made, the board will approve the application if it meets the standards of this ordinance. The board shall act to approve or deny the application within thirty-five (35) days of their determination that the application is complete.

3.2.1.3 No changes, erasures, modification, or revisions shall be made in any approved plan unless the revised plan is first submitted and the planning board finds that the revised plan still meets the standards of this ordinance.

3.2.1.4 The approval of a plan shall not constitute or be evidence of any acceptance by the Town of any street.

3.2.1.5 Failure to complete construction of a street within five (5) years of the date of approval shall require re-examination of the plan by the board. This re-examination will be subject to the Standards currently in effect and the board may impose additional terms or conditions or prescribe other necessary corrective action to respond to significant changes in circumstances or requirements which may have occurred since the prior approval.

### 3.2.2 Acceptance as a Town Way

3.2.2.1 The Board of Selectmen, with the assistance of the Road Commissioner and planning board, shall review all proposals for road acceptance and shall make a recommendation to the Town Meeting.

3.2.2.2 The Town shall accept roads only by a vote of the Town Meeting.

3.2.2.3 A road shall not be eligible for public acceptance unless it complies with all of the requirements of section 3.4 of this Ordinance.

3.2.2.4 The Board of Selectmen shall determine that a road is eligible for public acceptance only when it conforms to the following:

- a) The road has a finished surface according to the specifications herein;
- b) The road has been designed and constructed according to plans developed in accordance with the standards of section 3.4;
- c) The road has been inspected by a professional engineer and certified to have been constructed according to the requirements of this Ordinance; and
- d) The road developer has obtained all applicable permits associated with the construction of the road and connection with other roads, and is in compliance with those permits.

3.2.2.5 If the Board of Selectmen determines that the road conforms to these criteria, they shall hold a public hearing on the proposal. The Board of Selectmen may vote to recommend to the Town that the road be considered for public acceptance.

3.2.2.6 All costs associated with design, construction and inspection of a proposed town way shall be borne by the person or persons requesting the acceptance.

### 3.3 PRIVATE ROADS

A private road is intended to be maintained exclusively by the users of the road. Under these conditions, a private road need not meet the same design standards as a public road. The standards listed in section 3.3.1 are designed exclusively to ensure that private roads are safe and accessible by emergency service vehicles.

3.3.1 Private roads shall meet the following specifications in design and construction:

3.3.1.1 Right of Way must be at least forty (40) feet in width, unless the land adjoining the road consists of lots within a mobile home park, in which case the right-of-way may be reduced to twenty-three (23) feet in width. The right-of-way shall be wider if required for the installation or maintenance of drainage structures or side slopes.

- 3.3.1.2 The road must be constructed with a gravel base consisting of a sub-base course no less than twelve (12) inches in thickness and a surface course of no less than three (3) inches. The gravel must meet the specifications in section 3.4.7 below.
- 3.3.1.3 Private roads are not required to be paved with a bituminous surface. However, if a paved surface is provided, paving shall conform to the specifications in section 3.4.7 below for a minor road.
- 3.3.1.4 The width of the travelled way (surface course) shall be no less than eighteen (18) feet.
- 3.3.1.5 The road shall be aligned so as to be accessible to emergency vehicles. The minimum radius for a horizontal curve shall be one hundred fifty (150) feet. The maximum grade shall be eight (8) percent. Changes in grade shall be connected by vertical curves gradual enough to prevent scraping the undercarriage of fire equipment.
- 3.3.1.6 Dead-end Roads shall provide a permanent, finished turnaround installed perpendicular to the road as near to its terminus as practicable. The turnaround shall be constructed to the same specifications as the roadway, and shall be no less than 35 feet in length (perpendicular leg).
- 3.3.1.7 Intersections with public roads must provide adequate sight distance in each direction. The sight distance shall be a minimum of ten (10) feet for every mile-per-hour of speed limit on the road being intersected. Additional standards may apply if the intersection is with an arterial road. Corners shall be cleared of all growth and sight obstructions, including ground excavation where necessary, to achieve the required visibility.

### 3.3.2 Drainage and Erosion Control

The developer of a private road shall make adequate provision for the control of erosion. The publication *Maine Erosion and Sediment Control BMP's* (DEP, 2003 or most recent edition) shall be used as a guide. The location and design of culverts shall be approved by the Road Commissioner prior to installation.

### 3.3.3 Maintenance Responsibility

- 3.3.3.1 Private roads are barred by law from receiving public expenditures for either summer or winter maintenance or improvement, and may not be accepted as town ways unless and until they comply with the standards in section 3.4.
- 3.3.3.2 Owners and purchasers of property accessing the private road shall be informed in writing of their ownership and maintenance responsibility for the road. If included as part of a subdivision, the subdivision plan shall contain the following note: “[Name of Roads] in this Subdivision shall remain private roads to be maintained

by the developer or the lot owners and shall not be accepted or maintained by the Town unless improved to meet public road standards.”

3.3.3.3 Prior to establishment of a private road, the developer shall demonstrate with reasonable certainty that funding for continued maintenance of the road has been provided for, either through a self-funding mechanism or through an organization with the authority to assess users of the road with maintenance costs.

### 3.4 PUBLIC ROADS (TOWN WAYS)

A road intended for acceptance as a town way shall be constructed in accordance with the standards in this section. Roads designed as collectors or commercial roads must meet the standards for collectors.

The installation of capital improvements to upgrade public roads (town ways) shall comply with these standards unless local conditions make compliance impractical. Periodic maintenance practices, such as rehabilitation of an existing paved road, restoring ditches, or replacement of utilities or drainage structures are not to be considered as capital improvements for the purpose of this section.

#### 3.4.1 General Design Requirements

The following minimum design standards apply according to classification.

Description	TYPE OF STREET			
	Arterial	Collector	Minor	Commercial
Minimum Right-of-way width	80'	60'	50'	60'
Minimum Pavement width	44'	24'	20'	30'
Sidewalk width (where required)	8'	5'	5'	8'
Minimum grade	.5%	.5%	.5%	.5%
Maximum grade *	5%	6%	8%	5%
Minimum centerline radius	500'	230'	150'	400'
Minimum tangent between curves	200'	100'	50'	200'
Roadway crown	1/4"/Ft.	1/4"/Ft.	1/4"/Ft.	1/4"/Ft.
shoulders (each side)	5'	3'	3'	9'

\* Maximum grade may be exceeded for a length of 100 feet or less.

The center line of the roadway shall be the center line of the right-of-way.

#### 3.4.2 Dead Ends

Dead-End Streets (Streets with a single entrance to the public road system) shall be constructed to provide a means to reverse direction at the terminus.

3.4.2.1 Circular style turnarounds shall have a right-of-way radius no less than sixty (60) feet, and a pavement radius of no less than fifty (50) feet. The center of the circle may be left unpaved for a radius of no more than thirty-two (32) feet. The unpaved



area shall be vegetated to control erosion.

3.4.2.2 A “T” or hammer head style turnaround may be provided for minor streets. The turnaround shall be centered within a fifty (50) foot right-of-way and shall be designed and constructed according to the same specifications as the street and no less than forty (40) feet in length (perpendicular leg).

3.4.2.3 Within a subdivision, the planning board may require that an easement for extension of the right-of-way be shown on the plan, to provide a connection to property where future subdivision is possible, or for the purpose of providing for pedestrian access or utility placements

### 3.4.3 Grades and Sight Distances:

3.4.3.1 Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

3.4.3.2 All changes in grade shall be connected by vertical curves to provide the following minimum stopping distances based on the street design speed:

Design speed (mph)	<u>20</u>	<u>25</u>	<u>30</u>	<u>35</u>
Stopping sight distance (ft)	125	150	200	250

Stopping sight distance on vertical curves shall be calculated with a height of eye at 3.5 feet and the height of object at 0.5 feet.

3.4.3.3 Intersection sight distance shall be a minimum of ten (10) feet for every mile-per-hour of speed limit in each direction on the road being intersected. Additional standards may apply if the intersection is with an arterial road. Corners shall be cleared of all growth and sight obstructions, including ground excavation where necessary, to achieve the required visibility.

### 3.4.4 Curbs:

Curbs and gutters shall be installed within the urban compact area, or within any areas designated in the Capital Improvement Plan or Comprehensive Plan as growth areas. Where curbs are to be installed they shall meet the following minimum standards:

1. Granite Curbs shall be installed on a thoroughly compacted base of six inches of gravel.
2. Bituminous Curbs shall be installed on the base course of pavement. The specified road width shall be measured between the curbs.
3. Concrete curbs shall be placed using the same specifications as for concrete sidewalks, section 3.4.4 (4) above.
4. All curbing must elevate at least seven (7) inches above the road surface.

### 3.4.5 Street Construction Specifications:

3.4.5.1 Material depths (after compaction):

Description	TYPE OF STREET			
	Arterial	Collector	Minor	Commercial
Aggregate Sub-base course (Max. Sized stone 4")	24"	24"	24"	24"
Crushed Aggregate Base course	4"	3"	3"	4"
Hot Bituminous Pavement				
Surface Course	2"	1 ½"	1 ½"	2"
Base Course	4"	2 ½"	2 ½"	4"
Total Thickness:	6"	4"	4"	6"

3.4.5.2 Preparation:

Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty (50') foot intervals.

Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush, and other objectionable material. All ledge, large boulders and trees stumps shall be removed from the right-of-way.

All organic materials shall be removed to a depth of two (2) feet below the subgrade of the road. Rocks and boulders shall also be removed to a depth of two (2) feet below the subgrade. On soils which have identified as not suitable for roads, the subsoil shall be removed from the street site to a depth of two (2) feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base.

Cut side slopes shall be no steeper than a slope of three (3') feet horizontal to one (1') foot vertical, and shall be raked, limited, fertilized and seeded according to the specifications of the Erosion and Sedimentation Control Plan. Where a cut results in exposed ledge, a side slope no steeper than two (2') feet vertical to one (1') foot horizontal is permitted.

All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

3.4.5.3 Base Material:

The construction requirements for aggregate base and sub-base course shall be as specified in Subsections 304.03 through 304.0 of the most current edition of the M.D.O.T. *Standard Specifications Highway and Bridges* manual.

The aggregate sub-base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances, and shall contain no particles of rock exceeding four (4) inches in any dimension. The gradation of the part that passes a three (3) inch square mesh sieve shall meet the following requirements:

<u>Sieve Designation</u>	<u>Percentage by weight passing</u>
½ inch	20-70%
No. 40	0-30%
No. 200	0- 7%

The aggregate base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances and shall contain no particles of rock exceeding four (4") inches in any dimension. The gradation of the part that passes a three (3") inch square mesh sieve shall meet the following requirements:

<u>Sieve Designation</u>	<u>Percentage by weight passing</u>
½ inch	45-70%
¼ inch	30-55%
No. 40	0-20%
No. 200	0- 5%

3.4.5.4 Pavements:

The base layer of pavement shall be mixed and placed as per the most current edition of the MDOT *Standard Specifications Highway and Bridges*, section 401 and section 703.9. The surface layer of pavement shall be mixed and placed as per section 401 and section 701.4.

Construction requirements shall be as specified in Subsections 401.07 through 401.20, most current edition of the M.D.O.T. *Standard Specifications Highway and Bridges* manual.

3.4.6 Entrance Design for a Road entering onto Arterial and Collector Streets:

The standards of this section shall apply to all new streets proposed to enter an arterial or collector street within the Town. If an existing street is to be improved, it shall meet the standards of this section to the extent practicable.

New entrances outside of the Urban Compact area which are required to obtain an entrance permit from the Maine Department of Transportation may present a valid MDOT permit as evidence that the proposed street will meet the standards of this section.

3.4.6.1 Sight Distances: The intersection shall be designed in profile and grading, and located to provide the required sight distance measured in each direction. The required sight distances are listed below for various posted speed limits:

- a. Two Lane Road: A sight distance of ten (10') feet for each mile per hour of posted speed limit shall be maintained or provided.
- b. Three or Four Lane Road:

Speed Limit (MPH)	Sight Distance	
	Left (Ft)	Right (Ft.)
25/30	300	300
35/40	380	440
45	425	495
50	620	700

3.4.6.2 Minor Streets. Where the street proposed to enter the street is a minor street, the standards in this section shall apply:

Skew Angle: Minor streets shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than sixty (60) degrees.

Curb Radius: The curb radius shall be between five (5) feet and fifteen (15) feet, with a preferred radius of ten (10) feet.

Curb cut Width: Curb-cut width shall be between twenty-two (22) feet and forty-six (46) feet, with a preferred width of thirty-six (36) feet.

Intersection Spacing: The point of intersection shall be no closer than one hundred (100) feet from the point of intersection with another street, and no closer than two hundred fifty (250) feet from an intersection which is controlled by a traffic signal. If a street or commercial entrance intersects from the opposite side of the road, the new street will be located as nearly as possible directly across from it.

3.4.6.3 Collector and Commercial Streets.

Where the street proposed to enter the street is a collector or commercial street, the standards in this section shall apply.

Skew Angle: The street shall intersect the arterial at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than sixty (60) degrees.

Curb Radius: Curb radii shall be between twenty- five (25') feet and forty (40') feet, with a preferred radii of thirty (30') feet.

Curb-Cut Width: The total curb-cut width shall be between seventy-four (74') feet and one hundred (100') feet with a preferred width of eighty-six (86') feet.

Intersection Spacing: The point of intersection shall be no closer than one hundred fifty (150) feet from the point of intersection with another street or commercial access point, and no closer than four hundred (400) feet from an intersection which is controlled by a traffic signal. If a street or commercial entrance intersects from the opposite side of the road, the new street will be located as nearly as possible directly across from it.

Appropriate traffic control signage shall be erected at the intersection of the access and the street, and on medians and channelization islands.

#### 3.4.6.4 Construction Materials/Paving:

All streets entering a curbed street shall be curbed with materials matching the curbing of the street being entered. Sloped curbing is required around all raised channelization island or medians.

All streets shall be paved with bituminous concrete pavement within the right-of-way of the street being entered. All commercial streets regardless of access volume shall be paved with bituminous concrete pavement within thirty (30) feet of the right-of-way of the street being entered.

#### 3.4.7 Storm Water Management

Adequate provisions shall be made for disposal of all storm water generated within the right-of-way and any drained ground water through a management system of swales, culverts, underdrain and storm drains. The storm water management system shall be designed to construct storm water flows to existing water courses or storm water drains.

Where a right-of-way is traversed by a stream, river or surface water drainage, there shall be provided easements or drainage right-of-way with swales, culverts, catch basins, or other means of channeling surface water. This storm water management system shall be designed by a Registered Professional Engineer.

All components of the storm water management system shall be designed to limit peak discharge to pre-development levels provided every storm between the two (2) year and twenty-five (25) year, twenty-four (24) hour duration, frequencies, based on rainfall data for Portland, Maine.

3.4.7.1 Drainage easements for existing water-courses or proposed drainage ways shall be provided at least thirty (30') feet wide, conforming substantially with the lines of existing natural drainage.

3.4.7.2 The minimum pipe size for any storm drainage pipe shall be twelve (12) inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet. Pipe shall be bedded in fine granular materials, containing no

stones larger than three (3) inches, lumps of clay, or organic matter, reaching a minimum of six (6) inches below the bottom of the pipe extending to six (6) inches above the top.

- 3.4.7.3 The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of twenty-five (25) percent for potential increases in upstream runoff.
- 3.4.7.4 In curbed sections, the Road commissioner will designate location of catch basins.
- 3.4.7.5 Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of curvilinear drain is obtained in writing from the Road Commissioner.
- 3.4.7.6 Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.
- 3.4.7.7 Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.
- 3.4.7.8 Storm Drainage Construction Specifications:
  - 1. Reinforced Concrete Pipe: Reinforced Concrete Pipe shall meet the requirements of ASIM Designation C-76 (AASHTO M170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01 inch crack strength with Class B bedding. Joints shall be of the rubber gasket type meeting ASIM Designation C443-70, or of an approved preformed plastic jointing material such as "Ramnek". Perforated Concrete Pipe shall conform to the requirements of AASHTO M175 for the appropriate diameters.
  - 2. Corrugated Metal Pipe: Corrugated Metal Pipe shall meet AASHTO M196 for aluminum alloy pipe. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than five (5%) percent.
  - 3. ABS Pipe: ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings shall conform to the requirements of AASHTO M264 and AASHTO M265. Perforated pipe shall conform to the requirements of AASHTO M36, Type 252.
  - 4. Corrugated Plastic Pipe: Corrugated Plastic Pipe shall conform to the requirements of AASHTO M252.
  - 5. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot



intervals. Manholes shall be of pre-cast concrete truncated cone section construction meeting the requirements of ASIM Designation C 139, radial type. Bases may be cast in place 3,000 psi 28-day strength concrete or may be of pre-cast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M103 for carbon steel castings, AASHTO M105, Class 30, for gray iron castings, or AASHTO M (ASTMA 283, Grade B or better) for structural steel.

6. Catch basins shall be of pre-cast concrete truncated cone section construction meeting the requirements of ASIM Designation C478 or pre-cast concrete manhole block construction meeting the requirements of ASIM Designation C139, radial type. Castings shall be square cast iron sized for the particular inlet condition with the gratings perpendicular to the curb line. Bases may be cast in place 3,000 psi 28-day strength concrete or may be of pre-cast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M103 for carbon steel castings, AASHTO M105, Class 30, for gray iron castings, or AASHTO M183 (ASTMA 283, Grade or better) for structural steel.

- 3.4.7.9 Upon completion, all culverts, catch basins, or manholes shall be cleaned of all silt, debris or foreign matter and shall be kept clean until final acceptance.

#### 3.4.8 Sidewalks:

Sidewalks shall not be required if the road adjoining the proposed road has no existing sidewalks. Where sidewalks are to be installed, they shall have a minimum unobstructed width of five feet and a side-to-side pitch of no more than two (2) percent, except where designed for handicapped access.

##### 3.4.8.1 Sidewalk Construction Specifications:

1. All sidewalks shall consist of a finish course placed over a gravel base meeting the specification of section 3.4.5.3 for base course, placed twelve (12) inches thick after compaction.
2. Bituminous Sidewalks shall consist of a hot bituminous pavement surface course MDOT Spec. 9.5 mm mix, constructed in two lifts each no less than one inch after compaction.
3. Concrete Sidewalks shall be no less than four (4) inches thick, composed of 2,500 psi concrete mix, 5 % air entrained, with stone no larger than  $\frac{3}{4}$ ". Concrete shall be reinforced with number 10 welded wire mesh with control joints no more than five (5) feet apart.

4. Brick or cobble-style sidewalks shall be placed on a bed of sand no less than two (2) inches thick over a gravel base no less than twelve (12) inches thick, separated by filter fabric to prevent mixing of sand and gravel base.

#### 3.4.9 Additional Improvements and Requirements:

- 3.4.9.1 Erosion Control: The procedures outlined in the Erosion and Sedimentation Control Plan shall be implemented during site preparation, construction and clean-up stages.
- 3.4.9.2 Clean-up: Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized and seeded.
- 3.4.9.3 Street Names, Signs: Streets which join and are in alignment with existing streets shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the Town, and shall be subject to the approval of the Skowhegan Street Addressing Officer. The developer shall reimburse the Town for costs of installing street name signs. The road developer shall install guide rail, traffic signs, and other traffic control devices as required and approved by the Road Commissioner.
- 3.4.9.4 Street lighting to be installed shall be approved by the Board.

#### 3.4.10 Monuments

Stone monuments, or iron pins, shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.

Stone monuments shall be a minimum of four (4") inches square at the top and four (4') feet in length, and set in the ground at final grade level. After they are set, drill holes, ½ inch deep shall locate the point or pints described above.

Iron pins shall be of adequate size (no less than 1/4" bar) to identify corners and shall bear the number of the professional land surveyor who installed them.

#### 3.4.11 Certification of Construction:

As built plans shall be submitted to the Board of Selectmen. Upon completion of street construction and prior to a vote by the Board of Selectmen to submit a proposed public way for acceptance, a written certification signed by a professional engineer registered in the State of Maine shall be submitted at the expense of the developer certifying that the proposed way meets or exceeds the design and construction standards of this section.

### 3.4.12 Waiver of Standards:

- 3.4.12.1 Where in the course of reviewing applications under the Town of Skowhegan Site Review Ordinance or the Town of Skowhegan Subdivision Review Ordinance, the planning board finds that there are special circumstances of a particular site, or that there are more economical or effective engineering or technical practices, it may grant a waiver to the appropriate standard of this ordinance. Any waivers must be demonstrated to be not contrary to good design, public health, safety and general welfare of the public and must be documented in writing during the approval process.
- 3.4.12.2 Any person building a road intended to be proposed for public acceptance and which will not meet the standards of this ordinance must request a waiver from this ordinance directly from the Town of Skowhegan Board of Selectmen. Only the Board of Selectmen shall have the authority to grant a waiver to standards for roads proposed for public acceptance. The board may place reasonable conditions on the approved waiver, as it deems necessary, to endure that the objectives of this Ordinance are met.

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Chapter 23  
TOWN OF SKOWHEGAN

**CURFEW ORDINANCE**  
Adopted Annual Town Meeting, March 8, 1999

WHEREAS, there is a need for governing the conduct of minors in the Town of Skowhegan for the purpose of alleviating the problem of juvenile delinquency.

WHEREAS, it is in the best interest of the public health, safety and welfare to reduce noise and disturbances at the late hours in the Town of Skowhegan.

NOW, THEREFORE, the Town of Skowhegan hereby ordains that nay existing curfew ordinances be repealed and replaced with the following new ordinance.

**SECTION 1. Title**

This Ordinance shall be known and may be cited as the Curfew Ordinance of the Town of Skowhegan, Maine.

**SECTION 2. Purpose**

The purpose of the Ordinance is to aid in the control of juvenile delinquency in the Town of Skowhegan.

**SECTION 3. Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context of the usage clearly indicates another meaning:

“Emergency” shall mean an unforeseen combination of circumstance or the resulting state that calls for immediate action. The term shall include, but not be limited to, fire, natural disaster, vehicular accident, or a serious medical condition of sudden onset.

“Guardian” shall mean the person(s) or public or private agency whom, pursuant to a court order, or a voluntary placement or appointment by the minor’s parent(s), is the guardian of the person that is the minor.

“Minor” shall mean any person who has not attained the age of eighteen.

“Parent” shall mean the natural mother or father, adoptive mother or father, or stepmother or stepfather of a minor.

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“Public Place” means any place to which the public has access and includes, but is not limited to, streets, highways, public parks and the common areas of schools, hospitals, houses, office buildings, transport facilities and shops.

**SECTION 4. Offenses**

- (a) It shall be unlawful for any minor to be or knowingly remain in or upon any public place within the Town of Skowhegan between the hours of 12:00 midnight and 5:00 a.m.
- (b) It shall be unlawful for any minor to be or knowingly remain in or upon any public place while in a motor vehicle, regardless of whether or not it is stopped, parked or mobile, within the Town of Skowhegan between the hours of 12:00 midnight and 5:00a.m.
- (c) It shall be unlawful for the parent or guardian having legal custody of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in Section 4 (a) of this Ordinance.
- (d) Violation of this section shall be punishable as provided in Section 7 of this ordinance.

**SECTION 5. Defenses**

It is a defense to prosecution under Section 4 of this Ordinance that:

- (a) The minor was accompanied by his or her parent or guardian.
- (b) The minor was accompanied by an adult specifically designated, before the fact, by his or her parent or guardian.
- (c) The minor was on an errand made necessary by an emergency.
- (d) The minor was attending a school, religious or government-sponsored activity or was traveling to or from a school, religious or government-sponsored activity.
- (e) The minor was engaged in a lawful employment activity or was going directly to or coming directly from lawful employment.
- (f) The minor was on the sidewalk in front of the place where he or she resides.
- (g) The minor was on an errand specifically directed by his or her parent or guardian and had in his or her possession at the time the errand was performed a document, signed

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by the parent or guardian , which expressly permits the minor to knowingly remain in or upon any public place between the hours of 12:00 midnight and 5:00 a.m.

- (h) The minor was traveling intrastate or interstate in a motor vehicle and the route selected required the minor to proceed through the Town of Skowhegan.
- (i) The minor was engaged in participating in, or traveling to or from any event, function or activity for which the application of Section 4 of this Ordinance would contravene his or her rights protected b the Maine or United States Constitutions.

#### SECTION 6. **Enforcement**

Except as provided below for a first offense for minors, this Ordinance shall be enforced by issuance of a civil summons directly to the offender. Before taking any action to enforce this ordinance, the police officer shall, in the case of a minor, ask the age of the apparent offender. The police officer may ask for proof of the apparent offender's age and shall be justified in taking action to determine the apparent offenders age in the absence of identification, subject to and in compliance with all requirements imposed by law, including, but not limited to, the provisions of Title 17-A M>R>S>A> Section 17. Pursuant to that statute, the police officer may require the minor to remain in his or her presence for a period of up to two (2) hours.

For minors, documented verbal warning shall be issued for the first offense.

In all cases, upon finding a minor in violation of this Ordinance, the police officer shall advise the minor that he or she is in violation, of this curfew ordinance and direct the minor to proceed at once by the most direct route to his or her home or usual place of abode.

If the minor refuses to proceed to his or her home or usual place of abode after having been warned of the violation, or if the minor is subsequently observed by a police officer to be in violation of the Ordinance after being previously warned, the police officer shall summons the minor and, if the minor's parent or guardian knowingly allowed the violation to occur, the police officer may also summons the parent or guardian.

#### SECTION 7. **Penalties**

The penalty for violation of the ordinance shall be as follows for a minor:

- (a) For the first offense, subsequent to a receipt of a warning, as provided above, a civil forfeiture of twenty-five dollars (\$25.00) or, if the minor consents, four (4) hours of community service to be completed within thirty days (30) of adjudication; and
- (b) For each subsequent offense, a civil forfeiture of up to one-hundred dollars (\$100.00) or, if the minor agrees, sixteen (16) hours of community service to be completed within thirty (30) days of adjudication.



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The penalty for violation of this Ordinance shall be as follows for a parent or guardian having custody of the minor:

- (a) A forfeiture not to exceed one hundred dollars (\$100.00) for each civil violation.

**SECTION 8. Severability**

If any provision of this Ordinance is determined invalid by a court of competent jurisdiction, such determination shall not render invalid the remaining portions of the Ordinance.

# **Town of Skowhegan**

## **Sex Offender Residency Restriction Ordinance**

Adopted at Town Meeting June 11, 2018

### **ARTICLE I - TITLE**

This Ordinance shall be known as the "Town of Skowhegan Sex Offender Residency Restriction Ordinance."

### **ARTICLE II - FINDINGS AND PURPOSE**

The Town promotes and strives to create a safe environment for its citizens to live and raise families and considers the promotion of the safety and welfare of children to be of paramount importance. The Town recognizes that sex offenders who prey upon children may have a high rate of recidivism. Notwithstanding the fact that certain persons convicted of sex offenses or sexually violent offenses are required to register pursuant to the Maine Sex Offender Registration and Notification Act of 1999, 34-A M.R.S.A. § 11201 et seq., as may be amended in the future, the Town finds that further protective measures are necessary and warranted to safeguard places where children congregate. The purpose of this ordinance is to provide such further protective measures while balancing the interests and residential needs of sex offenders.

### **ARTICLE III - AUTHORITY**

This ordinance is adopted in accordance with the provisions of 30-A M.R.S.A. § 3001 and 30-A M.R.S.A. § 3014, as may be amended in the future.

### **ARTICLE IV - DEFINITIONS**

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**DESIGNATED SEX OFFENDERS** - Persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense, regardless of whether the offense was committed in the State of Maine or another jurisdiction.

**RESIDENCE** - The temporary or permanent occupation or use of a place, including, but not limited to, a domicile, for the purpose of living, residing or dwelling. The residence shall be deemed to include all the land or property within the limits of the property parcel on which the residence is situated.

**RESTRICTED PROPERTY** - The real property consisting of the entire property parcel on which a public or private elementary, middle or secondary school is located or any safe zone as designated by the Town of Skowhegan in accordance with state law, 30-A MRSA, section 3253.

Also the real property comprising a municipally owned or state-owned property that is leased to a nonprofit organization for purposes of a park, athletic field or recreational facility that is open to the public where children are the primary users.

Current “safe zones” that apply are: Bucky Quinn Ball Field on South Factory Street, Pat Quinn Ball Field on East Maple Street, Memorial Field on East Maple Street, Carl Wright Ball Fields at the Community Center, the Community Center, and Lake George Regional Park.

SETBACK - A seven-hundred-fifty-foot (750ft) buffer surrounding restricted property.

**ARTICLE V - RESTRICTED PROPERTY MAP; RESTRICTIONS:**

The Planning Department, with the assistance of the Police Department, shall prepare and file with the Town Clerk and Police Department an official map showing restricted property, as defined by this ordinance. The map is hereby incorporated herein and made a part of this ordinance. [1]

The Planning Department, with the assistance of the Police Department, shall by July 1 of each year recommend updates to the map to the Town Selectboard to reflect any changes in the locations of any restricted property and setbacks. The Town Selectboard may amend the restricted property official map by Town Selectboard order, and any amended official map shall be filed with the Town Clerk and the Police Department. In the event of any conflict between the map and the text of this ordinance, the ordinance text shall control.

[1] Note: Said map is on file in the Town Clerk’s office.

No designated sex offender shall reside within the setback of any restricted property. Licensed nursing homes or other licensed medical facilities are excluded from this ordinance so necessary medical care can be provided.

**ARTICLE VI - EXCEPTIONS**

A designated sex offender maintaining a residence within the setback of a restricted property is not in violation of this ordinance if the residence was established and consistently maintained as a residence prior to the date of adoption of this ordinance. A designated sex offender is not in violation of this ordinance if the restricted property is created, moved or enlarged and such creation, movement or enlargement results in a designated sex offender residing within the setback of a restricted property, as long as the residence was in place and consistently maintained prior thereto.

**ARTICLE VII - VIOLATIONS AND PENALTIES**

A designated sex offender who, 30 days after actual receipt of written notice sent by regular mail or hand delivered from the Town acting by and through its Police Department, is in violation of this ordinance shall be subject to an action brought by the Town to enforce the requirements of this ordinance. The Town may file a legal action against the violator seeking any and all remedies to which it is entitled pursuant to state and local laws, including, without limitation, declaratory and injunctive relief.

The Town also may seek a penalty in the minimum amount of \$500 per day. Each day of violation shall constitute a separate violation. In the event the Town is the prevailing party in any action under this ordinance, it shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the Town. All civil penalties shall inure to the benefit of the Town of Skowhegan.

**ARTICLE VII - SEVERABILITY**

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

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Chapter 24  
TOWN OF SKOWHEGAN

**FIRE PREVENTION AND PROTECTION**  
Adopted : Annual Town Meeting March 11, 2000

Art. I. In General,

**ARTICLE I. IN GENERAL**

**SECTION 1. Fire limits described.**

The fire limits of the Town of Skowhegan is that area within the following described bounds:

Commencing on the southerly line of Water Street at its intersection with the westerly line of North Avenue; thence northerly along the westerly line of North Avenue to Cross Street, so-called; thence westerly along the southerly line of Cross Street to the easterly line of Court Street, so-called; thence northerly along the easterly line of Court Street to the southerly line of High Street; thence, westerly along the southerly line of High Street crossing Madison Avenue and continuing westerly one hundred and fifteen feet (115') to the westerly line of the Town of Skowhegan Assessor's map 26 lot #116; thence southerly three hundred and eighty feet (380') along the westerly line of the Town of Skowhegan Assessor's property map 26 lots #116, 115, 114; to Elm Street; thence, across Elm Street to a point eighty (80) feet westerly from the westerly line of Madison Avenue; thence continuing southerly the same distance of eighty (80) feet from said Madison Avenue and crossing Water Street to the Kennebec River; thence continuing southerly and easterly along said river to a point in line with the easterly boundary of the Municipal Building lot; thence northerly in a straight line to the south side of said Water Street; thence in a straight line to the point of beginning. (Town Meeting, 03-08-09; Town Meeting, 3-31-53)

**SECTION 2. Construction of wooden buildings in fire limits**

Within the fire limits of Skowhegan there shall not hereafter be erected any wooden buildings, except small additions to existing structures, and those only with and by the written consent of a majority of the Selectmen.

EXCEPTION: Non fire resistive construction would be permitted if an approved automatic sprinkler system is provided.

**SECTION 3. Single chimneys.**

No unlined single brick chimneys shall hereafter be built, but single brick chimneys which are properly lined with fire proof tile and acceptable to the fire chief may be allowed.

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**SECTION 4. Rubbish accumulation prohibited; penalty.**

(a) The accumulation of rubbish, which may more readily cause the spread of fire, either within or without any building, is prohibited. Any such accumulation shall at once be removed on request of the fire chief.

(b) Violators of this section shall be subject to the provisions of section 7-5.  
(Town Meeting, 3-8-09, §12; Selectmen's meeting, 5-5-53)

**SECTION 5 Penalty for violating section 7-4.**

A person who violates any provisions of this section commits a civil violation for which a forfeiture not to exceed fifty dollars (\$50.00) may be adjudged.



TOWN OF SKOWHEGAN

**SEWERAGE ORDINANCE**

**Adopted Annual Town Meeting March 7, 1994**  
**Amended at the Annual Town Meeting March 8, 2004**  
**Amended at the Annual Town Meeting March 6, 2006**

**ARTICLE I**

**Purpose**

The purpose of this Ordinance is to promote the health and general welfare of the citizens of the Town of Skowhegan by regulating and restricting the construction and use of sewerage systems and the accumulation, transportation, treatment and disposal of sewage in such a manner that the creation of any sewerage system, whether public, private or industrial, shall not result in pollution, health hazard or other nuisance.

**ARTICLE II**

**Scope**

Hereafter any person owning any building or structure within the Town of Skowhegan which is the source of sewage and/or industrial wastes or who proposes to erect such building or structure shall conform to the requirements of this Ordinance and the State of Maine Plumbing Code.

**ARTICLE III**

**Definitions**

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

SECTION 301. "A.S.T.M." shall mean American Society for Testing and Materials.

SECTION 302. "B.O.D." (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.

SECTION 303. "Builder" shall mean any person, persons, or corporation who undertakes to construct, either under contract or for resale, any habitable building unit, either residential, commercial or industrial.

SECTION 304. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning eight (8) feet outside the inner face of the building wall.

SECTION 305. "Building Sewer" shall mean the extension from the building drain to a public sewer, private sewer, or individual sewage-disposal system.

SECTION 306. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

SECTION 307. "Developer" shall mean any person, persons, or corporation who undertake to construct simultaneously or in planned sequence more than one building unit, either residential, commercial or industrial, on a given tract or land subdivision.

SECTION 308. "Engineer" shall mean the Professional Engineer retained by the Town of Skowhegan. In the event the Town has not retained an Engineer, the term "Engineer" as used herein will be construed to mean the Superintendent of Sewers.

SECTION 309. "Garbage" shall mean solid wastes from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

SECTION 310. "Industrial Wastes" shall mean liquid wastes resulting from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

SECTION 311. "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

SECTION 312. "Owner" shall mean any individual, firm, company, association, society, person, or group having title to real property.

SECTION 313. "Person" shall mean any individual, firm, company, association, society, corporation, or group.

SECTION 314. "pH" shall mean the logarithm of the reciprocal of the weight of Hydrogen ions in grams per liter of solution.

SECTION 315. "Private Sewer System" shall mean any sewer that collects sewage from two or more building sewers on private property owned separately or jointly, and discharges to a public sanitary sewer.

SECTION 316. "Properly shredded garbage" shall mean the wastes from the preparation, cooking and dispensing of food that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

SECTION 317. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

SECTION 318. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

SECTION 319. "Selectpersons" shall mean the duly elected Board of Selectpersons, or their authorized deputy or representative.

SECTION 320. "Sewage" shall mean any liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

SECTION 321. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

SECTION 322. "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

SECTION 323. "Sewer" shall mean a pipe or conduit for carrying sewage.

SECTION 324. "Shall" is mandatory, "May" is permissive.

SECTION 325. "Storm Sewer" shall mean a sewer used for conveying rain water, surface water, condensate, cooling water or similar liquid wastes, exclusive of sewage and industrial waste.

SECTION 326. "Superintendent" shall mean the Superintendent of the Water Pollution Control Plant of the Town of Skowhegan, or his/her authorized deputy, agent or representative.

SECTION 327. "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.

SECTION 328. "Town" shall mean the Town of Skowhegan, Maine.

SECTION 329. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

## **ARTICLE IV**

### **Use of Public Sewers Required**

SECTION 401. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner upon public or private property within the Town, or in any area under the jurisdiction of said Town, any human or animal excrement, garbage, or other objectionable waste.

SECTION 402. It shall be unlawful to discharge to any watercourse, either directly or through any storm sewer, within the Town, or in any area under the jurisdiction of the Town, any sewage,

industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

SECTION 403. 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.

SECTION 404. The owner of any building used for human occupancy, employment, recreation, or any other purpose requiring the disposal of sewage, situated within the Town and abutting on any street, or right-of-way in which there is located a public sanitary sewer, is hereby required, at his/her expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after the date of official notice to do so, provided that said public sewer is located within one hundred (100) feet of the property line; provided that nothing in this section shall require the owner of any such building to acquire any real property or easement therein for the sole purpose of making such connection.

SECTION 405. Vacant lot owners abutting on streets with an existing public sanitary sewer line, are hereby required to connect directly with the public sewer upon fifteen (15) days written notice by the Code Enforcement Officer if the particular street involved is scheduled for hot bituminous paving within six (6) months.

## ARTICLE V

### Private Sewage Disposal

SECTION 501. Where a public sanitary sewer is not available under the provisions of Section 404, the building sewer shall be connected to a private sewage disposal system complying with the requirements of the Maine State Plumbing Code, dealing with subsurface wastewater disposal rules.

SECTION 502. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 404, direct connection shall be made to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be cleaned of sludge and filled with gravel or other suitable material or removed and disposed of properly.

SECTION 503. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the authorized representative of the **Maine** State Department of Health.

## ARTICLE VI

### Fees

**SECTION 601.** *(This section and Table 1 become effective September 1, 2004)* Any person who, seeks to connect to the Town of Skowhegan wastewater collection system is hereby required to pay a Capacity Reserve Fee. The Capacity Reserve Fee for the connection of each new single-family dwelling (220 gallons per day), including the connection of each new individual apartment unit and the connection of each new condominium unit, shall be \$1,760.00. For all other new connections, the fee shall be determined by assigning a contributing flow value, in gallons per day, to the new connection based on Table I of this ordinance, dividing this value by 220 gallons per day; and multiplying the result by \$1,760.00. The minimum contributing flow shall be set at 220 gallons per day. A facility not listed in Table I will be charged \$8.00 per gallon of effluent, based on metered water use or engineering calculations.

In the case of a change of use, redevelopment, expansion or, modification of an existing use, the Capacity Reserve Fee shall be based on the net calculated increase in the contributing flow, based on Table I of this ordinance. No fee credit shall be given for a calculated decrease in flow.

A Capacity Reserve Fee shall not be charged for any reconnection if the reconnection does not cause a net increase in the contributing flow, based on the use as described in Table I of this ordinance.

The fee shall be paid prior to connection to the Town of Skowhegan wastewater collection sewer system. In the case of a change in use, redevelopment, or expansion or modification of an existing use, the fee shall be paid prior to receiving the final Town approval of the proposed change, redevelopment, or expansion or modification of an existing use.

The fees collected are being deposited to the Capital Reserve Capacity Reserve Fee Account.

**Table I**

<b>Type of facility</b>	<b>Design flow per user or unit</b>
Assembly areas	2 gpd per seat
Bakery	50 gpd per bakery plus 10 gpd per employee
Beauty salon	50 gpd per chair
Bed and breakfast	125 gpd per establishment
Boarding houses	125 gpd per house plus 25 gpd per boarder
Bottle club	5 gpd per seat
Bus service areas	5 gpd per passenger plus 10 gpd per employee
Butcher shop	50 gpd per shop plus 10 gpd per employee
Cafeteria	10 gpd per seat plus 10 gpd per employee
Children's camps, day and night	10 gpd per camper plus 10 gpd per staff person
Churches	2 gpd per seat for general seating and 5 gpd per seat for seats in a dining area
Dance hall	5 gpd per attendee plus 10 gpd per employee
Day care facilities	10 gpd per child plus 10 gpd per adult
Eating place, fast food, no seats, no full meals, and no china service	50 gpd or 1 gpd per meal served plus 10 gpd per employee (whichever is larger)
Eating place, fast food, no full meals, and no china service	10 gpd per inside seat plus 5 gpd per outside seat plus 10 gpd per employee
Ice Cream Stands, ice cream only with no seats	75 gpd per stand plus 10 gpd per employee
Restaurant, one or two meals per day (e.g. breakfast and lunch)	10 gpd per indoor seat plus 5 gpd per outdoor seat plus 10 gpd per employee
Restaurant, three or more meals per day (e.g. breakfast, lunch, and dinner)	15 gpd per indoor seat plus 10 gpd per outdoor seat plus 10 gpd per employee
Employees at place of employment with no showers	10 gpd per employee
Health clubs	5 gpd per participant plus 10 gpd per employee
Hospitals	100 gpd per bed plus 10 gpd per employee
Hotels and motels with private baths	50 gpd per bedroom plus 10 gpd per employee
Laundry, self-service	300 gpd per machine plus 10 gpd per employee
Medical offices, clinics, and dental offices	40 gpd per medical staff plus 5 gpd per patient plus 10 gpd per office employee
Nursing Homes	75 gpd per bed plus 10 gpd per employee
Parks and picnic areas, public rest rooms and no showers	5 gpd per attendee plus 10 gpd per employee
Rental cabins and cottages	25 gpd per bed plus 10 gpd per employee
Rental cabins, housekeeping	25 gpd per cabin, plus 25 gpd per bed
School, elementary	5 gpd per student plus 10 gpd per teacher and other employees.



School, junior high	5 gpd per student plus 10 gpd per teacher and other employees
School, high	10 gpd per student plus 10 gpd per teacher and other employees
School, boarding	50 gpd per student plus 10 gpd per teacher and other employees
Service stations	250 gpd per 1 <sup>st</sup> set of fuel pumps plus 150 gpd per each additional set of fuel pumps plus 10 gpd per employee
Shopping centers or stores, public rest rooms and showers	200 gpd per water closet plus 10 gpd per shower plus 10 gpd per employee. Design flows for any eating places or butcher shops shall be determined and added to total design flow.
Taverns/Bars (including but not limited to, pubs, billiard halls, etc.)	10 gpd per seat plus 10 gpd per employee
Tennis and racquetball courts	150 gpd per court plus 10 gpd per employee
Visitors center	5 gpd per visitor plus 10 gpd/employee (This includes libraries, museums, similar uses)

SECTION 602. There shall be two (2) classes of Building Sewer Connection Fees: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case the Owner or his/her agent shall make application on a special form furnished by the Town. A permit, tap-in, and inspection fee of fifty dollars (\$50.00) for a residential or commercial building sewer permit and one hundred dollars (\$100.00) for an industrial building sewer permit shall be paid at the time an application is filed.

SECTION 603. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage or industrial wastes carried by such drain shall be lifted by approved mechanical means and discharged to the building sewer.

SECTION 604. All excavations for the installation of a building sewer shall be open trench work unless otherwise approved by the Road Commissioner. Pipe laying and backfill shall be performed in accordance with accepted construction practices. No backfill shall be placed until the work has been inspected by the Code Enforcement Officer. If the trench is filled before inspection the Code Enforcement Officer may require it to be re-excavated for inspection. No person may make any opening into a paved street for the purpose of installing a building sewer without first obtaining a written road opening permit from the municipal office. The person opening the street shall be responsible for filling and compacting the opening with gravel in a manner acceptable to the Road Commissioner. The Town will resurface the street opening or contract for same under the supervision of the Road Commissioner. The fee for a road opening permit shall be two hundred dollars (\$200.00), however if the actual cost of resurfacing the opening exceeds this amount the person making the opening shall be billed for any balance.

SECTION 605. All joints and connections shall be made gastight and watertight. All pipe joints shall be made in strict conformance with the pipe manufacturer's installation instructions. The transition joint between pipes of different materials shall be made with adapters and joint materials approved by the Road Commissioner or Code Enforcement Officer.

SECTION 606. All costs and expense incidents to the installation, connection and maintenance of the entire length of building sewer shall be borne by the Owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The method of connection of the building sewer to the public sewer will be dependent upon the type of pipe material used and in all cases shall be approved by the Road Commissioner.

SECTION 607. The applicant for the building sewer permit shall notify the Road Commissioner when the building sewer is ready for connection to the public sewer. The connection shall be made under the supervision of the Road Commissioner or his/her representative.

SECTION 608. 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 work shall be restored in a manner satisfactory to the Road Commissioner.

SECTION 609. When any building sewer is to serve a school, hospital, or similar institutional or public building, or is to serve a complex of industrial or commercial buildings, or which, in the opinion of the Road Commissioner, will receive sewage or industrial wastes of such volume or character that frequent maintenance of said building sewer is anticipated, then such building sewer shall be connected to the public sewer through a manhole. The Road Commissioner shall determine if and where this type of connection to the public sewer is required. Connections to existing manholes shall be made as directed by the Road commissioner. If required, a new manhole shall be installed in the public sewer pursuant to Section 704, and the building sewer connection made thereto as directed by the Road Commissioner.

SECTION 610. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Road Commissioner or Code Enforcement Officer, to meet all requirements of this Ordinance.

SECTION 611. The diameter of the building sewer shall not be less than four (4) inches, and shall have a slope of one-quarter ( $\frac{1}{4}$ ) inch per foot. Any exceptions shall require the prior approval of the Code Enforcement Officer.

SECTION 612. All buildings connected to the public sewer shall have a backflow valve or check valve installed in the building drain or building sewer positioned so as to prevent any backflow of sewage into the building. In addition all buildings which have sewer inspection ports shall have a cover capable of sealing the port gastight. This cover must remain in place at all times.

SECTION 613. The ends of building sewers which are not connected to the building drain of the structure for any reason, shall be sealed against infiltration by a suitable stopper, masonry plug or other means approved by the Road Commissioner or Code Enforcement Officer.

## ARTICLE VII

### Sewer Extensions

SECTION 701. The design of extensions to the sanitary or storm sewer system must anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area. The Town will submit plans and specifications for all proposed sanitary sewer extensions to the Maine Department of Environmental Protection for review and approval prior to construction.

SECTION 702. Property owners may propose extensions to the public sewer within the Town by drafting a written petition with the necessary signatures as determined by the Selectpersons. The Selectpersons shall consider the cost and benefits of the extension, the method of financing its construction, its conformance to any approved plans for future development within the Town, its impact upon existing infrastructure and utilities and any other factors they deem appropriate before voting whether to present the proposal to the Town for approval.

SECTION 703. The owner, builder or developer constructing a private sewer extension must pay for the entire installation, including all expenses incidental thereto. Each building sewer must be installed and inspected in accordance with Article VI of this Ordinance and the entire sewer must be subject to periodic inspection by the Town during installation. Private sewer extensions will be operated, maintained and repaired by the owner, builder or developer unless and until the extension is accepted as a public sewer under the provisions of Section 706 of this Ordinance. Private sewer extensions shall not be connected to the public sewer until:

- a. The completed extension has passed all testing requirements set forth in this Ordinance.
- b. The Engineer supervising construction has certified that the extension was constructed in accordance with the plans and all specifications in this Ordinance.
- c. All the expenses incurred by the Town to review the construction plans and to inspect and monitor construction are paid; and
- d. Reproducible Mylar record drawings of the completed sewer have been provided to the Town.

SECTION 704 Sewer design shall be in accordance with the following provisions. Minimum internal pipe diameter shall be eight (8) inches. Joints for pipe shall employ "O" ring gaskets of the "snap-on" type. Gaskets shall be continuous, solid, natural or synthetic rubber and shall provide a positive compression seal in the assembled joint such that the requirements of Section

705 are met. Joint preparation and assembly shall be in accordance with the manufacturer's recommendations.

Pipe shall be firmly and evenly bedded on a minimum of six (6) inches of granular material with stone size not exceeding 1½ inches. Pipe thickness and field strength shall be calculated on the following criteria:

Safety Factor	1.9
Load Factor	1.7
Weight of Soil	120 lbs/cu. ft.
Wheel Loading	16,000 lbs.

Utilizing the above information, design shall then be made as outlined in Chapter IX of the Water Pollution Control Federation Manual of Practice No. 9, "Design and Construction of Sanitary and Storm Sewers".

Manholes shall be constructed at all changes in slope or alignment or at intervals not exceeding three hundred (300) linear feet. The manholes shall be constructed with precast concrete bases satisfactory to the Superintendent and precast 4-foot diameter concrete barrel sections with eccentric tapered top section, as specified by ASTM C-478. The manhole frame and cover shall be the standard design of the Town and shall be set with no less than two (2) courses of brick underneath to allow for later adjustment in elevation. All joints shall be sealed against infiltration. Manholes shall be constructed with forged aluminum safety type steps cast into the walls of the precast sections.

SECTION 705. All sewers shall satisfy requirements of a final leakage test before they will be approved and sewage flow accepted from them by the Town. Where groundwater is high or other conditions make the testing of sewers by the methods outlined below impractical the Road Commissioner or Code Enforcement Officer may elect to accept infiltration measurements or other alternative methods of testing. The contractor, owner, builder or developer shall furnish, at his/her own expense, the necessary facilities for acceptance testing including labor and equipment. All testing will be done under the supervision of the Road Commissioner or Code Enforcement Officer or certification provided to the Town that acceptance testing had been performed in accordance with this Article by a firm or individual qualified to perform such testing. This certification will also specify the date the test was performed, the methods and equipment utilized and the results of each test.

In the event of a testing failure the contractor shall, at his/her own expense, determine the source of the leakage and repair or replace all defective materials or workmanship.

All force mains shall be tested hydrostatically for one (1) hour at a pressure of one hundred fifty percent (150%) of the pressure to which the pipe will normally be subjected. In no case shall the test pressure be less than fifty (50) pounds per square inch. The rate of leakage shall not exceed one hundred (100) gallons per mile of pipe per 24 hours per inch of nominal diameter of the pipe being tested.

All manholes shall be tested for water tightness immediately after assembly by performing a vacuum test prior to backfilling. The manhole lifting holes and pipe lines shall be plugged prior to the test. A test head shall be placed at the inside of the top of the cone section and the seal inflated in accordance with the manufacturer's recommendations. A vacuum of ten (10) inches of mercury shall be drawn and the vacuum pump shut off. With the valves closed, the time shall be measured for the vacuum to drop to nine (9) inches. The manhole shall pass if the time is greater than sixty (60) seconds for forty-eight (48") inch diameter manholes, seventy-five (75) seconds for sixty (60")inch and ninety (90) seconds for seventy-two (72") inch diameter manholes.

Gravity sewers shall be tested with a low pressure air test using Cherne Air-Loc equipment as manufactured by Cherne Industrial, Inc. of Edina, Minnesota or approved equal. Equipment used shall meet the following minimum requirements:

- a. Pneumatic plugs shall have a sealing length equal to or greater than the diameter of the pipe to be inspected.
- b. Pneumatic plugs shall resist internal pressures without requiring external bracing or blocking.
- c. All air used shall pass through a single control panel.
- d. Three individual hoses shall be used for the following connections:
  1. From control panel to pneumatic plugs for inflation.
  2. From control panel to sealed line for introducing the low pressure air.
  3. From sealed line to control panel for continually monitoring the air pressure rise in the sealed line.

All pneumatic plugs shall be seal tested before being used in the actual low pressure air test. One length of pipe shall be laid on the ground and sealed at both ends with the plugs to be checked. Air shall be introduced into the plugs to twenty-five (25) psig. The plugs shall hold against this pressure without bracing and without movement of the plugs out of the pipe.

After a manhole to manhole reach of pipe has been backfilled and cleaned, and the pneumatic plugs have been checked by the above procedure, the plugs shall be placed in the line at each manhole and inflated to twenty-five (25) psig. Low pressure air shall be introduced into this sealed line until the internal air pressure reaches four (4) psig greater than the average backpressure of any groundwater that may be over the pipe. At least two minutes shall be allowed for the air pressure to stabilize.

After the stabilization period (3.5 psig minimum pressure in the pipe), the air hose from the control panel to the air supply shall be disconnected. The section of line being tested shall be termed "acceptable" if the time required in minutes for the pressure to decrease from 3.5 to 2.5 psig (greater than the average backpressure of any groundwater that may be over the pipe) shall not be less than the time shown for the given diameters in the following table.

Pipe Diameter in Inches Minutes

4	2.0
6	3.0
8	4.0
10	5.0
12	5.5
15	7.5
18	8.5
21	10.0
24	11.5

SECTION 706. The owner of a privately constructed sewer may request that the Town take over ownership of the extension provided that all of the following conditions have been met.

- a. The owner must establish that the sewer, including pump stations and other equipment, meets all requirements of this Article regarding design of sewer extensions as existing and in force at the time the Town agrees to take over ownership.
- b. The owner shall have the sewer tested to establish that it meets or exceeds the standards set forth in this Article unless, the Road Commissioner or Code Enforcement Officer certifies that such tests are not feasible, in which case the Road Commissioner or Code Enforcement Officer shall specify alternative methods of testing.
- c. The Town shall determine the extent to which a transfer of real property associated with the sewer extension may be accomplished by easement or by conveyance of a fee interest. All easements shall be conveyed by good and sufficient easement deeds in a form acceptable to the Town. All fee interests shall be conveyed by warranty deed. Regardless of whether an easement or fee is conveyed, the conveyance shall be free of any and all claims or encumbrances. Further, the owner of the sewer extension shall provide the Town with a survey in recordable form describing any interest in real property which the owner proposes to convey to the Town.
- d. At the time of the transfer the owner shall execute a written warranty in a form acceptable to the Town guaranteeing that the extension meets each and every requirement contained herein, and that for a period of twelve (12) months from the date of the transfer, the sewer extension and all equipment associated with it will operate without the need for any repairs other than normal maintenance. Further, the owner will provide the Town with a bond or letter of credit in a form acceptable to the Town which will be payable in the event that the extension is repaired during warranty period and the owner does not make timely payment for those repairs.



- e. The owner shall pay all costs or expenses, including but not limited to attorney's and engineering fees, which the Town incurs in order to accomplish the transfer of ownership of a sewer extension.

## **ARTICLE VIII**

### **Use of the Public Sewers**

SECTION 801. Except as hereinafter provided, no person shall discharge or cause to be discharged, any of the following described waters or wastes to any public sewer:

- (a) Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) Fahrenheit (sixty-five degrees (65°) Centigrade).
- (b) Any waters or wastes which contain grease or oil or other substances that will solidify or become discernibly viscous at temperatures between thirty-two (32°) and one hundred-fifty (150°) degrees Fahrenheit.
- (c) Any waters or wastes containing fats, greases, or oils, whether emulsified or not, exceeding an average of fifty (50) parts per million (four hundred seventeen (417) pounds per million gallons) other soluble matter.
- (d) Any gasoline, benzene, naphtha, fuel oil, mineral oil, or other flammable or explosive liquid, solid, or gas.
- (e) Any noxious or malodorous gas such as hydrogen sulfide, sulfur dioxide or nitrous oxide or other substance, which either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
- (f) Any garbage that has not been properly shredded.
- (g) Any ashes, cinder, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, cardboard, wood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, beer or distillery slops, whey, chemical residues, paint residues, cannery waste, bulk solids, or any other solid or viscous substance capable of causing obstruction to the flow of the sewers, or other interference with the proper operation of the sewage works.
- (h) Any waters or wastes, acid and alkaline in reaction, having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewage works. Free acid and alkalies must be neutralized, at all times, within a permissible pH range of 6.0 to 9.5.

- (i) Any cyanides, in excess of two (2) parts per million by weight as CN.
- (j) Any long half-life (over 100 days) toxic radioactive isotopes, without a special permit.
- (k) Any waters or wastes that for a duration of fifteen (15) minutes has a concentration greater than five (5) times that of “normal” sewage as measured by suspended solids and B.O.D. and/or which is discharged continuously at a rate exceeding one thousand (1,000) gallons per minute except by special permit. Normal sewage shall be construed to fall within the following ranges:

<u>Constituents</u>	<u>Permissible Range</u>
Suspended Solids	180 to 350 ppm
B.O.D.	140 to 300 ppm
Chlorine Requirements	5 to 15 ppm

- (l) Arrangements shall be made with the Superintendent to accept septic tank pumpings at the treatment facility.
- (m) No person shall discharge or cause to be discharged any waters or wastes containing a toxic or poisonous substance, a high chlorine demand or suspended solids in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters or the effluent of the Town’s sewage treatment plant. Such toxic substances shall be limited to the average concentrations listed hereinafter in the sewage as it arrives at the treatment plant and at no time shall the hourly concentration at the sewage treatment plant exceed three times the average concentration. If concentrations listed are exceeded, individual establishments will be subject to control by the Superintendent or Engineer in volume and concentration of wastes discharged.

Limits of Toxic Substances in Sewage

Iron, as Fe	5.0 ppm
Chromium, as Cr (hexavalent)	3.0 ppm
Copper, Cu	1.0 ppm
Chlorine Requirements	15.0 ppm
Phenol	10.0 ppm
Cyanide, as CN	0.5 ppm
Cadmium, as Cd	0.5 ppm
Zinc, as ZN	0.5 ppm
Nickel	1.0 ppm

- (n) No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sewer. Storm water and all

other unpolluted drainage shall be discharged to storm sewers or to a natural outlet approved by the Town.

SECTION 802. Grease, oil and sand interceptors shall be provided when the above set limits for those substances are exceeded or when, in the opinion of the Engineer, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and 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 Engineer, and shall be located as to be readily and easily accessible for cleaning and inspection and shall comply with the State Plumbing Code.

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gas-tight and water-tight.

SECTION 803. Where installed, all grease, oil and sand interceptors shall be maintained by the Owner, at his/her expense, in continuously efficient operation at all times and shall be readily accessible and open to inspection by the Superintendent at any time.

SECTION 804. The admission into the public sewers of any waters or wastes having (a) a 5-day Biochemical Oxygen Demand greater than 300 parts per million, or (b) containing more than 350 parts per million of suspended solids, or (c) containing more than 15 parts per million of chlorine requirement, or (d) having an average daily flow greater than 2% of the average daily sewage flow of the Town, shall be subject to the review and approval of the Superintendent and Engineer. Where necessary, in the opinion of the Superintendent and Engineer, the Owner shall provide, at his/her expense, such preliminary treatment as may be necessary to, (1) reduce the Biochemical Oxygen Demand to 300 parts per million and the suspended solids to 350 parts per million by weight, or (2) reduce the chlorine requirements to 15 parts per million, or (3) reduce objectionable characteristics or constituents to within the maximum limits provided for in Section 801, or (4) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Engineer, and no construction of such facilities shall be commenced until said approvals are obtained in writing. Failure to comply with one or more of the remedial procedures as required by the Engineer will constitute a violation of this Ordinance.

SECTION 805. 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 his/her expense.

SECTION 806. When required by the Engineer, the Owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans

approved by the Engineer. The manhole shall be installed by the Owner at his/her expense, and shall be maintained by him so as to be safe and accessible at all times.

SECTION 807. All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in Sections 801 and 804, shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage", upon suitable samples taken at control manhole provided for in Section 806. 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.

SECTION 808. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefor by the industrial concern.

SECTION 809. All of the preceding standards are to apply at the point where the industrial wastes are discharged into the public sanitary sewerage system and any chemical or mechanical corrective treatment required must be accomplished to practical completion before the wastes reach that point. The laboratory methods used in the examination of all industrial wastes shall be those set forth in the latest edition of "Standard Methods for the Examination of Water and Sewage", published by the American Public Health Association. However, alternate methods for the analysis of industrial wastes may be used subject to mutual agreement between the Selectpersons and the producer of such wastes. The frequency and duration of the sampling of any industrial waste shall not be less than once every three months for a 24-hour period. However, more frequent and longer periods may be required at the discretion of the Selectpersons.

## **ARTICLE IX**

### **Protection from Damage**

SECTION 901. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the Town sewage system. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

SECTION 902. A contractor must present a certificate of insurance showing minimum liability coverage of \$300,000 for bodily injury to one person and \$1,000,000 for bodily injury to more than one person and \$300,000 for property damage before a permit will be issued for construction of public sewers or sewer extensions. Construction of sewer extensions may require higher coverage if so recommended by the Engineer.

## **ARTICLE X**

### **Powers and Authority of Inspectors**

SECTION 1001. The Superintendent, the Road Commissioner, the Code Enforcement Officer, the Engineer, and other duly authorized employees of the Town bearing proper credentials and identifications shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this ordinance.

SECTION 1002. The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

## **ARTICLE XI**

### **Enforcement**

SECTION 1101. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this ordinance. Any person found to be violating any provision of this ordinance except Section 901 shall be served by the Town with notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

SECTION 1102. Any person, individual, firm, corporation, or partnership who fails to comply with the provisions of this ordinance shall be subject to the fines and other penalties imposed under 30-A MRSA Section 4452. The continued violation of any provision of any section of this ordinance shall constitute a separate offense for each and every day such violation of any provision hereof shall continue.

SECTION 1103. As an alternative, upon violation of this ordinance, the proper authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings including an injunction to prevent such unlawful use, construction, or maintenance of cesspools, septic tanks, sewage disposal systems, pipes or drains to restrain, correct or abate such violation to prevent the occupancy of any building structure or land where said violations of this ordinance are found.

SECTION 1104. Any person violating any of the provisions of this ordinance shall become liable to the town for any expense, loss, or damage occasioned the Town by reason of such violation.

## ARTICLE XII

### Sewer Appeals

SECTION 1201. The Board of Selectpersons is hereby authorized to have the following powers and duties to be exercised only upon written appeal by a party aggrieved by a decision of the Superintendent, the Road Commissioner, the Town Health Officer or the Code Enforcement Officer insofar as such decision arises from requirements of this ordinance:

- A. To determine whether the decisions of the said officers are in conformity with the provisions of this ordinance, and to interpret the meaning of this ordinance in Cases of uncertainty.
- B. To grant variances from the terms of this ordinance where there is no substantial departure from the intent of the ordinance and/or where necessary to avoid undue hardship.
- C. To permit an exception to this ordinance only when the terms of the exception have been specifically set forth by the Town.
- D. Unless prevented by illness or absence from the State
  - 1. The Superintendent and Road Commissioner shall attend all hearings pertaining to the public sewerage system.
  - 2. The Code Enforcement Officer shall attend all hearings pertaining to the private sewerage systems.
  - 3. The Health Officer shall attend such hearings as he may be involved in.
- E. The officer concerned shall present to the Board of Selectpersons all plans, photographs, or other factual material which is appropriate to an understanding of the appeal.
- F. The Selectpersons 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 30 days of the date of the hearing shall constitute a denial of said appeal.

SECTION 1202. Appeal Procedure

- A. Any person and any municipal department aggrieved by the decision of the Superintendent, The Road Commissioner, the Town Health Officer or the



Code Enforcement Officer, which decision arises from provisions of this ordinance, may appeal such decision to the Board of Selectpersons.

B. Within thirty (30) days of the date of the decisions of the Superintendent, the Road Commissioner, the Town Health Officer or the Code Enforcement Officer, the appeal shall be entered at the office of the Town Clerk upon forms to be approved by the Board of Selectpersons. The appellant shall set forth in the form the grounds of his/her appeal and shall refer to the specific provisions of the Sewerage Ordinance involved. Following the receipt of any appeal, the Town Clerk shall notify forthwith the officer concerned and the Town Manager.

C. An aggrieved party may appeal from the decision of the Board of Selectpersons to the Superior Court as provided by the laws of the State of Maine.

SECTION 1203. After a decision has been made by the Board of Selectpersons, a new appeal of similar import shall not be entertained by the Board until one year shall have elapsed from the date of said decision, except that the Board may entertain a new appeal if the Chairman believes that, owing to a mistake of law or misunderstanding of fact, an injustice was done, or if he believes that a change has taken place in some essential aspect of the appeal.

## **ARTICLE XIII**

### **Severability**

SECTION 1301. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 1302. The validity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

## **ARTICLE XIV**

### **Ordinance in Force**

SECTION 1401. This ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

**Chapter 34**  
**TOWN OF SKOWHEGAN**

**LOITERING**

**SECTION I Purpose**

This ordinance is in accordance with prevailing community standards. Its purpose is to regulate the conduct of persons on public ways who are committing violations of law. It is to be enforced for the benefit of the public's good, safety and welfare.

**SECTION II Definitions**

*Loitering* means remaining idle in essentially (1) one location and shall include the concept of spending time idly, to be dilatory, to linger, to stay, to saunter, to delay, or to stand around.

*Public place* means any place to which the general public has access and a right to resort to business, entertainment or other lawful purpose and shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business. Public place shall also mean public grounds, parking areas, parks, and other property under the jurisdiction of the town.

**SECTION III Restrictions**

It shall be unlawful for any person, at a public place or upon private property within the town where the owner has given the town permission, to loiter, stand, or remain idle, either alone or in concert with others, and:

- (1) Obstruct any public street, public highway, public sidewalk, public parking area or any other public place or building so as to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians, or
- (2) Commit any violation of state law or municipal ordinance, or
- (3) Create or cause to be created any disturbance or breach of the peace, and
- (4) Refuse to leave such property, when requested to do so by a law enforcement officer, provided that such officer has exercised his/her discretion reasonably under the circumstances in order to preserve or promote public order.

#### SECTION IV Exceptions to Enforcement

Special events sponsored by a recognized non-profit agency are excluded from enforcement provided written request for such exception is made to the Board of Selectmen within a reasonable time prior to the scheduled event.

#### SECTION V Penalty

Any person who violates any section of this Ordinance commits a civil violation for which forfeiture, not to exceed (\$100.00) one hundred dollars, may be adjudged.

#### SECTION VI Severability

If any provision of this Ordinance is determined invalid by a court of competent jurisdiction, such determination shall not render invalid the remaining portions of the Ordinance.

#### SECTION VII Enforcement

This Ordinance shall be enforced by the Skowhegan Police Department.

## TOWN OF SKOWHEGAN

Ordinance Entitled  
Regulating Storage and Land Application  
and Other Residuals  
not generated by the Town of Skowhegan

Adopted Special Town Meeting  
August 1, 1996

**Title:** This Ordinance shall be known and may be cited as the “Town of Skowhegan Sludge Management Ordinance.”

**SECTION 1: Authority.** This ordinance has been adopted pursuant to the Constitution of the State of Maine, Article VII, Part 2, and Maine Revised Statutes Annotated, Title 30-A, §3001.

**SECTION 2: Findings and Purpose.**

The Inhabitants of the Town of Skowhegan find as follows:

1. That sludge and residuals not generated by the Town of Skowhegan may contain concentrations of heavy metals, polychlorinated biphenyls and other substances which can be harmful to the health and safety of humans, animals, or aquatic life and the preservation and safety of the natural environment.

2. That the topography of the Town of Skowhegan, which includes Wesserunsett Stream, the Kennebec River, Lake George, Oak Pond, Smith Pond, Round Pond, wetlands, numerous brooks and tributaries, and significant groundwater aquifers, make it uniquely susceptible to environmental damage from runoff from areas where sludge and residuals have been spread posing a special danger to those water bodies and threatening the ecological and economic well-being of said Town.

3. The purpose of this ordinance is to protect the health and safety of the residents of the Town of Skowhegan, to enhance and maintain the quality of its environment, and to conserve natural resources through regulation of storage and land application of industrial wastewater treatment plant sludge and other residuals.

**SECTION 3: Definitions.**

3.01 Applicant: The term “applicant” refers to the owner and/or operator of the wastewater treatment plant or generator of the sludge or residual not generated by the town of Skowhegan.

3.02 Aquifer: See “significant groundwater aquifer”.

- 3.03 Board: The term “Board” refers to the Skowhegan Planning Board.
- 3.04 DEP: DEP refers to the State of Maine, Department of Environmental Protection and the Commissioner thereof, and /or its successor agencies.
- 3.05 EP Toxicity Test: The term “EP Toxicity Test” refers to the Extraction Procedure Toxicity Test as described in Section 1.2.4 of the U.S. Environmental Protection Agency (EPA) document entitled Test Methods for Evaluating Solid Waste, SW 846 (Nov. 1986).
- 3.06 Operator: The term “operator” refers to any person who has care, charge, or control of a land site or storage facility site subject to this Ordinance. This person may be the owner, an agent, a lessee of the owner, or an independent contractor.
- 3.07 Owner: The term “owner” refers to any person who, alone or in conjunction with others, owns the real property upon which is located a land site or storage facility site subject to this Ordinance.
- 3.08 Primary sand and gravel recharge areas: The term “primary sand and gravel recharge areas” refers to the surface directly overlying sand and gravel formations that provide direction replenishment of the ground water in sand and gravel and fractured bedrock aquifers. The term does not include areas overlying formations that have been identified as unsaturated and are not contiguous with saturated formations.
- 3.09 Residual(s): The term “residual(s)” refers to pulp and paper mill wastewater treatment plant sludge, resultant ash from incineration of sludge and wood generated from commercial or industrial facilities and all materials containing same and available as potentially suitable materials for controlled land application resulting in vegetative assimilation, attenuation of the components in the material, or improved soil conditions.
- 3.10 Selectmen: The term “Selectmen” refers to the Skowhegan Board of Selectmen.
- 3.11 Significant groundwater aquifer: The term “significant groundwater aquifer” refers to any formation of soil or fractured bedrock that contains significant recoverable quantities of water (greater than ten gallons per minute from a properly constructed six-inch diameter well). NOTE: reference may be made to the “Hydrogeologic Data For Significant Sand and Gravel Aquifers” map prepared by the Maine Geologic Survey. In the event that on-site testing required pursuant to this Ordinance identifies additional aquifers or identifies boundaries of aquifers that are different from those mapped, the results of the on-site testing shall control.



- 3.12 Sludge: The term “sludge” refers to the solid, semi-solid or liquid residual generated by a municipal, commercial, or industrial wastewater treatment plant and all materials containing same.
- 3.13 Temporary Field Stacking: The term “temporary field stacking” refers to short-term stacking of materials for not longer than a period of seventy- two (72) hours before spreading is scheduled to occur.

#### **SECTION 4: Application For Permit.**

##### **4.01 Application Procedure.**

4.01.01 An applicant wishing to deliver, store, or spread sludge or residual(s) in the Town of Skowhegan shall file an application form with the Board. The application shall be submitted at least 120 days before the date of first delivery, storage, or spreading to ensure adequate time for review under this Ordinance.

4.01.02 The applicant shall submit ten (10) copies of the application at least thirty (30) days prior to the Board meeting at which the applicant requests to be heard.

4.01.03 The application shall be accompanied by a non-refundable fee of Fifteen Hundred Dollars (\$1,500.00) in the form of a bank or certified check payable to the Town of Skowhegan, Maine, with a notation thereon stating the specific purpose of the fee.

4.01.04 The Board shall require the applicant to deposit an amount not to exceed Twenty-five Thousand Dollars (\$25,000.00) in an interest-bearing account in the name of the Town of Skowhegan at a financial institution having an office in the Town of Skowhegan using the social security number or the federal identification number of the applicant. The purpose of this account shall be to allow the Town to hire a professional consultant to review the application for compliance with this Ordinance and to conduct such additional studies as may be required to assure that the public health, safety, and natural environment will not be adversely impacted by the proposed spreading or storage of sludge and/or residual(s). Funds shall be withdrawn from this account by the Treasurer of the Town only at the Selectmen’s request. Any interest earned and any remaining balance in this account shall be returned to the applicant following approval or denial of the application.

4.01.05 At the meeting at which it is first considered, the Board shall review the application to determine whether it is complete or whether additional submissions are required. If the application is found to be incomplete, the Board shall notify the applicant in writing within ten (10) days of the meeting stating what additional submissions are necessary to begin the review process.

4.01.06 The applicant shall provide any additional information within thirty (30) days from the date on which the Board gives notice that additional information is required.

4.01.07 The application shall be considered “complete” and “filed” on the date when all required information is furnished to the Board by the applicant.

4.01.08 A public hearing shall be held within thirty (30) days from the date when the application is complete. The Board shall cause notice of the time, place, and date of such hearing to be sent by certified mail, return receipt requested, not less than ten (10) days before the date of the public hearing to the applicant, to abutters of the properties involved, and to owner(s) of any property within 1,000 feet of the properties involved. Owners of abutting properties and of properties within 1,000 feet shall be those listed in the current real property tax records of the Town of Skowhegan. Notice shall also be published at least seven (7) days prior to the public hearing in a newspaper of general circulation in the Town of Skowhegan. Notice shall also be posted in three (3) public places designated by the Board. Failure to receive notice shall not invalidate a public hearing held, if the requirements of this subsection have been met.

4.01.09 The Board shall recommend to the Selectmen whether the application should be approved, approved with conditions, or denied. The Selectmen shall take final action within thirty (30) days of the issuance of a license from DEP, or within sixty (60) days of the public hearing, whichever date is later. Final action by the Selectmen may be approval, approval with condition (s), or denial.

4.01.10 If the applicant is denied a license by DEP, no action shall be required by the Board. The applicant shall send or deliver a copy of the DEP approval or denial to the Board within three (3) days of receiving it.

4.01.11 Within seven (7) days of its final action, the Selectmen shall notify the applicant of its action and the reason(s) for such action. Approval of the

application, together with the conditions of approval, if any, shall constitute a permit.

4.02 **Submissions.** An application to spread sludge or residual (s) not generated by the Town of Skowhegan shall include the following:

4.02.01 A complete “Application for Sludge Utilization” prepared for DEP.

4.02.02 A fee as required by 4.01.03 of this Ordinance and a deposit into an interest-bearing account as required by 4.01.04.

4.02.03 A map of the proposed site that clearly indicates property lines, abutters, owners of property within 1,000 feet, existing water well locations within 1,000 feet, areas not suitable for spreading and the reason(s) therefore, required setbacks and the reason(s) therefore, storage areas, and proximity to any primary sand and gravel recharge area and/or significant groundwater aquifer.

4.02.04 A baseline soils analysis for each site. This analysis shall be conducted in the manner recommended by the Natural Resource Conservation Service for soils testing generally and shall include testing as required by Appendix A of this Ordinance.

4.02.05 A Hydrogeologic analysis conducted by a certified geologist or registered professional engineer qualified by education and experience to conduct a hydrogeologic analysis. This analysis shall be sufficient to determine that the application of sludge or residual (s) to the proposed site will meet the performance standards set forth in SECTION 5 of this Ordinance and shall include, but not be limited to, the following:

- a. A site-specific geologic literature search.
- b. Aerial photo interpretation, including a photolineament analysis, to identify potential high-yield aquifers.
- b. Documentation of type, depth, yield, static water level, and length of casing of any water wells within 1,000 feet of a proposed spreading site.
- c. Reconnaissance field mapping by a certified geologist of the surficial and bedrock geology of the proposed site and all areas within 1,000 feet, which field mapping shall relate any observed bedrock outcrop fracture orientation and spacing data to the photolineament analysis.

- d. Documentation of the Hydrogeologic setting of the project site, including, but not limited to, a general description of the depth and expected seasonal variations in the depth to the first ground water table encountered below ground surface, a description of the general direction of ground water flow up to the point where discharge to surface water occurs, a description of the relationship of the site to any significant aquifers (those producing over ten (10) gallons per minute to a properly constructed six-inch diameter water well) including bedrock aquifers or inferred bedrock aquifers.
- e. A description of the background ground water quality at the up gradient and down gradient edges of the proposed site. This description shall include background levels for any constituent regulated by this Ordinance as set forth in Appendix A.
- f. A proposed ground water monitoring plan to be used just prior to and for two years following the application of the sludge and /or ash, including the proposed horizontal and vertical placement of monitoring wells and all domestic wells within 1,000 feet monitored, frequency of monitoring, and precision of measurement for each parameter to be measured.

4.02.06 A plan for the independent weekly analysis (per the schedule required in 5.02.02 a. of the sludge or residual (s) required by Appendix A of this Ordinance). Sampling and analysis shall be performed by a State-certified laboratory chosen by the Board in accordance with the DEP document entitled, Methodology for Sampling and Analysis of PCDD's and PCDF's in Sludge and Residuals, and shall be performed on all sludge or residual(s) without regard to source.

4.02.07 A plan for the submission of the results of the tests required in subsection b. and c. of 5.02.02 of this Ordinance.

4.02.08 A plan for the submission of the results of soil tests to be performed just prior to and twice yearly following the application of sludge or residual(s) for the duration of the permit sought, including the proposed sampling schedule, sampling locations, and parameters to be measured.

4.02.09 The Board may require such other information as it deems necessary.

## **SECTION 5: Performance Standards**

### **5.01 General Standards.**

5.01.01 Storage and land application of sludge and residual (s) not generated by the Town of Skowhegan is prohibited, unless approval has first been obtained from the Board, the Selectmen and from DEP.

5.01.02 No sludge or residual (s) not generated by the Town of Skowhegan may be stored on site in the Town of Skowhegan except in a permanent storage facility as provided in DEP Regulations Chapter 567 B-4. c. There shall be no winter field stacking of sludge or residual (s) not generated by the Town of Skowhegan. Stacking on each site shall be limited to the amount approved for use on such site.

5.01.03 If temporary field stacking is to occur, reasonable precautions must be taken to prevent leaching and/or dispersal of sludge or residual (s) into the air.

5.01.04 Spreading of sludge or residual (s) shall be allowed only from May 15 to November 15 in any year. Spreading of sludge or residual (s) shall not be allowed, if it is raining or, if the ground is saturated, frozen or snow covered.

**5.02 Testing Requirements.** Subject to the approval of the application by DEP, the Board shall recommend for approval, or conditional approval, an application for spreading of sludge or residual (s) on land or storage for the purpose of spreading sludge or residual (s), if the applicant agrees to comply with any additional testing required by the Board of Selectmen, including but not limited to the following:

**5.02.01 Site Testing and Monitoring**

- a. **Soils Analysis:** The applicant shall furnish a baseline soils analysis as required in 4.02.04 and soils testing program in accordance with 4.02.08 of this Ordinance with the initial application to the Board.
- b. **Water Analysis:** The Applicant shall install at least two monitoring wells on each site, the number and location of said wells to be determined by a Board-appointed certified geologist or registered professional engineer qualified by education and experience to make that determination. The water in these wells shall be tested quarterly for parameters to be approved by the Board based on the actual constituents of the sludge or residual (s). At the discretion of the Planning Board or at the request of the owner of an existing well located within one-thousand (1,000) feet of any site proposed for storage or spreading of sludge or residual (s) not generated by the Town of Skowhegan, the Board may require baseline and annual water analysis of any well, as required by Appendix A of this Ordinance.

**5.02.02 Characteristics of Sludge or Residual (s) Not Generated By Town of Skowhegan**

- point
- a. The Board shall provide for the supervision of an independent random weekly sample of sludge or residual (s) taken at the
- of generation after the product has gone through all processing steps necessary prior to delivery. All testing shall be in accordance with the sixteenth edition of Standard Methods for Examination of Water and Wastewater (1985), published by the American Public Health Association, and the results shall be furnished to the Code Enforcement Officer for the Town of Skowhegan and/or the Board on a schedule approved by the Board.
- Board
- b. Sludge or residual (s) not generated by the Town of Skowhegan shall be tested for pollutants as required by DEP and as required by this Ordinance. In addition to the above requirements, the
- or its agent shall take a representative composite sample of the actual product delivered to Skowhegan and test by the “EP Toxicity Test”, as required by Appendix A of this Ordinance.
- c. Sludge or residual (s) not generated by the Town of Skowhegan shall not be delivered to, stored or spread in the Town of
- that
- Skowhegan, if testing required by this Ordinance indicates concentrations of heavy metals, organic compounds, or other pollutants exceed the maximum permissible concentrations and/or loading limits appearing in the DEP Regulations at Chapter 567 B-1.b.

**5.02.03 Hydrogeologic Criteria.**

- a. Sludge or residual (s) shall not be delivered to, stored, or spread on land with a slope of greater than fifteen percent (15%).
- b. Where the proposed application site has a slope of fifteen percent (15%) or less, sludge or residual (s) shall not be delivered to, stored, or spread within the following setback areas:
- (1) Residences; classified bodies of water including lakes, ponds, and streams; water supply wells.....300'
- (2) Intermittent streams.....100'



(3) Public Roadways, drainage gullies, property boundaries..50'

Additional setback requirements established by DEP Regulations at Chapter 567 B - 2.b and B - 4.a. must also be met.

- c. Notwithstanding the provisions of subsection “b” of this section with respect to water supply wells, no sludge or residual(s) containing human pathogens may be delivered to, stored, or spread on a site closer than a two hundred (200) day hydraulic ground water travel time from the nearest water well used for drinking water purposes.
- d. Sludge or residual(s) shall not be delivered to, stored, or spread over a significant groundwater aquifer, over a primary sand and gravel recharge area, or within the recharge area of a public water supply well.
- e. Sludge or residual (s) shall not cause the State of Maine Primary Drinking Water Standards or the National Primary Drinking Water Regulations, which are incorporated herein by reference, to be exceeded in the ground water at a distance greater than one hundred (100) feet from the edge of the sludge or residual (s) spreading boundary, or at the property line, if it is within one hundred (100) feet of the sludge or residual (s) spreading boundary, taking into account existing background ground water quality under the site. The burden shall be on the applicant to show that the spreading of sludge or other residual (s) will not cause these standards to be exceeded.

#### **1.02.04 Aquatic Impact Criteria**

The spreading of sludge or residual(s) shall not cause the National Water Quality Criteria (freshwater chronic criteria), established by the U.S. Environmental Protection Agency (EPA) to protect aquatic organisms, to be exceeded in classified water bodies that will receive runoff from the site of spreading of sludge or residual (s), taking in account the existing quality of those classified water bodies. The freshwater chronic criteria appear in full in the “Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses,” published in the EPA document Quality Criteria for Water 1989, EPA 440/5-86-001. The burden shall be on the applicant to establish that the spreading of sludge and other residual (s) will not cause these criteria to be exceeded.

**5.03 Additional Requirements.** The Board shall not recommend approval of an application for the spreading of sludge or residual(s) on land or the storage of sludge or residual(s) for the purpose of spreading on land, unless:

5.03.01 The applicant agrees in writing to furnish the Code Enforcement Officer for the Town of Skowhegan with copies of all conditions and limitations imposed by DEP, and twenty four (24) hour advanced notice of any changes in the composition of the sludge or residual(s), and further testing required by the DEP and the results of those tests, and any annual variations in site spreading or storage plans.

5.03.02 The applicant agrees in writing to notify the Code Enforcement Officer for the Town of Skowhegan of delivery of any sludge or residual (s) not generated by the Town of Skowhegan, to advise said Code Enforcement Officer of the proposed spreading timetable, and the identity of the person who is to do the actual spreading. The person spreading the sludge or residual (s) shall notify said Code Enforcement Officer as soon as possible prior to the actual spreading, and in any event not later than three (3) days prior to spreading.

5.03.03 The applicant has provided the landowner and the Town with a written statement indicating that the applicant has agreed or will agree to indemnify the owner for any damages which may result from the spreading of sludge or residual(s) not generated by the Town of Skowhegan.

5.03.04 The applicant has entered into a written conditional buy/sell agreement with the owner establishing a fair market value price for the land involved in the spreading of sludge or residual(s) or the storage of sludge or residual(s) for spreading on land and agreeing to purchase the land at that price should damage to the land occur from such spreading and/or storage of sludge or residual(s).

5.03.05 The applicant agrees in writing to be financially responsible should the storage or spreading of sludge or residual(s) prove hazardous to the health and safety of the residents, wildlife, soil, water, and/or air quality of the Town of Skowhegan.

5.03.06 The applicant agrees in writing to provide a fence or other barrier suitable to prevent access to the sludge or residual(s) spreading site by animals and unauthorized individuals.

## **SECTION 6: Duration of Permit: Review Process**

6.01 A permit issued under this Ordinance shall be valid for a period of five (5) years from the date of issuance and shall be subject to annual review by the Board and the Selectmen.

6.02 At least fourteen (14) days prior to annual review, but not more than thirty (30) days prior thereto, the Board shall notify the applicant of the review.

6.03 As part of the annual review, the applicant shall submit the following information to the Board in writing.

6.03.01 The names of the applicant and the landowner and the date of the original permit.

6.03.02 A narrative describing the following:

- a. The quantity of sludge or residual (s) applied the previous year and the number of acres utilized.
- b. Any problems encountered the previous year.
- c. Any proposed changes in the upcoming year.  
(NOTE: new acreage requires a new application).
- d. Any physical or chemical changes in the sludge or residual (s).
- e. A sludge or residual (s) analysis as required in the initial application.
- f. A soil Ph for each land acre to which the sludge or residual (s) was applied.
- g. The results of the quarterly water analysis required under 5.02.01 b. of this Ordinance.
- h. Such other analysis as DEP, Board or Selectmen required in the initial approval.

6.04 The applicant shall submit a non-refundable annual renewal fee of One Thousand Dollars (\$1,000.00).

6.05 If the Board determines that the conditions of the permit were met for the previous year, the Board shall recommend that the permit continue in effect until the next annual review. The Board may, in its discretion, modify or revoke the permit, if actions by the applicant or the operator were in violation of this Ordinance, or if the Board finds that continuation of the permit is harmful to the health and safety of humans, animals, or aquatic life and the preservation and safety of the natural environment.

6.06 Any person applying or storing sludge or residual (s) not generated by the Town of Skowhegan within the municipal boundaries at the time of the enactment of this Ordinance pursuant to a license issued by DEP may continue to do so for sixty (60) days from the enactment of this Ordinance. By the sixty-first day following the enactment of this Ordinance, any such person shall submit an application to the Board as required by this Ordinance prior to continuance of the application or storage activity.

#### **SECTION 7: Modification of Conditions and Revocation of Permit.**

If at any time, as a result of any testing required by DEP, this Ordinance, or the Board, elements or compounds are found in quantities which may be harmful to the health and safety of humans, animals, or aquatic life and the preservation and safety of the natural environment, the Board may require additional testing at the applicant's expense and may modify the conditions applicable to any permit. If the Board as a result of any required testing or risk assessment determines that continued storage or spreading of sludge or residual(s) not generated by the Town of Skowhegan is harmful to the health and safety of humans, animal, or aquatic life and the preservation and safety of the natural environment, then it may recommend to the Selectmen such appropriate action as it deems necessary, including limitation, modifications, or suspension or revocation of any permit.

#### **SECTION 8: Enforcement and Penalty**

8.01 The Code Enforcement Officer for the Town of Skowhegan shall have the right to enter all land application and storage sites at all reasonable hours for the purpose of inspecting the site for compliance with this Ordinance.

8.02 If the Code Enforcement Officer finds violations of any permit conditions or of any obligations imposed by the Ordinance or Chapter 567 of DEP Regulations, the Code Enforcement Officer shall issue a written notice to the landowner, the Board, the applicant, the operator (if different from the landowner) and notify DEP.

8.03 The Board, upon finding the provisions of the Ordinance or conditions of approval are being or have been violated, may recommend that the Selectmen temporarily suspend the permit and the Selectmen may revoke the permit after notice and hearing. The Selectmen may take any other action deemed necessary, including prosecution of the code violation pursuant to Rule 80K of the Maine Rules of Civil Procedure.

8.04 The applicant and/or operator who violates the Ordinance or the conditions of approval, as well as the owner who knowingly permits such violations to occur, shall be guilty of a civil violation and shall be subject to a civil penalty of not less than Five Hundred Dollars (\$500.00) nor more than Five

Thousand Dollars (\$5,000.00) for each offense. Each day such violation is permitted to exist after notification shall constitute a separate offense.

### **SECTION 9: Appeals**

An aggrieved party may appeal any final action taken by the Selectmen to the Superior Court pursuant to Rule 80D of the Maine Rules Of Civil Procedure.

### **SECTION 10: Validity, Severability, and Conflict with Other Ordinances**

10.01 Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not invalidate any other section of this Ordinance.

10.02 Whenever the requirements of this Ordinance are inconsistent with the requirements of any other Ordinance, code or statute, the more restrictive requirements shall apply.

### **SECTION 11: Amendments**

This Ordinance may be amended by a vote of the Town Meeting, the Legislative Body of the Town of Skowhegan. Amendments may be initiated by a request of the Planning Board, the Selectmen, or by petitions bearing the signatures of registered voters in the Town of Skowhegan equal to, or in excess of, ten percent (10%) of the votes cast by said voters in the last gubernatorial election.

## **APPENDIX A**

### **TESTING PARAMETERS**

1. All Soil, Water, Sludge, and Other Residual Tests shall include pH, Magnesium, Potassium, Phosphorous, Boron, Arsenic, Chloride, Selenium, Fluoride, Sulfate, Aluminum, Sodium, Cadmium, Copper, Nickel, Lead, Vanadium, Zinc, Silver, Barium, Calcium, Iron, Mercury, Manganese, Molybdenum, Nitrate, Nitrite, Ammonium, Total Kjeldahl N., Polychlorinated Dibenzofurans (PCDF's), Polychlorinated Biphenyls (PBC's), Total Organic Halogens (TOX), Polychlorinated Dibenzopyrans, (All Dioxin Cogeners), Chromium (metallic, hexavalent, trivalent).

2. Soil Tests shall also include cation exchange capacity, crop recommendations, texture separate analysis, and percent organic matter.
3. Water Tests shall include color and turbidity.
4. Sludge and Other Residuals Tests shall include the percent of components present in the test results of paragraph one (1) of this Appendix A. The percent of loss on ignition shall also be included.



**Town of Skowhegan**

**Obscenity and Adult Entertainment Ordinance**

Adopted: Town Meeting, June 10, 2019

**SECTION I AUTHORITY**

This ordinance is adopted pursuant to the enabling provisions of Article VIII, part 2, Section 1 of the Maine Constitution; the provisions of the Municipal Home Rule Authority (30-A MRSA Section 3001 et seq.) and by Title 28-A M.R.S.A. 1054 regarding the authority to require a permit for music, dancing or entertainment on licensed premises.

**SECTION II APPLICABILITY**

Persons or entities wishing to establish an Adult Entertainment Business within the Town of Skowhegan shall first obtain a permit from the town and shall be subject to the provisions of this ordinance.

In addition this ordinance identifies offences and penalties for any person engaging in commerce in obscene materials, obscene devices or obscene performances.

**SECTION III PURPOSE**

It is the purpose of this ordinance to regulate Adult Entertainment Businesses in order to promote the health, safety, and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult entertainment businesses within the town. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

In addition the purpose of this ordinance is to protect the morals of the community by using the recognized, traditional police power of government to protect societal order, morality, physical and emotional health and human dignity. This ordinance also acts to reduce the likelihood of criminal activity, moral degradation, sexually transmitted diseases and disturbances of the peace, without infringing on protected First Amendment rights; and to establish the community standard on obscene material and performances.

**SECTION IV ADULT ENTERTAINMENT BUSINESSES**

**4.1 Prohibitions**

- a) No person shall cause or permit the establishment of any Adult Entertainment Businesses, as defined, within seven hundred and fifty feet of any church, public or private school, library, or any municipally owned or state-owned park, athletic field or recreational facility that is open to the public where children are the primary users.
- b) For the purpose of this Ordinance, measurements shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises for an Adult Entertainment Business to the nearest property line of a church, school, library or to the nearest boundary of a park, athletic field or recreational facility.

**4.2 Application for a Permit to Operate an Adult Entertainment Business**

Applications for a permit to operate an Adult Entertainment Business shall be available at the Town Clerk’s Office and shall include the following:

- a) Name, address and telephone number of applicant.
- b) Name and address of the person, firm, corporation or association which will operate the Adult Entertainment Business, if the permit is granted.
- c) Such other information as the Board of Selectmen shall request in order to have all facts before it prior to making a decision.
- d) Upon receipt of such application and any necessary supplementary information, the Board of Selectmen shall set a date for a public hearing in regard to the granting of such a license, and a notice of such public hearing shall be published no earlier than twenty (20) days and no later than ten (10) days before the date of such public hearing.

Adult Entertainment Licenses issued pursuant to this Ordinance shall be for a term of no more than one year. The fee for an Adult Entertainment Business license shall be set by the Board of Selectmen.

**SECTION V OBSCENE MATERIAL, DEVICES AND PERFORMANCE**

**5.1 Offences**

- a) A person commits an offense if, knowing its content and character, they wholesale promote or possess with the intent to wholesale promote any obscene material or obscene device as defined.
- b) A person commits an offense if, knowing its content and character, said person:
  - i. Promotes or possesses with intent to promote any obscene material or obscene device; or

- ii. Produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.
- c) A person who promotes, or wholesale promotes, obscene material or an obscene device, or possesses the same with intent to promote or wholesale promote it in the course of their business is presumed to do so with the knowledge of its content and character.
- d) This section does not apply to a person who possesses or distributes obscene material or obscene devices or participates in conduct otherwise proscribed by this section when the possession, participation, or conduct occurs in the course of law enforcement activities.

**SECTION VI INSPECTIONS**

Whenever inspections of the adult entertainment and/or licensed premises is required by this ordinance, state law or is reasonably necessary to secure compliance with any town ordinance, code, regulation or state law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any law enforcement officer, official or employee of the town authorized to make the inspection at any reasonable time that admission is requested.

**SECTION VII ENFORCEMENT**

This Ordinance shall be enforced by the Skowhegan Police Department.

**SECTION VIII PENALTIES**

**8.1 Obscenity**

The violation of any provision of this ordinance shall be punishable by a fine of one thousand dollars (\$1,000.00) for a first offense, one thousand five hundred dollars (\$1,500.00) for a second offense, and two thousand dollars (\$2,000.00) for a third or subsequent offense, regardless of the time between offenses. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalties the town may enjoin or abate any violation of this ordinance by appropriate action and, if the court finds for the town, the town shall recover its costs of suit, including reasonable experts' fees, reasonable attorneys' fees and reasonable investigative costs.

**8.2 Adult Entertainment**

Any person who violates this Ordinance commits a civil violation for which a forfeiture not to exceed five hundred dollars (\$500.00) may be adjudged. Each day, during any portion of which, any violation of the Ordinance is committed, permitted or continued, shall constitute a separate offense. The Board of Selectmen may, after notice to the licensee and hearing, suspend or revoke the permit issued under this Ordinance upon a finding that the licensee has violated any of the provisions of this Ordinance.

**SECTION IX SEVERABILITY**

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

**SECTION X CONFLICT**

This ordinance shall not in any way impair, or remove, the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw or provision of law.

**SECTION XI DEFINITIONS**

The following words, terms or phrases, when used in this Ordinance, shall have the same meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**Adult Entertainment Business** means:

- a) **Adult Book Store** is a person, establishment or business having more than a minimal portion of its stock in trade, such as recordings, books, magazines, periodical films, video tapes/cassettes or other reading or viewing materials for sale or viewing at the premises, materials which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific or general sexual activities or anatomical areas; or an establishment with a section devoted to the sale or display or viewing of such materials.
- b) **Adult Motion Picture Theater** is a structure--either indoors or outdoors--used for showing, displaying or presenting to patrons therein or thereat materials distinguished and characterized by emphasis on depicting, describing or relating to specific or general sexual activities or specific anatomical areas.
- c) **Adult Motion Picture Arcade** is a place to which the public is permitted or invited, wherein coin or slug-operated or electronically, electrically, mechanically or otherwise controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to any one person, at any machine, at any time so displayed as to distinguish or characterize by emphasis on depicting or describing specific sexual activities or specific anatomical areas.
- d) **Massage Establishment** is a place of business where any person, firm, association, or corporation engages in, carries on, or permits to be engaged in or carried on, any of the following activities:
  - i. Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the human body with the hands or with the aid of any mechanical or electrical apparatus or device, with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or others similar preparations.

The term "Massage Establishment" shall not apply to hospitals, nursing homes, or medical clinics or to persons possessing a license to practice massage therapy under the laws of the State of Maine.

**Material** means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction but does not include an actual three-dimensional obscene device.

**Obscene** shall mean to the average person applying contemporary community standards the predominant appeal of the matter or act taken as a whole, is to prurient interest, and the matter or act depicts or describes in a patently offensive manner sexual conduct or lewd exhibition of the genitals or other body parts mentioned in this ordinance and the manner or act or performance considered as a whole lacks serious literary, artistic, political or scientific value; or any matter or acts or performance which are prohibited by the statutes of the State of Maine.

**Obscene Device** means any physical three-dimensional object or item that is classified as “obscene”, as defined in this ordinance.

**Patently Offensive** means so offensive on its face as to be intolerable to the average person, applying contemporary community standards.

**Performance** means any preview, play, show, skit, film, dance, or other exhibition, or entertainment performed before an audience.

**Person** means a person, firm, partnership, corporation, association, or legal representative, acting individually or jointly.

**Promote** means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, advertise, or to offer or agree to do the same.

**Prurient interest in sex** means a shameful or morbid interest in sex.

**Sexually-Oriented Material** means any element of adult merchandise, or any book, periodical, magazine, photograph, drawing, sculpture, motion picture film, or other visual representation characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas

**Specific Anatomical Area** means less than completely covered human genitals, pubic regions, and female breasts below a point immediately above the top of the areola, and the human male genitals in a discernible turgid state.

**Specific Sexual Activity** means:

- a. Human male genitals in a state of sexual stimulation or arousal.
- b. Ultimate sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation or sodomy;
- c. Fondling or other erotic touching of human or animal genitals, pubic regions, buttocks or breasts.

**Wholesale Promote** means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for the purpose of resale.

Chapter 31  
**Town of Skowhegan**

**Solid Waste Management Ordinance  
Adopted 1994 Annual Town Meeting  
Amended 1996 Annual Town Meeting  
Amended 2002 Annual Town Meeting**

**SECTION 1. Title**

This document shall be known as the “Town of Skowhegan Solid Waste Management Ordinance.”

**SECTION 2. Purpose and Authority**

To ensure that wastes are properly separated to minimize the volume of waste placed at the solid waste management facility, to encourage recycling and to enable effective management of waste, it is necessary to regulate the disposition of waste within the Town of Skowhegan.

This Ordinance is adopted pursuant to Home Rule Powers as granted in Article VIII-A of the Maine Constitution, Title 30-A M.R.S.A., Section 3001 et. seq., and Title 38 M.R.S.A., Section 1305 et. seq.

**SECTION 3. Applicability**

This Ordinance shall apply to all domestic, commercial, and industrial producers of solid waste in the Town of Skowhegan.

**SECTION 4. Validity and Severability**

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

**SECTION 5. Amendments and Effective Date**

This Ordinance may be amended as provided in 30-A M.R.S.A. Section 3004 (4).

This Ordinance, and any amendments thereto, will become effective by a vote of a majority of the voters at any regular or special town meeting.

**SECTION 6. Abrogation**

This Ordinance repeals and replaces any municipal ordinances previously enacted to control the management of solid waste.



## **SECTION 7. Definitions**

The definitions set forth in 38 M.R.S.A. Section 1303 apply to this Ordinance and are incorporated herein. Any word not otherwise defined shall have its ordinary meaning.

Staff: “Staff” means the person/persons employed by the Town of Skowhegan to work at the Skowhegan Solid Waste Management Facility.

Board of Selectpersons: “Board of Selectpersons” means the Board of Selectpersons of the Town of Skowhegan.

Licensed Commercial Hauler: “Licensed Commercial Hauler” means any person, firm or organization that transports waste or recyclable materials in Skowhegan for a fee or other remuneration and has met all the administrative obligations set forth in section 9.1.

Disposal Facility: “Disposal Facility” means the facility, which accepts solid waste under contract from the Town of Skowhegan.

Operations and Maintenance Manual: “Operations and Maintenance Manual” means the manual that is used for operations and maintenance of the Skowhegan Solid Waste Management Facility.

Recyclable: “Recyclable” means any material that is considered recyclable in the general provisions section of this Ordinance.

Residential Disposal Permit: “Residential Disposal Permit” means the sticker type permit that authorizes Skowhegan residents to use the Skowhegan Solid Waste Management Facility.

Solid Waste Management Facility: “Solid Waste Management Facility” means the recycling areas and transfer station located on the Steward Hill Road.

Temporary Disposal Permit: “Temporary Disposal Permit” means the permit that is issued temporarily to non-resident taxpayers, contractors and others for access to and use of the Skowhegan Solid Waste Management Facility to dispose of waste generated within the Town of Skowhegan.

Town: “Town” means the Town of Skowhegan.

Waste Disposal Contract: “Waste Disposal Contract” means any contract between the Town of Skowhegan and a licensed Disposal Facility.

## **SECTION 8. Administration**

The Board of Selectpersons of the Town of Skowhegan will administer the provisions of this Ordinance.

The Board of Selectpersons shall adopt, and amend, after public hearing, written Rules and Regulations governing operation of the Solid Waste Management Facility including permitting fees and terms for permits, right of inspection of materials, preparation of materials before drop-off and other matters pertaining to the disposal of Solid Waste. The Rules and Regulations of this Ordinance shall be periodically reviewed and revised to satisfy the needs of the Town as well as State and Federal laws.

Administrative definitions and instructions shall be publicly posted to provide at least thirty (30) days notice to residents prior to adoption.

The Board of Selectperson shall approve a structure of maximum fees, based upon the Town's experience with solid waste management under this ordinance.

The Board of Selectpersons shall adopt processing fees on items, other than municipal solid waste, which provide incentives for recycling and offset increased handling costs resulting from disposal of non-recyclable acceptable solid wastes. Fees shall be adopted based upon such considerations as volume, type of material, and frequency of delivery.

## **SECTION 9. Permitting**

The collection and transportation of waste and recyclable material, generated in the Town of Skowhegan, is prohibited unless authorized by the Board of Selectpersons.

All residents who wish to deliver waste to the Solid Waste Management Facility must display a Residential Disposal Permit, issued by the Town, on their vehicle. The vehicles current registration is required to obtain a Residential Disposal Permit. Only one permit will be issued to any vehicle at any time; to receive an additional permit a previous permit must be voided.

Any non-resident taxpayer, contractor, or person who wishes to use a vehicle not registered in the Town of Skowhegan to transport waste generated within Skowhegan to the Facility, may purchase a "Temporary Disposal Permit" for that particular vehicle. This Temporary Disposal Permit must be with the vehicle it is assigned to at all times for inspection by a Facility Attendant. The vehicles current registration is required to obtain a "Temporary Disposal Permit."

### 9.1

Any person who seeks to serve the Town as a commercial hauler, to collect and deliver waste to any disposal facility or to transport recyclable materials to the Solid Waste Management Facility, must have a valid commercial haulers license issued by the Town.

The following items must be submitted to the Town of Skowhegan when applying for a commercial haulers license:

1. Current vehicle registrations for all vehicles that will be used in the ordinary course of business.

2. A certificate of insurance generated for the Town of Skowhegan showing at a minimum General Liability coverage of \$400,000.00.
3. Annual fee for Commercial Hauler License as stated in the Rules and Regulations section.

In addition, upon request, the following information must be provided to the Town for review:

1. State of Maine Department of Environmental Protection Non-Hazardous Waste Transporters License.
2. Route sheets for all routes serviced in the Town of Skowhegan.
3. Disposal tickets for up to two years prior to any request by the Town to review such records.

#### **SECTION 10. General Provisions**

The Town of Skowhegan Solid Waste Management Facility is for the use of residents of Skowhegan, non-resident tax payers, contractors generating waste from projects within Skowhegan, commercial businesses located within Skowhegan and other entities that the Selectpersons have a contractual agreement with.

The facility is closed on all declared legal holidays as designated under the Town of Skowhegan Personnel Policy.

The use of the Facility by any person shall be at the strict direction of the Staff. If any person violates any directives of the Staff that are within this Ordinance, or that have been adopted by the Board of Selectpersons in the “Rules and Regulations” hereunder, that person will immediately be refused access to the Facility and may be subject to prosecution and a fine as provided for under SECTION 11 and 12 of this Ordinance.

The following items are prohibited from the Skowhegan Solid Waste Management Facility as well as any other disposal facility designated by this Ordinance or its Rules and Regulations:

- A. Hazardous Waste;
- B. Closed Containers;

- C. Dead Animals or Animal parts;
- D. Any material that may be classified as Unacceptable Waste as defined in any contractual agreement for disposal with the Town.

Any clean up and all costs associated with proper disposal of the above mentioned wastes, shall be borne by the person responsible for the disposition of same.

All aspects of the Operations and Maintenance Manual for the Transfer Station will be part of the Rules and Regulations.

All aspects of the Waste Disposal Contract will be part of the Rules and Regulations.

All of the following components of the municipal solid waste stream will be source separated for recycling purposes or for the purpose of the current method of disposal of that item:

- A. Corrugated cardboard;
- B. Newspapers/telephone books;
- C. Magazines
- D. Brown craft paper bags;
- E. Glass jars - clear, brown and green separated;
- F. Cans - tin and aluminum separated;
- G. Plastics - P.E.T. (polyethylene terephthalate)  
H.D.P.E. (High density polyethylene) separately;
- H. White goods;
- I. Brown goods;
- J. Tires;
- K. Lead acid batteries;
- L. Metals and light irons;
- M. Mixed waste paper;
- N. Construction/demolition debris;
- O. Brush, limbs, clean wood waste; and
- P. Leaves

All separation and recycling areas are designated by sign and/or instructions from staff.

No salvaging is permitted except as provided for in the Solid Waste Management Facility "Rules and Regulations".

The Skowhegan Solid Waste Management Facility is not available for the dumping of industrial waste, rocks, debris, stumps, and Special Waste as defined in M.R.S.A. 38 Section 1303 and materials of a similar nature. Refuse is not to be deposited or left along the road leading to the site. Persons doing so will be subject to prosecution and a fine as provided for under SECTION 11 and 12 of this Ordinance and Maine State Law.

#### **SECTION 11. Permit Denial, Suspension or Revocation**

Issuance of a permit may be denied and any permit or license issued may be suspended or revoked by the Solid Waste Management Facility Supervisor or Code Enforcement Officer, for the following causes:

- A. Violation of this Ordinance;
- B. Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this Ordinance;
- C. Violation of any license condition(s); and
- D. Falsehoods, misrepresentations or omissions in the license application.

## **SECTION 12. Hearings**

Anyone denied a permit or license, or whose permit or license is suspended or revoked pursuant to SECTION 11, shall be entitled to notice and hearing before the Board of Selectpersons if such request is made, in writing, within thirty (30) days of denial, suspension or revocation.

Such hearings shall be held within thirty (30) days after receipt of the written request for a hearing.

The permittee, licensee or applicant shall be notified, in writing, as to the date, time and place of the hearing at least ten (10) days prior to the hearing date. The permittee, licensee or applicant by certified mail, return receipt requested.

The Board of Selectpersons final determination relative to the denial, suspension or revocation of a permit or license and the period of suspension or revocation shall take effect as provided in the notice, but no later than ten (10) days after the date on which such notice has been mailed to the permittee, licensee or applicant, and shall be conclusive.

Notice of decision of the final determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof together with a statement that such decision may be appealed as provided in the Ordinance.

Any controversy or claim arising out of, or, relating to the Board of Selectpersons determination shall be directly reviewable by Superior Court pursuant to Maine Rules of Civil Procedure, Rule 80B.

## **SECTION 13. Enforcement**

Enforcement of this Ordinance shall be the responsibility of the Code Enforcement Officer, or the Chief of Police, depending on the type and nature of the offense committed. Enforcement will include denial, suspension or revocation of a permit as

outlined in SECTION 11 and 12 and may involve any action necessary to protect the integrity of this ordinance, including any process either civil, or criminal that is authorized by State Statute.

The minimum fine for violating this Ordinance will be one hundred dollars (\$100.00) per offense. Each day that a violation continues will be a separate offense.

TOWN OF SKOWHEGAN  
SOLID WASTE MANAGEMENT FACILITY  
RULES AND REGULATIONS

ADOPTED 3/8/94 SELECTMEN'S MEETING. EFFECTIVE DATE 3/8/94  
AMENDED 10/11/94 SELECTMEN'S MEETING. EFFECTIVE DATE 11/12/94  
AMENDED 9/26/95 SELECTMEN'S MEETING. EFFECTIVE DATE 10/26/95  
AMENDED 8/27/96 SELECTMEN'S MEETING. EFFECTIVE DATE 9/27/96  
AMENDED 7/8/97 SELECTMEN'S MEETING. EFFECTIVE DATE 8/8/97  
AMENDED 9/8/98 SELECTMEN'S MEETING. EFFECTIVE DATE 10/8/98  
AMENDED 10/13/98 SELECTMEN'S MEETING. EFFECTIVE DATE 11/13/98  
AMENDED 7/27/99 SELECTMEN'S MEETING. EFFECTIVE DATE 8/27/99  
AMENDED 1/26/00 SELECTMEN'S MEETING. EFFECTIVE DATE 2/26/00  
AMENDED 2/12/02 SELECTMEN'S MEETING. EFFECTIVE DATE 3/14/02  
AMENDED 10/22/02 SELECTMEN'S MEETING. EFFECTIVE DATE 11/22/02

I.

AUTHORITY: These rules and regulations are promulgated pursuant to the Town of Skowhegan Solid Waste Management Ordinance.

II.

PURPOSE: To efficiently operate the Skowhegan Solid Waste Management Facility, it is necessary to establish rules and regulations that provide guidance to both Municipal Staff and the public.

III.

DEFINITIONS: The definitions provided in the Skowhegan Solid Waste Management Ordinance and in 38 M.R.S.A. Section 1303 apply to these regulations. Any word not otherwise defined shall have it's ordinary meaning.

IV.

AMENDMENT: These rules and regulations may be amended by a majority vote of the Selectpersons following 30 days public notice and a public hearing.

V.

RULES AND REGULATIONS:

A. HOURS OF OPERATIONS

The Skowhegan Solid Waste Management Facility will be open as follows:



Summer hours: April 1 to September 30.  
 Tuesday's from 7:00 A.M. to 5:45P.M.  
 Wednesday through Saturday from 7:00 A.M. to 3:45 P.M.

Winter hours: October 1 to March 31  
 Tuesday through Saturday 7:00 A.M. to 3:45 P.M.

Closed: Sunday, Monday and scheduled holidays.

**B. FEES**

Disposal

1. Tires:

Motorcycle	\$ 1.00
Race Car	\$ 2.00
Passenger vehicle (17" and under)	\$ 2.00
Truck (over 17")	\$ 6.50
Truck (over 17") on rim	\$ 10.00
Super Single	\$ 10.00

**OFF ROAD:**

Super single and small OTR 10 inch and under	\$ 50.00
Medium OTR 11 inch to 18 inch	\$ 75.00
Large OTR 19 inch and up	\$100.00

2. White Goods:

Freon containing appliances	\$ 10.00
Non-Freon containing appliances	\$ 5.00

3. Brown Goods:

TVs, stereos, radios, furniture, and computer monitors, etc.	\$ 5.00
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Permits and Licenses

1. Commercial Hauler License	\$300.00
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Reuse and Resale

Reuse and resale is encouraged as a form of recycling. An administrative fee will be charged for items not in the designated area. Any item in the resale area will be sold as marked.

2. A. Residential Sticker Permits	\$ 5.00
B. Temporary Written Permit	\$ 5.00

**C. PREPARATION OF RECYCLABLES**

The following items require source separation and special preparation before being delivered to the Skowhegan Solid Waste Management Facility.

1. Corrugate cardboard:  
Reasonably dry, no larger than 30" in any dimension, loose or bundled. Asian and waxed cardboard as well as chipboard (cereal boxes, shoe boxes) are not to be recycled with corrugated cardboard.
2. Newspaper/Telephone books:  
Reasonably dry, bundled in bags or with twine, with all original inserts.
3. Mixed Paper:  
All cereal boxes, shoe boxes, unwanted mail and other similar paper materials should be reasonably dry, placed in separate storage from other specific types of recyclable paper.
4. Magazines:  
Reasonably dry, bundled with twine, separate from other types of paper.
5. Brown Paper Bags:  
Reasonably dry, emptied, several placed inside one large brown paper bag.
6. Glass Jars:  
Clear-Brown-Green  
Rinsed, no lids, whole (not broken), separated by color.
7. Cans:  
Tin and aluminum: rinsed, labels removed. Crushing is preferred, but is optional.
8. Plastics:  
P.E.T. and H.D.P.E. type plastic containers. Symbols and numbers are on bottoms of most containers. Rinse and remove covers, crushing is preferred. NOTE: Containers to be recycled must have symbol and correct number. All other plastics are not collected for recycling at this time and must be disposed of at the Transfer Station.
9. White Goods:  
Major Appliances need no special preparation.
10. Lead Acid Batteries:  
Must not be leaking, handled upright.
11. Metals and light irons:  
Metals and light irons must have other materials removed and deposited in designated disposal areas.
12. Office paper required by State Law:

Office paper must be packaged in clear/transparent bags, not to exceed weight limit of the bag.

#### D. PREPARATION OF MATERIAL FOR DISPOSAL

1. All municipal household waste to be disposed of at the Waste Transfer Station will be deposited at the facility in trash bags that are transparent enough to allow for visual inspection of the contents.
2. Facility staff will periodically inspect Municipal Solid Waste to insure that the items that are hazardous are not being deposited at the Waste Transfer Station. Inspections will also be carried out to prevent disposal of recyclable items.
3. Demolition debris will be accepted at the Waste Transfer Station under the following conditions:
  - a. Prior approval will be required from the Waste Management Supervisor.
  - b. Material will be separated into three (3) basic elements; wood, metal, other.
  - c. No load greater than two (2) cubic yards will be accepted at the Waste Transfer Station during any 48-hour period. Quantities exceeding this amount will be hauled directly to the designated Waste Disposal Facility.
4. Brown Goods:  
Stereos, microwaves, TVs etc. do not need special preparation for disposal.  
Attendants will designate the proper container for Brown Goods disposal.
5. Tires:  
Tires do not require special preparation. Attendants will designate the proper area for tire disposal.
6. Burnable brush, limbs and clean wood waste:  
Brush and limbs should be no longer than twelve feet (12'). Brush and limbs or any other part of the tree should be less than two feet (2') in diameter. Wood larger than two feet in diameter will require prior approval from the Waste Management Supervisor.
7. Leaves:  
Leaves will be deposited at the storage area specified by the attendant on duty.

# **Town of Skowhegan**

## **Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs**

**Adopted June 12, 2017, Annual Town Meeting**

### **Section 1. Authority**

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

### **Section 2. Definitions**

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

1. **Retail marijuana cultivation facility.** "Retail marijuana cultivation facility" means an entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs.
2. **Retail marijuana establishment.** "Retail marijuana establishment" means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility or a retail marijuana testing facility.
3. **Retail marijuana products manufacturing facility.** "Retail marijuana products manufacturing facility" means an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.
4. **Retail marijuana social club.** "Retail marijuana social club" means an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises.
5. **Retail marijuana store.** "Retail marijuana store" means an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers.
6. **Retail marijuana testing facility.** "Retail marijuana testing facility" means an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products.

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

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

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

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

### **Section 4. Effective date; duration**

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

### **Section 5. Penalties**

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

Chapter 32  
TOWN OF SKOWHEGAN

**STREETS AND SIDEWALKS**

Adopted, Special Town Meeting 8/8/2000  
Amended, Special Town Meeting 2/14/2012

- Art. I.**        **In General, §1 -7**  
**Art. II.**       **Driveways, §8 - 18**

**ARTICLE I. IN GENERAL**

**Sec. 1. Selectmen's authority to regulate sidewalks.**

The Board of Selectmen shall have authority and shall make such regulations pertaining to public sidewalks, as they may deem necessary for the safety, convenience and protection of the public.

(Town Meeting, 3-10-56, §2)

**Sec. 2. Enforcement.**

This Ordinance shall be enforced by the Skowhegan Police Department or other official duly appointed and authorized by the Board of Selectmen.

**Sec. 3. Duty to remove snow, ice; duty to cover ice with sand, etc; penalty.**

(a) The tenant or occupant of any store, shop, dwelling house, manufactory, hotel or other building or any vacant lot of land bordering upon any sidewalk on the business parts of Madison Avenue, Russell, Water, and Court Streets, and in case there shall be no tenant, the owner or any person having the care or control of any building or lot of land bordering upon the forenamed streets, after the ceasing to fall of any snow, if in the daytime within four (4) hours, and if in the nighttime before 10:00 A.M. of the following day, unless such following day be Sunday or a holiday, shall cause the same to be removed from such sidewalk.

This provision shall be construed to extend to the removing of snow falling from any roof upon such sidewalk; but no person shall be required to remove any snow as aforesaid on Sunday. Such tenant, occupant or owner, whenever ice has formed upon any sidewalk, as aforesaid, shall cause the same to be removed or to be properly covered or strewed with sand, ashes or other suitable substance in such a manner as to render such sidewalk safe and convenient for foot travelers.

(b) Any person, firm, partnership or corporation violating any provisions of this section shall be punishable upon conviction by a civil forfeiture not to exceed one hundred dollars (\$100.00) for any one offense. Each day of the violation shall constitute a separate offense.

**State law reference** - Authority to provide for the removal of snow and ice from sidewalks, 30-A M.R.S.A. §3001

**Sec. 4. Extending awnings, signs over sidewalks; penalty.**

The owner of any building adjoining the street may extend an awning or sign therefrom over the sidewalk to the outer edge thereof and not further; provided, that no part of the awning, sign or fixture shall be lower than seven (7) feet above the sidewalk, and any person who shall extend any awning or sign over any sidewalk in any other manner, without written permission from the municipal officers, shall be subject to a civil forfeiture not to exceed one-hundred dollars (\$100.00) for each violation.

**Sec. 5. Maintaining tables, tents, booths, carriages in streets for sale or exhibition; penalty.**

No person shall place or maintain any table, tent, booth, or stall, or any carriage or cart in any public street or way within the limits of the Town of Skowhegan for any sale or exhibition without first obtaining the written permission of the Town Manager or his/her designee. Violators of this section shall be subject to a civil forfeiture not to exceed one hundred dollars (\$100.00) for each violation.

**Sec. 6 Transfer of merchandise over sidewalks.**

On streets not otherwise restricted, merchandise may be transferred from or to trucks or other vehicles over the sidewalk by the use of skids or planks, only when reasonably necessary and provided the sidewalk is not unreasonably obstructed, and then only for such period of time as is necessary, and if the sidewalk and travel thereon is obstructed by skids or planks for an unreasonable time, any police officer in the course of his/her duty may order such skids or planks removed, and if not removed he may remove or cause to be removed, at the expense of the offender.

**Cross reference** - License and Business Regulations section 10-2.

**Sec. 7. Riding bicycles, skateboards or rollerblades**

No person shall ride a bicycle, skateboard or rollerblades on the following sidewalks Monday through Saturday between the hours of 6:00 a.m. and 6:00 p.m.

Water Street

- South side from the junction of Island Avenue to the easterly side of the veteran's memorial.
- North side from the junction of Madison to the junction of North Ave.

Madison Avenue

- West side from the junction of Island Avenue to the junction of Elm Street.
- East side from the junction of Water Street to the junction of Russell Street (Commercial Street).



Russell Street (Commercial Street)

- South side from the junction of Water Street to the junction of Madison Avenue.
- North side from the junction of Court Street to the junction of Madison Avenue.

Court Street

- East side from the junction of Water Street to the junction of High Street.
- West side from the junction of Russell Street to the junction of High Street.

Bloomfield Bridge

- From the junction of the River View parking lot to the junction of Mt. Pleasant Avenue.

Penalty

- (A) For a first offense, the police officer shall issue a written warning to that person in violation of this section.
- (B) For a second or subsequent offense, any person in violation of this section commits a civil violation for which a forfeiture not to exceed twenty-five dollars (\$25.00) may be adjudged, or if the person consents, the police officer may seize and hold the bicycle, skateboard or rollerblades for a time not to exceed seven (7) days.

## **ARTICLE II. DRIVEWAYS**

### **Article II, Repealed February 14, 2012**

**See:**

**Skowhegan Road and Entrance Design Standards Ordinance Adopted February 14, 2012, Special Town Meeting, Article #3**



# **SKOWHEGAN PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE**

**Adopted at Town Meeting June 6, 2011**

## **PREAMBLE**

WHEREAS, the 124<sup>th</sup> Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

## **ARTICLE I - PURPOSE AND ENABLING LEGISLATION**

### **§ XX-1 Purpose**

By and through this Chapter, the Town of Skowhegan declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Chapter/Ordinance to be in conformity with federal and State laws.

### **§ XX-2 Enabling Legislation**

The Town enacts this Chapter/Ordinance pursuant to Public Law 2009, Chapter 591 of the 124<sup>th</sup> Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

## **ARTICLE II - TITLE AND DEFINITIONS**

### **§ XX-3 Title**

This Chapter/Ordinance shall be known and may be cited as “the Town of Skowhegan Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).”

#### § XX-4 Definitions

Except as specifically defined below, words and phrases used in this Chapter/Ordinance shall have their customary meanings; as used in this Chapter/Ordinance, the following words and phrases shall have the meanings indicated:

**1. Energy saving improvement.** “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

**2. Municipality.** “Municipality” shall mean the Town of Skowhegan.

**3. PACE agreement.** “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

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

**5. PACE district.** “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

**6. PACE loan.** “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

7. **PACE mortgage.** “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.
8. **PACE program.** “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.
9. **Qualifying property.** “Qualifying property” means real property located in the PACE district of the Municipality.
10. **Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.
11. **Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

### **ARTICLE III - PACE PROGRAM**

1. **Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.
2. **Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

### **ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST**

1. **Standards adopted; Rules promulgated; model documents.** If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the

Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

## **ARTICLE V – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY**

### **1. Program Administration**

**A. PACE Administration Contract.** Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
- ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

**B. Adoption of Education and Outreach Program.** In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

**C. Assistance and Cooperation.** The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

**D. Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

**2. Liability of Municipal Officials; Liability of Municipality**

**A.** Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

**B.** Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.



TOWN OF SKOWHEGAN

**TRAFFIC ORDINANCE**

**(Approved, Selectmen's Meeting, July 8, 1997)**  
**(Amended, Selectmen's Meeting March 10, 1998)**  
**(Amended Selectmen's Meeting. June 13, 2000)**  
**(Amended Selectmen's Meeting July 9, 2002)**  
**(Amended Selectmen's Meeting February 10, 2004)**  
**(Amended Selectmen's Meeting January 9, 2019)**

**ARTICLE I. IN GENERAL**

**Sec. 1. Definitions**

As used in this ordinance, unless the context otherwise indicates, the following words shall have the following meanings:

Authorized emergency vehicle shall mean vehicles of the fire department, police vehicles, and such ambulances and emergency vehicles of Municipal Departments or public service corporations as are designated or authorized by the Board of Selectmen.

Bicycle shall mean every device propelled by human power upon which any person may ride, having two (2) tandem wheels either of which is more than twenty (20) inches in diameter.

Bus shall mean every motor vehicle designed for carrying more than fourteen (14) passengers and used for the transportation of passengers; and every motor vehicle, other than a taxicab, designed for the transportation of persons for compensation.

Business or residence district shall mean the territory of the Town contiguous to any way which is built up with structures which are situated less than one hundred and fifty (150) feet apart for a distance of at least one-quarter (1/4) of a mile.

Crosswalk shall mean:

- (1) 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 edge of traversable roadways;
- (2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Driveway shall mean every road or driveway not open to the use of the public for purposes of vehicular travel.

Intersection shall mean the area embraced within the prolongation of the lateral curb lines or, if no curb lines are established, then the lateral boundary lines of two (2) or more streets or highways which join one another at an angle whether or not one such street or highway crosses the other.

Motor vehicle shall mean any self-propelled vehicle not operated exclusively on tracks, including motorcycles, but not including snowmobiles as defined in Title 12, Section 1971 of the State law.

Operator shall mean every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

Owner for the purposes of registration owner shall mean any person, firm, corporation or association holding title to a vehicle or having exclusive right to the use thereof for a period greater than thirty (30) days or the mortgagor or the vendee in a conditional sales contract, and shall mean any person, firm, corporation or association owning a vehicle, or having the right to use the same, under contract, lease or hiring; except this definition shall not apply when said vehicle is engaged exclusively for the use set forth in Title 35, section 1560, subsection 1, paragraph E, of the State law or Acts amendatory thereto. It shall not mean or include a person engaged in the business of renting Maine registered vehicles without drivers, as provided for in 29 M.R.S.A. section 901. Nothing contained in this definition shall require an owner or a common or contract carrier by vehicle operating under permit or certificate of the Interstate Commerce Commission or the Public Utilities Commission to register a vehicle leased by such owner or carrier for the purpose of augmenting such owner's or carrier's equipment, if such vehicle is properly registered by the owner or carrier in this or some other State.

Parking shall mean the standing of a vehicle, whether occupied or not, attended or unattended upon a street, otherwise than temporarily for the purpose of and while expeditiously taking on or leaving passengers or loading or unloading merchandise then in readiness for immediate loading or delivery or otherwise than in obedience to traffic regulations or traffic signs or signals.

Pedestrian shall mean any person afoot.

Right-of-way shall mean the privilege of the immediate use of the street or highway.

Roadway shall mean that portion of a street or highway between the regularly established curb lines or, where no curb lines are established, that part devoted to vehicular traffic.

Safety Zone shall mean the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

Sidewalk shall mean that portion of a street between the curb lines and the adjacent property lines.

Stop when required means complete cessation from movement.

Stop or stopping when prohibited shall mean any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control or signal.

Street or highway shall mean the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Traffic shall mean pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any highway for purposes of travel.

Traffic-control devices shall mean all signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulation, warning or guiding traffic.

Vehicle shall include all kinds of conveyances on ways for persons and for property, except those propelled or drawn by human power or used exclusively on tracks or snowmobiles as defined in Maine Revised Statutes, Title 12, Section 1971. (Town Meeting, 9-23-44, §1; Selectmen’s Meeting, 3-10-56, No. 13)

**Sec. 2. General penalty.**

Whenever in this ordinance any act is prohibited or is made or declared to be unlawful, or whenever in this ordinance the doing of an act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of such provision of this ordinance shall constitute a civil violation for which a forfeiture set by the Board of Selectmen (See Town of Skowhegan User Fees), plus costs, may be adjudged. Each offense shall constitute a separate violation.

**Sec. 3. Authority to remove, impound vehicles; costs of impoundment.**

Upon request of the road commissioner, a police officer may remove or cause to be removed any vehicle or vehicles left upon any street or way when such vehicle is not in the apparent charge of any driver or other person which interferes with plowing or removal of snow by the highway department.

All costs incurred with the removal of said vehicle will be the responsibility of the owner thereof.

**Sec 4. Public employees to obey regulations.**

The provisions of this ordinance shall apply to the operator of any vehicle owned by or used in the service of the United States Government, this State, or Town, and it shall be unlawful for any such operator to violate any of the provisions of this ordinance, except as herein otherwise permitted.

(Town Meeting, 9-23-44, §4)

**Sec. 5. Applicability of ordinance to authorized emergency vehicles.**

The provisions of this ordinance controlling the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles while the driver of such vehicle is operating the same in an emergency in the necessary performance of public duties. This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard for the safety of others. (Town Meeting, 9-23-44, §5)

**Sec. 6. Moving of vehicles to avoid provisions of this ordinance a violation.**

The moving of vehicles from one location to another to avoid provisions of this ordinance shall be deemed a violation of this ordinance. (Town Meeting, 9-23-44, §53)

**Sec. 7. Boarding, alighting from moving vehicles.**

It shall be unlawful for any person to board or alight from any vehicle while such vehicle is in motion. (Town Meeting, 9-23-44, §18)

**Sec. 8. Clinging to moving vehicles.**

No person riding upon any bicycle, coaster, skateboard, roller skates, roller blades, sled or toy vehicle shall attach the same or himself to any moving vehicle upon a way. (Town Meeting, 9-23-44, §41)

**Sec. 9. Riding in portion of vehicle not intended for passenger use.**

It shall be unlawful for any person to ride on any vehicle upon any portion thereof not designated or intended for the use of passengers when the vehicle is in motion. This provision shall not apply to any employee engaged in the necessary discharge of a duty, or within truck bodies in space intended for merchandise. (Town Meeting, 9-23-44, §19)

**ARTICLE II. OPERATION GENERALLY**

**Sec. 10. Authority to determine and designate the character and type of traffic-control devices; devices to be uniform; authority to place, maintain devices.**

(A) The Board of Selectmen shall determine and designate the character and type of all official traffic signs, signals, traffic calming devices and parking meters. All signs, signals, traffic calming devices and parking meters required hereunder for a particular purpose shall, so far as practicable, meet the Manual on Uniform Traffic Control Devices manual and be uniform throughout the Town.

(B) The Board is hereby authorized to place and maintain or cause to be placed or maintained all official traffic signs, signals, traffic calming devices and parking meters. (Town Meeting, 9-23-44, § 6(a))

**Sec. 11. Provisions unenforceable when signs not in proper place and legible; when provisions effective without signs being erected.**

No provisions of this ordinance for which signs are specifically required shall be enforceable against an alleged violator, if at the time and place of the alleged violation, the sign herein required is not in proper position and sufficiently legible to be seen by an ordinary observant person. Whenever a particular section of this ordinance does not state that signs are required, such section shall be effective without signs being erected to give notice thereof. (Town Meeting, 9-23-44, §6 (b))

**Sec. 12. Unauthorized signs, signals, markings, devices.**

(A) 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 railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or so interferes with the effectiveness of any official traffic-control device or any railroad sign or signal as to endanger the public, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information or promoting highway safety and of a type that cannot be mistaken for official signs. Any person, firm, corporation or political subdivision of the State, while working on, under, over or immediately adjacent to any highway may erect temporary warning or directional signs or signals for the purpose of safeguarding or protecting its workmen and facilitating and protecting travel along the highway by the traveling public.

(B) Every such prohibited sign, signal or marking is declared to be a public nuisance and the authority having jurisdiction over the street or highway may order the same removed and, if not removed within forty-eight (48) hours after receipt of the notice, is empowered to remove the same or cause it to be removed. (Town Meeting, 9-23-44, §9; Town Meeting, 3-9-53, No.7)

**Sec. 13. Traffic-control signal legend.**

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(A) Green indication.

(1) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(2) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(3) Unless otherwise directed by a pedestrian-control signal, as provided in 29 M.R.S.A. Section 950, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(B) Steady yellow indication.

(1) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(2) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal as provided in 29 M.R.S.A. Section 950, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(C) Steady red indication.

(1) Vehicular traffic facing a steady red signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown.

(2) Unless otherwise directed by a pedestrian-control signal as provided in 29 M.R.S.A. Section 950, pedestrians facing a steady red signal alone shall not enter the roadway.

(D) Official traffic-control signal.

In the event an official traffic-control signal is erected and maintained at a place other than an intersection, this section shall be applicable except as to those provisions, which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement, indication where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal.

**Sec. 14. Authority to designate, mark areas for rotary traffic; operators of vehicles to comply.**

The Board of Selectmen is authorized to designate certain areas for rotary traffic. The Board shall place suitable marks indicating such areas in streets or squares with proper signs requiring vehicles to pass to the right of said areas, and no operator of a vehicle shall fail to comply therewith.

(Town Meeting, 9-23-44, §46)

**Sec. 15. Selectmen authorized to designate and maintain crosswalks.**

The Board of Selectmen is hereby authorized to establish and to designate and shall thereafter maintain, or cause to be maintained, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in its opinion there is particular danger to pedestrians crossing the roadway, and at such other places as it may deem necessary.

(Town Meeting, 9-23-44, §11)

**Sec. 16. Ordinances establishing crosswalks not affected by this ordinance.**

Nothing in this ordinance shall affect any ordinance designating or establishing crosswalks, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this ordinance.

**Sec. 17. Authority to locate and designate safety zones and mark traffic lanes.**



(A) For the protection of pedestrians, the Board of Selectmen is authorized to locate safety zones by suitable designations within the roadways of squares or highways.

(B) The Board is also authorized to mark lanes for traffic on street pavements at such places as it may deem advisable, consistent with the provisions of this ordinance. (Town Meeting, 9-23-44, §12)

**Sec. 18. Ordinances designating safety zones not affected by this ordinance.**

Nothing in this ordinance shall affect any ordinance establishing or designating safety zones, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this ordinance.

**Sec. 19. Authority to designate through ways.**

The Board of Selectmen is hereby authorized to designate as through ways such other streets or parts of streets as in its discretion it feels that such designation is necessary to promote public safety. (Town Meeting, 9-23-44, §39 (d); Selectmen’s Meeting, 3-9-53)

**Sec. 20. Authority to place, maintain signs on streets intersecting through ways.**

The Board of Selectmen is hereby authorized and required to place and maintain or cause to be placed and maintained on each and every street intersecting a through way designated herein at or near the property line of the through way stop or other appropriate signs. (Town Meeting, 9-23-44, §39(c))

**Sec. 21. Schedule of through ways.**

The following streets and parts of streets are hereby declared to constitute through ways for the purpose of this ordinance:

BAILEY STREET

BEECH STREET.

CHANDLER STREET: From the east line of Madison Avenue to the west line of North Avenue.

COTE STREET

DORE STREET

DYER STREET: From the east line of Madison Avenue to the west line of North Avenue.

EAST RIVER ROAD

FAIRVIEW AVENUE

WATERVILLE ROAD:

FAIRVIEW AVE.

GREENWOOD AVE.

HANOVER STREET  
 HATHAWAY STREET  
 HIGH STREET: the east line of Madison Avenue to the west line of Water Street.  
 JEWETT STREET: the east line of Madison Avenue to the west line of North Avenue.  
 LEAVITT STREET: the east line of Madison Avenue to the west line of North Avenue.  
 MADISON AVENUE

MAIN STREET  
 MALBONS MILL ROAD  
 MEADOW VIEW DRIVE  
 MILBURN ST.  
 MT. PLEASANT AVENUE  
 NORRIDGEWOCK AVENUE  
 NORTH AVENUE  
 RUSSELL ROAD: from Spring Street north.  
 OAK POND ROAD  
 PLEASANT STREET  
 POOLER AVE.  
 PROSPECT STREET: the east line of Madison Avenue to the west line of North Avenue.  
 SILVER STREET  
 SPRING STREET: From the east line of Summer Street to the west line of Madison Avenue.  
 SOUTH FACTORY STREET  
 DANE AVENUE:  
 ST. MARKS STREET  
 WATER STREET: From the east line of Madison Avenue to the west line of Malbons Mills Road.  
 WEST FRONT STREET.  
 WINTER STREET: From the east line of Madison Avenue to the west line of North Avenue.  
 (Town Meeting, 9-23-44, §39(a); Selectmen’s Meeting, 4-7-53, Nos. 22, 23; Selectmen’s Meeting, 11-1-54, No. 23)

Adams Street	East Madison Road	Maple Street	Short Street
Alder Street	East Maples Street	Mary Street	Silver Street
Ash Street	East Ridge Road	McClellan Street	Smith Street
Avore Street	East River Road	Meadowview Street	South Factory Street
Back Road	East Street	Mechanic Street	South Street
Bailey Street	Eaton Mountain Road	Merrill Street	Spring Street
Beauford Street	Edward Court	Michael Street	St. James Street
Beech Street	Elm Street	Milburn Street	St. John Street
Bennett Avenue	Dickey Street	Mill Street	St. Mark Street

**TOWN OF SKOWHEGAN TRAFFIC ORDINANCE****January 9, 2019**

Bigelow Hill Road	Fairview Avenue	Mitchell Street	Stevens Road
Blair Street	Forrest Greene Street	Molunkus Road	Steward Hill Road
Bloomfield Street	Free Street	Moody Street	Summer Street
Bridge Street	French Street	Mt. Pleasant Avenue	Swain Hill Road
Brown Street	Gem Street	Norridgewock Avenue	Timberview Drive
Bungalow Street	Glen View Drive	North Avenue	Turner Avenue
Burrill Hill Road	Grassland Lane	Notch Road	Union Street
Bush Street	Green Street	Oak Pond Road	Varney Road
Canaan Road	Greenwood Avenue	Oak Street	Wallace Farm Road
Cardinal Street	Hanover Street	Olive Street	Walnut Street
Cedar Street	Harding Street	Palmer Road	Walton Court
Center Street	Hathaway Street	Park Street	Water Street
Carpenter Street	Heather Drive	Parkman Hill Road	Waterville Road
Chamberlain Street	Heselton Street	Parlin Street	Waye Street
Chandler Street	High Street	Patrick Street	West Front Street
Chestnut Street	Hilton Hill Road	Pattern Court	West Street
Cleveland Street	Industrial Park Road	Pennell Street	Weston Street
Coburn Avenue	Island Avenue	Philbrick Drive	Willow Street
Commercial Street	Jackson Street	Pine Street	Wilson Street
Cote Court	Jason Street	Pleasant Street	Willette Street
Court Street	Jewett Street	Pomelow Street	Winter Street
Cowette Street	Jimmy Street	Pooler Avenue	Wood Street
Crescent Street	Josie Street	Poplar Avenue	Woodvale Street
Cross Street	Joyce Street	Porter Road	Wyman Street
Dane Avenue	Judkins Court	Poulin Drive	York Street
Dartmouth Street	Kennebec Street	Pratt Court	
Dawes Street	Lambert Road	Precelly Drive	
Dennis Street	Land Street	Prospect Street	
Dinsmore Street	Landfill Access Road	Railroad Street	
Dominic Street	Larone Road	Reed Street	
Dore Street	Lawton Street	Robin Court	
Dr. Mann Road	Leavitt Street	Robinson Street	
Dudley Corner Road	Lessor Street	Rowe Road	
Dyer Street	Locust Street	Russell Road	
East Chandler Street	Madison Avenue	Sandy Lane	
East Dyer Street	Main Street	School Street	
East Leavitt Street	Malbons Mills Road		

**Sec. 22. Discontinue certain streets to motor vehicle traffic.**

The following streets will be closed to motor vehicle traffic except emergency vehicles.

MILL STREET: From the intersection of Main Street easterly to the east corner to the New Balance Shoe Company warehouse building.

**Sec. 23. Four way stop intersection; schedule of streets.**

DANE AVE (Adopted Selectmen’s Meeting, 9-25-90)	DYER STREET
DANE AVE. (Adopted at Selectmen’s Meeting, 8-27-91)	CHANDLER STREET
GREENWOOD AVE	COWETTE STREET
GREENWOOD AVE	LUCUST STREET
HANOVER STREET	SMITH STREET
HATHAWAY STREET (Adopted Selectmen’s Meeting, 2-10-04)	MITCHELL STREET
HATHAWAY STREET (Adopted Selectmen’s Meeting, 2-10-04)	SOUTH STREET

**Sec. 24. Authority to place turning markers directing left turns.**

The Board of Selectmen is hereby authorized to place or cause to be placed turning markers at the entrances of intersections, directing that traffic turning left shall follow a line of travel other than as directed in section 25. Whenever turning markers have been placed as herein provided, traffic turning left shall follow the line as directed by such markers.  
(Town Meeting, 9-23-44, §32(c)).

**Sec. 25. Required position and method of turning at intersections.**

The driver of a vehicle intending to turn at an intersection shall do so as follows:

- (1) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) *Left turns on two-way roadways.* At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

- (3) *Left turns on other than two-way roadways.* At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (Town Meeting, 9-23-44, §32 (a,b,d))

**Sec. 26. Signs to be erected indicating one-way traffic.**

A sign indicating the direction of traffic shall be erected and maintained at every intersection where movement in the opposite direction is prohibited. (Town Meeting 9-23-44, §40; Selectmen’s Meeting 3-10-56, §40, no.15)

**Sec. 27. Operation on one-way streets restricted; schedule of streets.**

Upon the following streets vehicular traffic shall move only in the following specified direction:

CROSS STREET: From Court Street to North Avenue.

MADISON AVENUE: From the intersection of Commercial Street and Madison Avenue to Water Street.

MECHANIC STREET: From Waterville Road to French Street.

REED STREET: From Jewett Street to Chandler Street.

COMMERCIAL STREET: From the intersection of Water Street and Commercial Street to Madison Avenue.

WATER STREET: From Madison Avenue to the intersection of Commercial Street and Water Street.  
(Town Meeting, 9-23-44, §40; Selectmen’s Meeting, 3-10-56, No.15)

Restricted to right turn only:

SKOWHEGAN PLAZA: Right turn only at the West exit onto Main Street from the Skowhegan Plaza.

DODGE COURT: Right turn only onto the North Channel Margaret Chase Smith Bridge. (Adopted at Regular Selectmen’s Meeting, 7-11-89)

CLEVELAND STREET: Right turn only onto Madison Avenue.

COURT STREET: Right turn only onto Commercial Street.

LOCUST STREET: Right turn only onto Madison Avenue.

SHERWIN WILLIAMS: Right turn only onto Madison Avenue.

**Sec. 28. Operation on streets restricted; schedule of streets.**

No through trucks on the following streets:

Cleveland Street from Madison Avenue to Greenwood Avenue.  
Greenwood Avenue from Jewett Street to Cleveland Street  
Gem Street from North Avenue to Greenwood Avenue.  
(Adopted at Regular Selectman’s meeting 6-25-91.)

Heselton Street from North Avenue to the intersection of Malbons Mills Road.  
(Adopted Regular Selectman’s meeting 5-26-92)

Cowette Street from North Avenue to Greenwood Avenue.  
Locust Street from Madison Avenue to Greenwood Avenue.  
(Adopted Regular Selectman’s meeting 11-26-02)

**Sec. 29. Overtaking vehicles stopped to permit pedestrians to cross roadway.**

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. (Town Meeting, 9-23-44, §14(b))

**Sec. 30. Driving through funeral processions.**

It shall be unlawful for the operator of any vehicle to drive between or attempt to cut across the line of a hearse and the other vehicles and pedestrians constituting a funeral procession. (Town Meeting, 9-23-44, §42)

**Sec. 31. Duty upon entering public way from private road, etc.**

The driver of a vehicle entering a public way from a private road, alley, driveway or building shall yield the right-of-way to all vehicles approaching on such public way and shall yield the right-of-way to any pedestrian approaching on said public way or sidewalk; and before crossing any sidewalk, or before entering such public way where no sidewalk shall exist, shall proceed cautiously across said sidewalk or into said public way. "Private road" as used in this section shall be construed to include a private road, a private way of any description, an alleyway or a driveway. (Town Meeting, 9-23-44, §35)

**Sec. 32. Speed in municipal parking lot.**

It shall be unlawful for any person driving a vehicle within the municipal parking lot to drive at a speed in excess of fifteen (15) miles per hour. (Town Meeting, 9-23-44, §29 (d); Town Meeting, 3-10-58)

**Sec. 33. Driving on sidewalks.**

It shall be unlawful for the operator of any vehicle to drive the same on any sidewalk, except for the purpose of crossing the same when necessary, and then only in the shortest way between the street and the abutting estate. (Town Meeting, 9-23-44, §36)

**Sec. 34. Authority to work areas for snow removal; operation in areas prohibited.**

(a) For the purpose of facilitating the removal of snow, the road commissioner, upon authority of the Board of Selectmen, may place properly marked signs along any street or streets or portions thereof as he shall from time to time deem necessary.

(b) It shall be unlawful for the operator of any vehicle to enter upon, stop or park within the spaces indicated by such sign.  
(Town Meeting, 9-23-44, §56(b))

**Sec. 35. Rules and Regulations restricting heavy loads on closed ways.**

SUMMARY: The following rules and regulations restrict heavy loads on posted State and State Aid Highways from November 15 to June 1.



**DEFINITIONS**

- A. The definitions contained in Title 29-A, Section 101, of the Maine Revised Statutes Annotated shall govern the construction of the words contained in this regulation.
- B. Gross weight is the combined weight of the vehicle and its load.

**DESIGNATED CLOSED WAYS**

In order to prevent excessive damage to Town Maintained Roads the Road Commissioner may close all or part of a highway to heavy weight vehicles during any time from November 15 to June 1. No vehicles shall travel over closed ways except those permitted by this regulation.

**NOTICE**

Notice shall be given by erecting at each end of the closed highway a poster indicating the following: 1) the date of the posting, 2) a description of the highway closed, 3) a summary of the vehicles exempt from the closing, 4) the name, business address, and telephone number of the Division Engineer, 5) statutory and regulator references.

**EXEMPTIONS - FROZEN HIGHWAYS**

This regulation shall not apply to any closed highway which is solidly frozen.

**EXEMPT VEHICLES**

The following vehicles are exempt from this regulation:

- A. Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less.
- B. Any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicle. This exemption does not apply to special mobile equipment. It shall be a defense to a violation of this subsection if the combined actual weights of any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and its load are in fact less than 23,000 pounds.
- C. Any vehicle under the direction of the Skowhegan Highway Department and with permission of the Skowhegan Highway Department engaged in emergency maintenance of the public highway.

D. Highway maintenance vehicles under the direction of the Skowhegan Highway Department.

E. Any vehicle transporting home heating fuel (Oil, gas, coal, wood) to a private consumer, bulk milk or bulk feed which is registered in excess of 23, 000 pounds carrying a partial load with a weight equal to or less than indicated on an exemption certificate issued by the Skowhegan Highway Department as documented by delivery slips or bills of lading accompanying the vehicle. The allowable weight indicated on the exemption certificate will be calculated based on various reduced loads per inch tire width, manufacturer's rating.

BASIS STATEMENT: This regulation is designed to prevent excessive damage to highways from heavy weight vehicles during seasons when special protection is required.

AUTHORITY: 29-A M.R.S.A. §2395

PENALTIES:

Any person in violation of this section shall be subject to a civil forfeiture determined by the Board of Selectmen, See Section 2.  
(Regular Selectmen's Meeting, 3-27-84)

**ARTICLE III. STOPPING, STANDING AND PARKING**

**DIVISION I. GENERALLY**

**Sec. 36. Authority to change parking time limits; posting of new times required.**

The Board of Selectmen is hereby authorized to amend this article for the purpose of changing the designation of any parking time limit and for the purpose of designating the hours when parking time limits shall be in effect, when in its discretion, such change or designation is necessary, and any such change or designation in the parking time limit or effective hours of said parking time limit shall be posted as required in Section 37.

**Sec. 37. Parking time limits to be posted.**

The parking time limits in effect in the Town shall be appropriately posted in all areas affected.

**Sec. 38. Authority to determine, mark or sign streets where angle parking is permitted.**

The Board of Selectmen shall determine upon which streets angle parking shall be permitted and shall mark or sign such streets or cause the same to be marked or signed.

**Sec. 39. Manner of parking vehicles generally.**

The operator of a vehicle shall park such vehicle headed in the direction of traffic with the curb-side wheels of the vehicle within one (1) foot of the edge of the roadway, except when:

(1) Streets are marked or signed for angle parking;

(2) An accident or obedience to traffic regulations or traffic signs or signals dictates otherwise.

**Sec. 40. Vehicles to be parked within angle marks.**

Upon those streets which have been marked or signed for angle parking, vehicles shall be parked at an angle to the curb indicated by such marks or signs.

**Sec. 41. Parking within stalls required in Municipal Lot.**

It shall be unlawful to park any vehicle in the Municipal Parking Lot except within the limits of the designated parking stalls as indicated by curb or street marking lines.

**Sec. 42. Vehicles longer than twenty (20) feet not to park in angle spaces.**

No vehicle having an overall length of more than twenty (20) feet shall park in areas marked or signed for angle parking.

**Sec. 43. Stopping, standing, parking prohibited at all times on certain streets.**

When signs are posted giving notice thereof, no vehicle shall be parked, stopped, or allowed to stand on the following streets or portions of streets at any time:

CEDAR STREET: East side from the south line of Mill Street to the north line of the Waterville Road.

CLEVELAND STREET: South side from the east curb line of Wilson Street to the west curb line of Greenwood Avenue.

CROSS STREET: South side from Court Street to the westerly line of the post office driveway

HEATHER DRIVE: South side from Fairview Avenue west to Main St.

WATERVILLE ROAD: Both sides within one hundred and sixty (160) feet from the intersection of the east curb line of Main Street.

East side of said road measuring northerly three hundred (300) feet from the Central Maine Power Pole No. 130, no parking for a distance of two hundred and forty-two (242) feet.

West side of said road measuring southerly eighty (80) feet from Central Maine Power Pole No. 128, no parking for a distance of one hundred and thirteen feet (113) from this point.

South side within one hundred (100) feet easterly of the east curb line of Poplar Street and within one hundred (100) feet westerly of the west curb line of Poplar Street.

ELM STREET: North side from a point fifty (50) feet westerly of the west drive of the Skowhegan Savings Bank to the east curb line of Coburn Avenue.

South side from Central Maine Power Pole No. 5 to the junction of Norridgewock Avenue.

GREENWOOD AVENUE: West side from the south curb line of Cleveland Street to a point one hundred and ninety (190) feet southerly.

JEWETT STREET: North side within one hundred (100) feet of the east curb line of Madison Avenue.

South side within fifty (50) feet of the east curb line of Madison Avenue.

MADISON AVENUE: Both sides from the junction of Commercial Street and Elm Street in a northerly direction, to the Skowhegan- Madison town line.

MAIN STREET: Both sides within twenty-five (25) feet from the intersection of the southerly curb lines of the Waterville Road with Main Street and West Front Street with Main Street.

East side between the northern curb-line of the Waterville Road to the northerly end of the North Channel Margaret Chase Smith Bridge on Island Avenue.

West side between the northern curb-line of West Front Street to the northerly end of the North Channel Margaret Chase Smith Bridge on Island Avenue.

COMMERCIAL STREET: North side from the junction of Commercial Street and Water Street to the junction of Madison Avenue and Commercial Street.

WEST FRONT STREET: Both sides within fifty (50) feet from the intersection of the west curb line of Main Street.

EAST MAPLE STREET: North side from North Avenue easterly to Memorial Field.

**Sec. 44. Stopping, standing, parking on certain streets for longer than two (2) hours.**

When signs are posted giving notice thereof, no vehicle shall, except on legal holidays and Sundays, be parked, stopped or allowed to stand on the streets or portions of streets for a period of time longer than two (2) hours between the hours of 8:00 A.M. and 6:00 P.M.

**Sec. 45. Parking on streets between midnight and 6:00 A.M. from November 1<sup>st</sup> to May 1<sup>st</sup> restricted; maximum parking limit on Municipal Parking Lot.**

It shall be unlawful for the operator of any motor vehicle to park the same on any street or public way and on any municipally owned property within the Town for a period longer than fifteen (15) minutes between the hours of twelve (12:00 A.M.) midnight and 6:00 A.M. from the first day of November in any year to the first day of May of the following year.

**Exceptions:**

Vehicles may be parked in the northern half of the Municipal Parking Lot, south of High Street for a continuous period not to exceed twenty-four (24) hours during the period November 1<sup>st</sup> to May 1<sup>st</sup> of the following year.

Vehicles may be parked in the designated Park and Ride Lots for a continuous period not to exceed twenty-four (24) hours during the period November 1<sup>st</sup> to May 1<sup>st</sup> of the following year, per the State of Maine Park and Ride Policy.

**SPECIFIC PENALTY:** Any motor vehicle in violation of the provisions of this section shall be subject to the fee as indicated in Sec. 2. The Skowhegan Police Department may cause any motor vehicle parked in violation of the provisions of this section during the course of a snow storm or thereafter during the period of time when snow is being removed from the public ways and parking lots be removed at the expense of the owner of the vehicle. This removal provision may be enforced in addition to the other penalty provision provided herein.

**Sec. 46. Authority to locate, designate loading zones; when parking in zones unlawful.**

(a) For the purpose of restricting parking in front of doorways and entrances of buildings where people congregate, or where unusual loading or unloading of merchandise exists, the Board of Selectmen shall have the authority to determine the location of loading zones and the times during which such zones shall be so used, and shall cause to be erected and maintained appropriate signs indicating the same.

(b) It shall be unlawful for the operator of a vehicle to park such vehicle in any place marked as a loading zone during the period designated for its use as such.

**Sec. 47. Double parking: Defined, regulated, evidence of violation, penalty.**

1. Definition: Double parking shall be deemed to mean the parking of any motor vehicle outside any area designated for parking by painted lines and contrary to the provisions of Section 39 of this ordinance or in such a manner that the curbside wheels of such motor vehicle are more than ten (10) feet from the paved edge of the street.
2. Regulated: It shall be unlawful to double park any motor vehicle, except for the purpose of loading or unloading; provided that it shall be unlawful to double park between the hours of 11:30 A.M. and 1:30 P.M. And 3:00 P.M. and 4:00 P.M. Monday through Friday on Water Street between the intersections of Madison Avenue and North Avenue, or on Commercial Street, or on Madison Avenue between the intersections of Water Street and Commercial and Elm Streets.
3. Evidence of Violation: The unlawful parking of any motor vehicle shall be prima facie evidence of the unlawful parking by the person, firm, partnership or corporation to whom the vehicle is registered.
4. Penalty: Any person, firm, partnership or corporation convicted of violating this Section shall be subject to a civil forfeiture as described in Section 2, each offense shall constitute a separate violation.

**Sec. 48. Stopping , standing, parking on specific places prohibited.**

It shall be unlawful for the operator of a vehicle to stop, stand or park such vehicle in any of the following places, except when necessary to avoid conflict with traffic or in compliance with the directions of a police officer or traffic control sign or signal.

1. On or within twenty-five (25) feet of any intersection on a public way.
2. On or within twenty (20) feet of any crosswalk.

3. Between a safety zone and the adjacent curb or within twenty (20) feet of a point on the curb immediately opposite the end of a safety zone, unless the Board of Selectmen shall indicate a different length by signs.
4. Within twenty-five (25) feet of a point where the curb lines if extended would intersect at a street corner, or within such distance in any specific location as shall be determined by the Board of Selectmen, and indicated by markings on the pavement or curb or by suitable signs, or both.
5. Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of the roadway.
6. In front of, so as to obstruct the use of any driveway or alley entrances or ten (10) feet to either side thereof.
7. Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic.
8. Within ten (10) feet of any white pole or sign indicating a bus stop on the side from which passengers board or alight, except that in lieu of this provision, the Board of Selectmen may, where it deems necessary, indicate by proper signs, spaces which will provide proper access to buses.
9. Within fifteen (15) feet of any fire hydrant when the location of such fire hydrant is indicated by signs or suitable markings.
10. At angles in streets and at or near intersections where the standing of motor vehicles would obstruct the free movement of traffic, and in the front of and opposite of fire stations, passenger bus turnouts, where the Board of Selectmen shall deem necessary and shall so indicate by signs.
11. Within twenty-five (25) feet of the terminus of the corner radius along the curb line at street intersections.

**Sec. 49. Leaving vehicle stationary so as to obstruct way prohibited; leaving animal drawn teams unattended.**

No person shall leave his vehicle stationary on a way so as to obstruct the free passage of other vehicles, or allow an animal drawn team to be in the way unattended unless it is reasonably fastened.



**Sec. 50. Stopping of buses.**

Except at a loading station it shall be unlawful for the operator of a bus to bring the same to a stop, to receive or discharge passengers at any place other than close to the curb alongside of the traveled way when same is accessible. When a curb is not accessible to stop for such purpose, it shall be unlawful for the operator of a bus to stop, to receive or discharge passengers in any position which does not permit other vehicles to pass on the side opposite the side where passengers are to be received or discharged.

**Sec. 51. Unlawful to park in bus stops, taxi stands; taxi operator to park only in assigned stands.**

- a) It shall be unlawful for the operator of any vehicle to park the same in an officially designated bus stop, or for the operator of any vehicle other than a taxi to park the same in an officially established taxi stand.
- b) It shall be unlawful for the operator of any taxi to park the same in any other officially established taxi stand than that assigned to it.

**Sec. 52. Parking vehicles displayed for sale on streets.**

It shall be unlawful for any person to park a vehicle upon a street for the sole purpose of displaying the vehicle for sale.

**Sec. 53. Fifteen (15) minute parking.**

It shall be unlawful to park any motor vehicle in the following parking space longer than fifteen (15) minutes where lines are painted or durably marked on the curb or street designating a parking space and a sign is posted designating fifteen (15) minute parking.

**Elm Street**

- Proceeding westerly from the junction of Madison Avenue, the last parking stall east of the entrance to the Skowhegan Savings Bank.

The foregoing parking regulation shall be in effect between 8:00 A.M. and 6:00 P.M. Monday through Saturday except legal holidays.

**Commercial Street**

- Proceeding westerly from the junction of Water Street, the first ~~and last~~ parking stall on the south side of the street. (Selectmen’s Meeting 3-28-2006)

**Madison Avenue**

- The last parking stall at the southeast corner of the avenue.

The foregoing parking regulation shall be in effect between 8:00 A.M. and 6:00 P.M. Monday through Saturday except for legal holidays.

**Sec. 54. Two (2) hour parking.**

It shall be unlawful to park any motor vehicle for a time period in excess of two (2) hours on the following streets where lines are painted or durably marked on the curb or street designating a parking space and a sign is posted designating two (2) hour parking.

Water Street

- North side from the junction of North Avenue with Water Street to the junction of Court Street and Water Street.
  
- South side from the main entrance of the Riverview Parking lot easterly to the west side of the Veteran’s Memorial.

Elm Street

- North side from the junction of Madison Avenue proceeding to the easterly property line of the Skowhegan Savings Bank. South side from the junction of Madison Avenue westerly to Central Maine Power Pole No. 5.

Court Street

- East side from the junction of Water Street and Commercial Street to the junction of High Street.

Municipal Parking Lot

- Southern half of the lot, north of Commercial Street.
  
- Indian Lot north of High Street.

River View Parking Lot

- South from Water Street to the north side of the Kennebec River and the west end of the parking lot from the walking bridge.

The foregoing parking regulation shall be in effect between 8:00 A.M. and 6:00 P.M. Monday through Saturday except legal holidays.

Water Street

- North side from the junction of Madison Avenue and Water Street easterly to the junction of Commercial Street and Water Street.
  
- South side from Island Avenue to the entrance to the Riverview Parking Lot.

Madison Avenue

- From the junction of Elm and Commercial Streets to the junction of Water Street.

Commercial Street

- South side from the junction of Water Street westerly to the junction of Madison Avenue.

The foregoing parking regulation shall be in effect between 8:00 A.M. to 6:00 P.M. Monday through Saturday except for legal holidays.

**Sec. 55. Enforcement, penalty and waiver fees.**

Parking ordinances shall be enforced by the Skowhegan Police Department or other official duly appointed and authorized by the Board of Selectmen. A violation of this Ordinance is a civil violation punishable by a fine as described in Section 2, for each offense. Any person charged with a violation of this Ordinance may waive court action by paying a fee to the Skowhegan Police Department within 30 days of the violation.

Such fees upon such waiver shall be as determined by the Board of Selectmen:

**Sec. 56. Evidence of unlawful parking**

No person shall cause, allow or permit a motor vehicle registered in his or her name to park in violation of any Town of Skowhegan parking ordinances. The fact that a motor vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person whose name such vehicle is registered.

For the enforcement of two (2) hour parking, a vehicle shall be deemed to be in violation when parked in the same stall for a time period in excess of two (2) hours and then once per hour thereafter.

**Sec. 57. Handicapped parking and Fire Zones.**

The Chief of Police, upon approval of the Board of Selectmen, is authorized to enter into agreements with owners of private off-street parking for the policing of stalls and spaces dedicated for handicapped persons' vehicles and fire zones. Any vehicle parked in such a parking stall or space designated as a handicapped parking space, that does not bear a special registration plate, placard, or hang tag issued under M.R.S.A Title 29-A, Section 521, or a similar plate, placard, or hang tag issued by another State, is in violation of this section and the registered owner is subject to the penalty indicated in Section 2.

**TOWN OF SKOWHEGAN**  
**PAWNBROKERS / PRECIOUS METALS DEALERS ORDINANCE**

Adopted August 8, 2000

Amended at Town Meeting June 11, 2018

**SECTION 1 - Definitions**

- (A) Dealer means a person who engages in the business of purchasing, selling or acquiring through exchange secondhand precious metals.
- (B) Minor shall mean any person who has not yet attained eighteen years of age.
- (C) Pawn transaction shall mean the lending of money on the security of pledged tangible property. The term also includes the purchase of tangible fixed property on the condition that it may be purchased by the seller for a fixed price within a fixed period of time.
- (D) Pawnbroker shall mean and include any person who is in the business or occupation of engaging in pawn transactions.
- (E) Precious metals mean any item composed in whole or in part of gold, silver, palladium or platinum, but does not include dental gold, unrefined metal ore, an electronic product, any part of a mechanical system on a motor vehicle or gold or silver coins or bullion.
- (F) Seller means a person who sells or provides through an exchange secondhand precious metals to a dealer.

**SECTION 2 -License Required**

A person, firm, or corporation may not act as a pawnbroker or dealer in secondhand precious metals without registering and obtaining a permit issued by the Town of Skowhegan under written license granted by the Board of Selectmen and issued under the signature of the Town Clerk.

A dealer shall provide the address of the permanent place of business at which the dealer will do business to the Town of Skowhegan and shall notify the Town of Skowhegan if the location changes.

**SECTION 3 - License Fee**

A dealers / pawnbroker's license shall be issued upon payment of a Fee established by the Board of Selectmen via the Application, License and Permit Fees Ordinance. Said license shall be effective from the date issued and be valid for a period of one (1) year unless sooner revoked by the Board of Selectmen.

**SECTION 4 - Purchase from minors**

No dealer / pawnbroker shall directly or indirectly either purchase or receive by way of barter or exchange any goods or articles from a minor, knowing or having reason to believe him or her to be as such.

**SECTION 5 - Record keeping**

Every Dealer / Pawnbroker, at the time of receiving any precious metal or article pawned, pledged or received in exchange, or any other article or consideration, shall fulfill the following requirements:

- A. Complete in duplicate a sworn statement stating the name, age, sex and address of the person with whom the transaction is being made, the day and hour when the transaction took place and the price paid by the licensee;
- B. A full accurate and a detailed description including all distinguishing marks and numbers of each article so pawned, pledged, or exchanged as will make its identification certain and plain; A digital photograph of each item that is the subject of the transaction. A pawnbroker / dealer may satisfy the requirements of this paragraph by taking digital photographs of groups of 5 or fewer substantially similar items, as long as the quality of each digital photograph is sufficient to allow the item to be identified by the owner;
- C. A signed, in duplicate statement of ownership from the seller of the transaction items stating that the seller is the owner or is otherwise authorized to sell the items. This shall be made on a form provided by the dealer that details the source from which and the time when the pawnor, pledgor, or vendor procured the items of transaction and also conspicuously bears the warning that making a false statement is a Class D crime under Title 17-A, section 453.

Before the hour of 10 a.m. of the next business day following the transaction shall be delivered or cause to be delivered at the office of the chief of police, one (1) of such duplicate sworn statements to be kept on file by the police department and he or she shall retain the other statement in his or her possession, which, together with any article therein listed, may be inspected by any police officer at any and all times.

D. Articles purchased outright by dealers / pawnbrokers shall be retained on the premises not less than fifteen (15) days, unless sooner released by the chief of police, and no article pawned, traded or purchased shall be altered or changed until opportunity shall have been given for examination of such articles by the chief of police or his/her designated representative.

A precious metals dealer who determines that the precious metals are not listed in an electronic database designed to catalog stolen property may sell or alter the precious metals five (5) business days after the date of acquisition.

E. *For pawn transactions only*, give the pawner a statement that the pawnbroker will return the article at a stipulated price which shall be computed in accordance with the requirements of Title 30-A § 3963;

**SECTION 6 - Retention and maintenance of records.**

The records required under Section 5 must be kept for a period of one year and maintained in order by date of purchase.

**SECTION 7 - Identification**

Every dealer / pawnbroker is required to obtain a driver's license or an official state identification card from a pawner, pledgor, or vendor whenever receiving any article pawned, purchased, pledged or received in exchange.

**SECTION 8 - Enforcement and Penalty**

This ordinance shall be enforced by the Skowhegan Police Department. Any dealer / pawnbroker who violates the regulations of this Ordinance commits a civil violation for which a forfeiture not to exceed two hundred and fifty dollars (\$250.00) may be adjudged.

**SECTION 9 - Exemption.**

This ordinance does not apply to an auctioneer licensed under Title 32, chapter 5-B.

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## Chapter 39

### Maine Uniform Building and Energy Code Administrative Ordinance Town of Skowhegan, Maine Adopted: Town Meeting June 11, 2012 Article 48

1. **Title.** This ordinance shall be known and may be cited as the “Maine Uniform Building and Energy Code Administrative Ordinance” of the Town of Skowhegan, Maine.
2. **Purpose and Authority.** The purpose of this Ordinance is to establish administrative and enforcement provisions in relation to the Maine Uniform Building and Energy Code (MUBEC). The Town has authority to enact building code provisions relating to local enforcement, per MRSA Title 10 § 9724(5).
3. **Code Administration.** In accordance with MRSA 25 § 2373, the MUBEC must be enforced in the Town of Skowhegan beginning July 1, 2012. The Town is required to enforce the MUBEC through inspections that comply with the code. In accordance with MRSA 25 § 2373(4), the Town has chosen the Building Official option for all enforcement in relation to structures covered under the International Residential Code and the Third-Party Inspector option for enforcement in relation to structures covered under the International Building Code. The MUBEC shall be administered within the Town of Skowhegan by the Town’s duly appointed Building Official.
4. **Duties.** The Building Official’s duties shall be as outlined in the MUBEC, and shall include but are not limited to:
  - a. Receive permit applications, examine construction documents and issue permits for the erection and alterations of buildings and structures.
  - b. For structures covered by the International Residential Code, the Building Official shall inspect premises for which permits are issued. Make all required inspections, or accept reports of inspection by approved agencies.
  - c. For structures covered by the International Building Code, the Building Official shall receive certified reports from Third-Party Inspectors as outlined below.
  - d. Enforce compliance with the provisions of the code and issue notices or orders to ensure compliance, including suspending or revoking permits.
  - e. Render interpretations of the MUBEC and adopt policies and procedures to clarify the application of its provisions.
  - f. Keep official records, applications received, permits and certificates issued, fees collected, reports of inspections by the Building Official and Third-Party Inspectors, as well as notices and orders issued.



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- g. Collect any fees due.
  - h. Refer permits requiring subdivision, shoreland zoning or floodplain review to the Planning Board as required.
  - i. Investigate complaints and act on violations as outlined herein.
  - j. Issue Certificates of Occupancy as per MRSA 25 § 2357-A and the MUBEC.
- 5. Building Permits.** Building permits are required as per the MUBEC and shall expire as specified therein. No building permit shall be issued by the Building Official until such time that the applicant submits a completed building permit application. Such application shall:
- a. Identify and describe the work to be covered by the permit for which application is made.
  - b. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
  - c. Indicate the use and occupancy for which the proposed work is intended.
  - d. Be accompanied by construction documents and other information as required by MUBEC.
  - e. State the valuation of the proposed work.
  - f. Be signed by the applicant or the applicant's authorized agent.
  - g. Give such other data and information as required by the building official.
  - h. For structures covered by the International Building Code – Include certification of a contractual arrangement between a Third-Party Inspector and the building owner.
  - i. A copy of all required State of Maine Fire Marshal's building permits.
- 6. Permit Approval.** The Building Official shall examine applications and shall either issue the requested permit or transmit notice of refusal to the applicant in writing stating the reasons therefore. All other permits required for the proposal shall be obtained prior to issuance of the building permit.
- 7. Inspections.** In accordance with the MUBEC, for structures covered by the International Residential Code, upon notification the Building Official shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder wherein the same fails to comply. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official. Work shall not be done beyond the point indicated in each inspection without first obtaining the approval of the Building Official.

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**8. Third-Party Inspectors (as defined in MRSA 25 § 2371).** For structures covered by the International Building Code, certified reports from third-party inspectors, as outlined in MRSA 25 § 2373(4), shall be submitted to the building official prior to obtaining a certificate of occupancy as required in MRSA 25 § 2357-A. Such third-party inspections shall be obtained pursuant to independent contractual arrangements between the building owner and a third-party inspector.

**9. Fees.** Prior to issuance of a Permit, the applicant shall be required to pay a non-refundable application fee. No building permit shall be issued until all fees due have been paid.

All fees required by this Ordinance shall be established by the Board of Selectmen and published within a schedule of fees, which the Selectmen may amend from time to time according to the procedures required for taking actions at meetings of the Board.

**10. Permit Modifications.** After issuance, any modifications to a permit application shall require a revised permit application and a revised permit prior to beginning work.

**11. Certificate of Occupancy.** The Building Official shall issue a Certificate of Occupancy per MRSA 25 § 2357-A and in accordance with the MUBEC prior to a building or structure being used or occupied or and prior to a change in the existing occupancy classification. For structures covered by the International Building Code, the Building Official shall issue a Certificate of Occupancy based on receipt of an inspection report by a certified third-party inspectors.

**12. Enforcement.** Enforcement and penalties shall be consistent with MRSA 30-A § 4452. It shall be unlawful to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by the MUBEC, or cause the same to be done, in conflict with or in violation of any of the provisions of the MUBEC. If the Building Official finds that any of the provisions of this Ordinance are being violated, the Building Official shall serve a notice of violation on the person responsible for the violation. Such notice shall direct the discontinuance of the illegal action or condition and the abatement of the violation. The Building Official shall be responsible for initial efforts to enforce the provisions of this Ordinance, but enforcement cases shall be turned over to the Board of Selectmen if the matter requires prosecution in court.

**13. Penalties.** Any person, firm or corporation owning or having control of any building or premises or part thereof who violates any of the provisions of this Ordinance commits a civil violation and is subject to civil penalties under MRSA 30-A § 4452. Each day such violation or failure to comply is permitted to exist, after notification by the Building Official, shall constitute a separate violation. All fines shall be paid to the Town of Skowhegan

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**14. Appeals.** In accordance with MRSA 25 § 2356 and MRSA 30-A § 4103(5), an appeal may be taken in writing from any order or direction of the Building Official to the Board of Appeals. Fees for appeals shall be established as outlined above.

**15. After the Fact Permits.** In the event that any person is found to have begun work prior to obtaining a permit as required, the permit fees otherwise set forth in the schedule of fees shall be doubled.

**16. Savings Clause.** If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, this finding shall not affect the remainder of this Ordinance.

**17. Effective Date.** The effective date of this Ordinance shall be July 1, 2012.

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Chapter 27  
TOWN OF SKOWHEGAN

**POLICE**

SECTION 1. Appointment of Police Chief, Deputy Chief, and the Officers.

The chief of police, deputy chief, and the officers shall be appointed annually by the Board of Selectmen.

SECTION 2. General Duties of the Police Chief.

The chief of police shall be charged with the responsibility of the enforcement and maintenance of law and order and the protection of public safety and welfare, and shall be further charged to:

- 1) Superintend the overall administration of the police department as may be defined in the department's policies and procedures or organizational plans, including but not limited to the assignment of personnel throughout the department.
- 2) Provide for the effective investigation of any violations of criminal law and Town ordinances.
- 3) Provide for the effective patrol of the Town.
- 4) Provide for the operation and maintenance of the police communications and central records system.
- 5) Any other duties which are prescribed by law and ordinance.

SECTION 3. Police Chief's Authority

The chief of police shall have all powers necessary and proper to execute the duties of his office as established procedure and need may direct.

The chief of police is authorized to represent the Town in district court in the prosecution of alleged violations of those ordinances which the police department is empowered to enforce, if duly certified in accordance with 25 M.R.S.A. §2803(3)-(A), or successor statute. The chief of police may designate any officer under his/her command, if so certified, to perform this prosecutorial function.

SECTION 4. Deputy Chief's Authority.

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The deputy chief of police shall have all powers necessary and proper to execute the duties of his office as established procedure and need may direct

The deputy chief of police shall perform the duties of the chief of police, if and when the chief is on vacation, incapacitated due to illness or injury or during the absence of the chief from the Town.

#### SECTION 5. Officer's Authority

Full-time police officers for the Town of Skowhegan are authorized to enforce Town ordinances, State laws, civil violations and traffic infractions.

Reserve police officers for the Town of Skowhegan are authorized to enforce Town ordinances, State laws, civil violations and traffic infractions while on duty.

## **SKOWHEGAN BUILDING SAFETY ORDINANCE**

Adopted: March 10, 1997, Annual Town Meeting

Amended March 9, 1998

Amended March 8, 1999

Amended March 8, 2004

Amended Annual Town Meeting June 11, 2018

- (1) **PURPOSE:** The purpose of this ordinance is to protect the health and safety of the citizens of Skowhegan, and to present in a unified format those State statutes effecting building safety that the citizens are responsible for complying with. By combining varied State laws under one local ordinance, the citizens will have a single document rather than many separate and unconnected statutes.
- (2) **AUTHORITY:** This ordinance is authorized in accordance with Title 30-A MRSA section 3001. Further authority is derived from Title 25 section 2351.
- (3) **APPLICABILITY:** This ordinance is applicable to all existing and new structures, both principal and accessory, that are constructed or placed for human habitation or occupancy.
- (4) **EFFECTIVE DATE:** This ordinance is effective when approved by the voters of the Town of Skowhegan.
- (5) **AVAILABILITY:** Copies of this ordinance are available free of charge at the municipal building.
- (6) **SEVERABILITY:** Should any part of this ordinance be declared by the courts to be invalid, that decision will not invalidate any other provisions of this ordinance.
- (7) **CONFLICTS WITH OTHER ORDINANCES:** Whenever a provision of this ordinance conflicts with, or is inconsistent with, the provisions of this or any other ordinance, the more restrictive provision shall control.
- (8) **AMENDMENTS:** This ordinance may be amended by vote of the legislative body. Amendments may be proposed by the Code Enforcement Officer (CEO), the Fire Chief, the Selectmen, or by citizen petition.
- (9) **NON-CONFORMANCE:**
  - A. **Purpose:** This section allows the continued use of legal non-conforming structures that existed prior to the enactment of this ordinance and that are determined not to be a hazard.

- B. General: A structure is considered non-conforming if it was erected, or placed prior to the effective date of this Ordinance, without an inspection by the Code Enforcement Officer or the Fire Chief and for which a Certificate of Occupancy has not been issued.
  - C. Non-conforming Structures: Any non-conforming structure can be used, and occupied, providing it meets, to the greatest extent possible, the standards of this Ordinance. Non-conforming structures may be expanded provided that the expansion does not further increase the non-conformity of the structure. If a non-conforming structure is destroyed by fire, flood, or other causes it may be rebuilt provided that the new structure meets the provision of this ordinance to the greatest extent possible; and provided that any structure in the special flood hazard area that is destroyed by 50% or greater is elevated at least one foot above the Base Flood Elevation as is required by the Floodplain Management Ordinance.
  - D. Non-Conforming Lots: Any non-conforming lot of record in existence prior to the effective date of this ordinance, and not located in the Shoreland Zone, may be used and built upon provided that all provisions of this ordinance except set-back can be met.
- (10) STANDARDS: All structures constructed, placed, or expanded after the effective date of this ordinance, shall meet those chapters of the National Fire Protection Association adopted by the Department of Public Safety, State Fire Marshall's Office; the Maine Uniform Plumbing Code; National Electrical Code; the Skowhegan Flood Plain Management Ordinance; and the most recent edition of the International Building Codes that has been adopted by the State of Maine. The structure shall also comply with the following:
- A. Minimum Lot Size: All lots not in the Shoreland Zone (SLZ) and not served by the Town sewer system, shall be a minimum of 20,000 sq. ft.

In the Shoreland Zone the following minimum lot sizes shall apply:

- (1) Served by Town Sewer
  - (a) Residential 10,000 sq.ft.
  - (b) Recreational Facilities 40,000 sq.ft.
  - (c) All others 20,000 sq.ft.



(2) Not served by Town Sewer

- (a) Residential 40,000 sq.ft.
- (b) Recreational Facilities 40,000 sq.ft.
- (c) All others 60,000 sq.ft.

- B. Set-backs: All new principal and accessory structures, and expansions of existing structures that do not have common walls, or firewalls and sprinklers, must be set back a minimum of five feet from side and rear property lines and from the front line a distance to be determined by the Road Commissioner, but not less than five feet.

In the Shoreland Zone all structures must be set back at least 75 feet from the normal high-water mark of rivers and streams and 100 feet from lakes and ponds and, depending on the SLZ district, may be required to be set back 250 feet. (Because of the complexity of the setback requirements in the SLZ, anyone contemplating work within 250 feet of any water body [brook, river, pond, lake, or wetland] shall contact the Code Enforcement Officer for a specific setback determination.)

The physical location of the property lines is the responsibility of the property owner or their agent.

- C. Buildings with common walls – Any new principal or accessory structure that has a common wall with a structure on an adjacent lot may be constructed without a setback from the property line provided that the building is a sprinkled structure and/or is fire-resistant construction as determined by the International Building Codes. All other setbacks must be maintained except for the common wall(s).
- D. Buildings with Fire Walls – Any new principal or accessory structure, or expansion of an existing structure that has a Fire Wall as defined in the most recent edition of the State of Maine adopted International Building Code and is a sprinkled structure may be constructed without a setback from the rear or side property lines provided that the construction and the building plans are approved in writing by the Code Enforcement Officer and Fire Chief prior to the start of construction.

- E. Any building, except a single family residential structure, that has early detection devices (fire alarms and/or sprinklers) shall have an emergency access box, approved by the Fire Chief and installed per manufacturer's instructions.

(11) ADMINISTRATION:

- A. Administering Agents: The following individuals shall be responsible for the administration of this ordinance:

- (1) The Code Enforcement Officer (CEO)
- (2) The Fire Chief

- B. Notification Required: Anyone constructing, or placing, a new principal or accessory structure must notify the CEO on forms provided by the Town.
- C. Procedure for Conducting Inspections: The CEO shall be contacted to schedule any required inspections.
- D. Issuance of Certificate of Occupancy: Upon successful completion of the inspection, the CEO shall issue a Certificate of Occupancy for the structure inspected.

If an inspection identifies defects or problems, a Certificate of Occupancy shall not be issued until the problems or deficiencies are corrected. In addition, for those ordinances that require legal action to be taken, such action will commence if the problems or deficiencies are not corrected within the time-frame established by this ordinance or the ordinance being enforced, whichever is shorter.

- E. Appeals: The Board of Appeals shall have the following powers:
  - 1. Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirements, decision, or determination made by, or failure to act by the Code Enforcement Officer, or Fire Chief on the enforcement or administration of this ordinance. No administrative appeal shall be considered a "de novo" action.
  - 2. Variance Appeals: To authorize variances upon appeal provided that said variances will protect to the greatest extent possible the health and safety of the citizens of Skowhegan.

(12) ENFORCEMENT:

The CEO will enforce the provisions of this ordinance. When the CEO finds that this ordinance is being violated, the following procedure will be used:

(1) An oral notification will be given to the violator, with the action necessary to correct the problem. The violator will be given a time frame to complete the correction.

(2) If a correction of the violation does not take place within the time limit specified by the oral notification, the CEO will notify the violator in writing. This written notification will specify what action must be taken to correct the violation.

(3) If the violation is not corrected after the second notification, the CEO shall inform the Selectmen. The Selectmen are directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violators 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 Selectmen can authorize the CEO to prepare an administrative consent agreement for the Town to enter into, with the violator, for the purpose of eliminating violations of this ordinance, and recovering fines without court action. Such agreements shall not allow an illegal structure to continue unless there is clear and convincing evidence that the illegal structure was constructed as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the violator acted in bad faith, or unless the removal of the structure will result in a threat or hazard to public health and safety.

(13) DEFINITIONS: Words and terms used in this ordinance shall have their customary dictionary meanings unless specifically defined in the individual standards identified in Section 10.

Chapter 18  
TOWN OF SKOWHEGAN

**FLOODPLAIN MANAGEMENT**  
Adopted March 12, 2001, Annual Town Meeting

**ARTICLE I - PURPOSE AND ESTABLISHMENT**

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

Therefore, the Town of Skowhegan, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Skowhegan, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

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

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

The areas of special flood hazard, Zones A and AE, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Skowhegan, Maine, Somerset County," dated September 20, 1995 with accompanying "Flood Insurance Rate Map" dated September 20, 1995, which 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 XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Planning Board. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Skowhegan, Maine.

**ARTICLE III - APPLICATION FOR PERMIT**

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed 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.2 apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. in Zone AE, from data contained in the "Flood Insurance Study - Town of Skowhegan, 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/July 1995), including information obtained pursuant to Article VI.K. and VIII.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, 08/99, 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 Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
  3. a certified statement that bridges will meet the standards of Article VI.M.;
  4. 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 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

## **ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Planning Board 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 data contained in the "Flood Insurance Study - Town of Skowhegan, Maine," as described in Article I;
  - 2. in special flood hazard areas where base flood elevation data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.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 in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. 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 second Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction , “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  2. 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.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

## **ARTICLE VI - DEVELOPMENT STANDARDS**

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

- A. **All Development** - All development shall:
1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. use construction materials that are resistant to flood damage;
  3. use construction methods and practices that will minimize flood damage; and,
  4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
  2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.
- G. **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 VIII.D., or
    - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

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 VIII.D.; and
- b. meet the anchoring requirements of Article VI.H.1.c.

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

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

J. **Accessory Structures** - Accessory Structures, as defined in Article XIII, located within Zones AE and A, 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. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;
5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. **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 AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article 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 Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
  3. In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
1. Enclosed areas are not "basements" as defined in Article XIII;
  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 AE and A 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 AE and A 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 AE and A, 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.

#### **ARTICLE VII - CERTIFICATE OF COMPLIANCE**

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is

issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
  - 1. review the Elevation Certificate and the applicant's written notification; and,
  - 2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

#### **ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

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



- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, 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 IX - APPEALS AND VARIANCES**

The Board of Appeals of the Town of Skowhegan 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 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 it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article IX 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 IX, paragraphs A. through D. above; and,
  2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;

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

G. 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 Planning Board and Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
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 X - ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

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

#### **ARTICLE XI - VALIDITY AND SEVERABILITY**

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

#### **ARTICLE XII - CONFLICT WITH OTHER ORDINANCES**

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

#### **ARTICLE XIII - DEFINITIONS**

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

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

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

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

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

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

**Building** - see **Structure**.

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

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

**Development** - means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

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

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

In the case of Zones AE or A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VII..

**Elevation Certificate** - An official form (FEMA Form 81-31, 08/99, as amended) that:

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

**Flood or Flooding** - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters.

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

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

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

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

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

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

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

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

**Floodway** - see **Regulatory Floodway**.

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

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

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

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

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

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

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

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



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

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

**Minor Development** - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, 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)** - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

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

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

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

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

**Regulatory Floodway** -

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

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

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

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

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

## **ARTICLE XIV - ABROGATION**

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

60.3 (d)

# **HOLDING TANK ORDINANCE**

Approved March 9, 1998

## **SECTION I. Title**

This Ordinance shall be known and cited as the Town of Skowhegan, Maine, Holding Tank Ordinance, and will be referred to as this Ordinance.

## **SECTION II. Purpose**

The purpose of this Ordinance is to establish the requirement for the use and maintenance of holding tanks utilized as first time disposal systems designed to receive and retain wastewater from residential use. It is hereby declared that the enactment of this Ordinance is necessary for the protection, benefit, and preservation of the health, safety, and general welfare of the inhabitants of the Town of Skowhegan, Maine.

## **SECTION III. Authority and Administration**

- A. This Ordinance is hereby adopted and hereafter amended pursuant to and consistent with Article VIII of the Maine Constitution, the provision of Title 30-A and the Maine Subsurface Waste Water Disposal Rules (144A CMR 241).
- B. This Ordinance shall be administered by the Board of Selectmen and the Local Plumbing Inspector.

## **SECTION IV. Applicability**

This Ordinance applies to the approval for the installation, and maintenance, of holding tanks as first time disposal systems in a areas not governed by the Shoreland Zoning Ordinance. In addition to the prohibition on using holding tanks as first time disposal systems in the Shoreland Zone they are also prohibited from being used to satisfy the requirements of a Seasonal Conversion Permit.

## **SECTION V. Amendments, Validity and Severability and Effective Date.**

- A. Amendments.
  - 1. Initiation of Amendments: an amendment to this Ordinance may be initiated by:
    - a. The Local Plumbing Inspector;
    - b. The Board of Selectmen, provided a majority of the Board has so voted; or

- c. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality in the last gubernatorial election.
2. The Board of Selectmen shall hold a public hearing on the proposed amendment at least fourteen (14) days prior to the meeting of the Governing Body. Notice of the public hearing shall be posted at the Town Office at least fourteen (14) days prior to the hearing. Notice of the hearing shall be published in a newspaper of general circulation in the area. The date of the first notice shall be at least fourteen (14) days prior to the hearing and the date of the second notice shall be at least seven (7) days before the hearing.
3. Adoption of Amendments: An amendment to this Ordinance may be adopted by a majority vote of the Town Meeting.

B. Validity and Severability

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.

C. Effective Date

The effective date of the Ordinance is the date of adoption by the Town Meeting.

SECTION VI. Enforcement

A. Nuisances

Any violation of this Ordinance shall be deemed a nuisance.

B. Local Plumbing Inspector

It shall be the duty of the Local Plumbing Inspector to enforce the provisions of this Ordinance. If the local Plumbing Inspector shall find that any provision of this Ordinance is being violated, they shall notify in writing, the person responsible for such violation, indicating the nature of the violation and the action necessary to correct it. A copy of such notices shall be maintained as a permanent record.

C. Legal Action

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notification from

the Plumbing Inspector, are hereby authorized and 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.

#### D. Fines

Any person, including but not limited to the landowner, a landowners agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A M.R.S.A. Section 4452. Each day the violation exists shall be considered a separate violation. Such persons shall also be liable for court costs and attorney fees incurred by the Town of Skowhegan.

### SECTION VIII. Application Procedure and Content

#### A. Application Procedure

1. All applications for a Holding Tank Permit shall be in writing on forms provided for that purpose. Applications shall be received at the Local Plumbing Inspector's office and presented to the Board of Selectmen at their regular scheduled meeting.
2. The applicant, or his duly authorized agent, shall attend the Selectmen's meeting to discuss the application. The Selectmen, or their designee, shall provide the applicant with a dated receipt at the meeting where the application is first presented.
3. Within thirty-five (35) days of receiving an application the Selectmen shall approve, approve with conditions, or deny the application.

#### B. Fees

All applications for a first timed Holding Tank Permit shall be accompanied by an application fee of twenty-five (25) dollars. If the application is approved by the Board of Selectmen, a plumbing permit fee of one hundred (100) dollars will be charged at the time a plumbing permit is issued by the Local Plumbing Inspector.

#### C. Expiration of Approvals

All Holding Tank Permit approvals shall expire two (2) years after the date of issuance unless the work thereunder has commenced and, in this case, the permit can be extended for a n additional six (6) months.

D. All applications for a permit for a holding tank for first time disposal shall be made in writing on forms provided for that purpose. The submission shall contain the following information and exhibits:

1. Name of the owner(s) of record and applicant's name and address, if different.
2. Sketch map showing the general location of the property;
3. The tax map and lot number of the parcel;
4. A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant;
5. A signed agreement between the property owner and a tank pumper to pump and maintain the tank on a regular basis;
6. A completed HHE 200 application from a licensed Site Evaluator that indicates that due to site conditions, lot configuration, or other constraints, the installation of a system with a disposal field that complies with the State Plumbing Code is not legally possible.

#### SECTION IX. Performance Standards

The following standards shall be utilized by the Board in reviewing applications for a holding tank for first time disposal systems. The Board shall approve the application unless the Board finds that the applicant has not satisfied one or more of the following standards.

- A. A holding tank for a first time disposal system shall not be permitted in any area regulated under the Town of Skowhegan's Shoreland Zoning Ordinance.
- B. A holding tank for a first time disposal system shall not be permitted to satisfy the requirements for a Seasonal Conversion Permit under Title 30-A MRSA Section 4215 subsection 2.
- C. The installation of a disposal system in compliance with the State Plumbing Code is not feasible due to site conditions, lot configuration, or other constraints.
- D. The interior plumbing shall be modified for weather conservation and all water closets shall not exceed 1.6 gallons per flush.
- E. The structure that is served by a holding tank shall have a notarized statement that a holding tank is serving the structure for the disposal of human sewage and wastewater. This statement shall be attached to the deed and recorded in the Registry of Deeds within ten (10) days of the approval of the permit. The Local



Plumbing Inspector shall not issue a plumbing permit until he/she has received a copy of the deed with the aforementioned statement.

- F. The agreement between the property owner and tank pumper shall be filed in the Town Office and indicate the location of the site or sites that the septage will be disposed of. Only those sites approved by the Maine Department of Environmental Protection shall be utilized.
- G. The property owner shall keep a copy of the pumping records and, if ordered, provide the Local Plumbing Inspector with copies of all such records within three (3) days of notification
- H. The holding tank shall be equipped with a visual and audible alarm device. The alarm shall be located and adjusted in a manner that assures that the tank is pumped before it is full.

#### SECTION X. Appeals

An appeal may be taken by a aggrieved party to Superior Court in accordance with State law within forty-five (45) days from the date any decision of the Board of Selectmen.

#### SECTION XI. Definitions

**Aggrieved Party:** An owner of land whose property is directly affected by the granting or denial of a permit; or a person whose land abuts or is across a road or street from which a permit is granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of a permit.

**Holding Tank:** A closed, water-tight structure designed and used to receive and store waste water or septic tank effluent. A holding tank does not discharge waste water or septic tank effluent to surface or ground water or onto the surface of the ground. Holding Tanks are designed and constructed to facilitate ultimate disposal of waste wafer at another site.

**Local Plumbing Inspector:** A person as defined in Title 30-A MRSA Section 4221 and Title 30-A Section 4451.

**Seasonal Conversion Permit: Written** authorization issued by the Local Plumbing Inspector to allow the conversion of a seasonal dwelling unit located in a shoreland zone to a year-round use as per title 30 A MRSA Section 4201-4216.

**Waste Water: Any** liquid waste containing animal or vegetable matter in suspension or solution, or the water carried waste from the discharge of water closets, laundry tubes, washing machines, sinks, dishwashers, or other sources of water-carried waste of human

origin. This term specifically excludes industrial, hazardous, or toxic wastes and materials.

## TOWN OF SKOWHEGAN

# PROPERTY MAINTENANCE ORDINANCE

Adopted June 12, 2017, Annual Town Meeting

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### **SECTION I. Legislative authority**

This ordinance is enacted pursuant to 30-A M.R.S.A. § 3001.

### **SECTION II. Purpose**

The purpose of this chapter is to set a minimum standard for the maintenance of the grounds of property in order to protect public health, public safety, property values, and to prevent nuisance conditions.

### **SECTION III. Required maintenance**

All grounds or parts thereof shall be maintained to prevent unsafe, unsanitary and/or nuisance conditions and to avoid any adverse effect on the value of adjoining properties. Grounds include accessory and appurtenant structures such as garages, sheds and fences.

### **SECTION IV. Grounds maintenance standards**

The grounds of any property shall be kept in good repair and free of unsafe or unsanitary conditions. Such conditions may include: refuse, household trash, junk, discarded plumbing, heating supplies, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber, waste and all scrap iron, steel, other scrap ferrous or nonferrous material, debris, scrap lumber, inoperable machinery or part thereof, glass, unused and inoperable appliances, worn and unused furniture, and three or more junked and/or unserviceable vehicle(s). Materials intended for the private use of the property owner may be stored on the property as long as such material is screened from the public way and from abutting properties and is not in violation with state laws. Private use does not include resale.

### **SECTION V. Maintenance after casualty damage**

Within a period of 90 days after casualty (see Definitions) damage to property grounds or structures, the owner shall cause or contract for the repair or restoration of damaged areas and the demolition of any areas not to be repaired and the removal of all debris connected therewith. The Code Enforcement Officer (where after known as CEO) may grant an extension under certain hardship conditions as in Section VII.

## **SECTION VI. Liability for violations and corrective actions**

Owners, operators, and occupants of properties in violation of this chapter shall be jointly and severally liable for violations and for corrective actions required.

## **SECTION VII. Enforcement; violations and penalties; extensions**

1. The CEO, or his or her designee, shall notify the violator, serving a written notice by mail or by hand delivery. Said notice shall explain the nature of the violation and require corrective action within 30 calendar days from the date of the notice to correct the violation, seven days (maximum) for a health and/or safety violation as determined by the CEO. The violator may appeal the CEO's decision to the Board of Selectpersons. Appeals must be made within three working days of notification by the CEO of a violation. The number of days given for compliance shall start after the Board of Selectpersons has heard the appeal.
2. If a violation is not corrected within the time allowed, the Town shall pursue all remedies, including pursuit of a judge's order to abate the property and remove the material in violation at the property owner's expense provided in 30-A M.R.S.A. § 3758-A(4)(C). In addition, the Town shall pursue relief available by law and/or in equity for land use ordinances, including, without limitation, the remedies and relief provided in 30-A M.R.S.A. § 4452, currently including, without limitation, a penalty of \$100 to \$2,500 per day for a specific violation, injunctive relief and reasonable attorney fees, expert witness fees and costs. The Town shall retain all penalties set forth in this chapter. The CEO may represent the Town in District Court, pursuant to Rule 80-K. However, should the services of the Town Attorney be required, in litigation in a higher court of law, for example, the CEO shall first review the case with the Town Manager and Board of Selectpersons.
3. The CEO may offer one special extension per person/per incident of up to 180 days to violators of this ordinance under certain hardship or extenuating circumstances. If a violation is discovered during winter months (November 1 to April 1) and if winter weather prevents the correction of a violation, an extension may be given. Cases of disability or financial hardship shall also be grounds for the consideration of an extension. Violators requesting an extension for financial hardship shall be required to prove hardship through financial documentation. These extensions for seasonal, disability, or financial hardship shall be at the discretion of the CEO.

## **SECTION VIII. Definitions**

**CASUALTY**— Any unforeseeable, unintended damage affecting a property.

**CAUSE or CONTRACT** — Includes the initiation of an insurance claim (as opposed to resolution), the contracting of a construction/repair business, or the substantial preparation for self-repair work.

**CEO- Code Enforcement Officer**

**GROUND**S — The part of a property not covered by permanent structures.

**JUNK** — For this chapter, the term "junk" refers to dilapidated or discarded material or objects as determined by the CEO.

**NUISANCE CONDITION** —This term has been defined by 17 M.R.S.A. § 2802. It reads as follows: "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 annoyances, become injurious and dangerous to the health, comfort or property of individuals, or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise, of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where three or more old, discarded, worn out or junked motor vehicles as defined in Title 29A, Section 101, subsection 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation, either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances."

**OCCUPANT** — Any person living, sleeping, or having actual possession of a dwelling unit or rooming unit.

**OPERATOR** — Any person who has charge, care or control of a dwelling or property, or a part thereof, whether with or without the knowledge and consent of the owner.

**OWNER** — Any person who, alone or jointly or severally with each other, shall have legal or equitable title to any property, with or without accompanying actual possession thereof, or shall have charge or control of any dwelling unit as owner or agent of the owner or as fiduciary, including but not limited to executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how such possession was obtained.

PROPERTY — For this chapter, the term shall be defined as any lot, plot, or parcel of land

STRUCTURE — Anything built or constructed and permanently affixed on a property that cannot be considered grounds or landscaping.

UNSERVICABLE — For the purposes of this chapter, the Town will rely on a Maine Supreme Court decision (Town of Pownal v. Emerson, 639 A.2d 619 (Me. 1994); Town of Mt. Desert v. Smith, 2000ME 88, 751 A.2.d. 445) which includes the following: "unserviceable means not ready for use or presently useable" as opposed to "incapable of being serviced."

### **SECTION IX. Severability**

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

### **SECTION X. Conflict with other laws**

Whenever a provision of this chapter conflicts with or is inconsistent with another provision of this chapter or any other ordinance, regulation or statute, the provision imposing the greater restriction shall control. The newest version of this chapter shall be the one that is enforced.

### **SECTION XI. Effective Date**

This chapter shall be effective when approved by the voters of the Town of Skowhegan.

Chapter 19  
TOWN OF SKOWHEGAN

**SHORELAND ZONING ORDINANCE**

**Amended March 10, 1997 (MAP ONLY)**

**Amended March 7, 1998 (MAP ONLY)**

**Amended March 8, 1999**

**Amended July 20, 1999 (MAP ONLY)**

**Amended March 12, 2001**

**Amended March 10, 2003**

**Amended March 6, 2006 (MAP ONLY)**

**Amended June 8, 2009 (MAP INCLUDED)**

**Amended June 7, 2010 (MAP ONLY)**

**Amended June 10, 2013**

**Amended June 9, 2014 (MAP ONLY)**



## **SHORELAND ZONING ORDINANCE**

### **SECTION 1. PURPOSES**

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater 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 waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

### **SECTION 2. AUTHORITY**

This Ordinance has been prepared in accordance with the provisions of Title 38, sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

### **SECTION 3. APPLICABILITY**

This Ordinance applies to all land areas within two hundred and fifty (250') feet, horizontal distance, of the normal high water line of any great pond or river; within two hundred and fifty (250') feet, horizontal distance, of the upland edge of a freshwater wetland; and within seventy-five (75') feet, horizontal distance, of the normal high water line of a stream. This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending below the normal high water line of a water body or within a wetland.

### **SECTION 4. A. EFFECTIVE DATE OF ORDINANCE AND ORDINANCE AMENDMENTS**

This Ordinance, which was adopted by the municipal Legislative Body on March 11, 1991, shall not be effective unless approved by the Commissioner of Environmental Protection. A certified copy of the Ordinance and Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner of Environmental Protection for approval. If the Commissioner of Environmental Protection 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 deemed 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 of Environmental Protection.

## **SECTION 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.

## **SECTION 6. SEVERABILITY**

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

## **SECTION 7. CONFLICTS WITH OTHER ORDINANCES**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

## **SECTION 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) days period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

## **SECTION 9. DISTRICTS AND ZONING MAP**

A. Official Shoreland Zoning Map: The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Maps which are made a part of this Ordinance:

1. Resource Protection
2. Limited Residential
3. Limited Commercial
4. General Development
5. Wetlands Protection
6. Stream Protection

B. Scale of Map: The Official Shoreland Zoning Map shall be drawn at a scale of not less than: one (1) inch = two thousand (2,000) 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.

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.

## **SECTION 10. INTERPRETATION OF DISTRICT BOUNDARIES**

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights-of-way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

## **SECTION 11. LAND USE REQUIREMENTS**

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

## **SECTION 12. NON-CONFORMANCE**

A. Purpose: It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of the Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12.

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) Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.

i. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.

ii. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.

iii. For structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, the maximum combined total floor area for all structures is 1,000 square feet, and the maximum height of any structure is 20 feet or the height of the existing structure, whichever is greater.

iv. For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total floor area for all structures is 1,500 square feet, and the maximum height of any structure is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line or upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of subparagraph (a), a basement is not counted toward floor area.

(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 paragraph 2 Relocation, below; that the completed

foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.

(1-A) Special expansion allowance. Existing principal and accessory structures that exceed the floor area or height limits set in divisions (iii) and (iv) above may not be expanded, except that the limits may be exceeded by not more than 500 square feet provided that all of the following requirements are met.

- (a) The principal structure is set back at least 50 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland.
- (b) A well-distributed stand of trees and other vegetation extends at least 50 feet in depth as measured from the normal high-water line, tributary stream or upland edge for the entire width of the property. A “well-distributed stand of trees adjacent to a great pond classified GPA or a river flowing to a great pond classified GPA, is 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 ½ 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 and other vegetation” is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this 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.

If a well-distributed stand of trees and other vegetation meeting the requirements of this subparagraph is not present, the 500 square foot special expansion allowance may be permitted only in conjunction with a written plan, including a scaled site drawing, by the property owner, and approved by the planning board or its designee to reestablish a buffer of trees, shrubs, and other ground cover within 50 feet of the shoreline

- (c) Adjacent to great ponds classified GPA and rivers flowing to great ponds classified GPA, except for the allowable footpath, there exists complete natural ground cover, consisting of forest duff, shrubs, and other woody and herbaceous vegetation within 50 feet of the normal high-water line. Where natural ground cover is lacking, the area must be supplemented with leaf or bark mulch and plantings of native shrubs and other woody and herbaceous vegetation in quantities sufficient to retard erosion and provide for effective infiltration of storm water.
- (d) A written plan by the property owner, including a scaled site drawing, is approved by the Planning Board, and is developed, implemented, and maintained to address the following mitigation measures for the property within the shoreland zone.
  - (i) Unstabilized areas resulting in soil erosion must be mulched, seeded, or otherwise stabilized and maintained to prevent further erosion and sedimentation to water bodies and wetlands.
  - (ii) Roofs and associated drainage systems, driveways, parking areas, and other non-vegetated surfaces must be designed or modified, as necessary, to prevent concentrated flow of storm water runoff from reaching a water body or wetland. Where possible runoff must be directed through a vegetated area or infiltrated into the soil through the use of a dry well, stone apron, or similar device.

(1-B) Planting requirements. Any planting or revegetation required as a condition to the Special Expansion Allowance must be in accordance with a written plan drafted by a qualified professional, be implemented at the time of construction, and be designed to meet the rating scores contained in paragraph (b) and the ground cover requirements of paragraph (c) when the vegetation matures within the 50 foot strip. At a minimum, the plan must provide for the establishment of a well-distributed planting of saplings spaced so that there is at least one sapling per 80 square feet of newly established buffer. Planted saplings may be no less than three (3) feet tall for coniferous species and no less than six (6) feet tall for deciduous species. The planting plan must include a mix of at least three native tree species found growing in adjacent areas, with no one species making up more than 50% of the number of saplings planted unless otherwise approved by the Planning Board or its designee, based on adjacent stand comparison. All aspects of the implemented plan must be maintained by the

applicant and future owners.

- (1-C) Filing and reporting requirements. Written plans required pursuant to this section must be filed with the registry of deeds of the county in which the property is located. A copy of all permits issued pursuant to this section must be forwarded by the municipality to the department within 14 days of the issuance of the permit.
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 fifty percent (50%) of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within one (1) year 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 12(C) (1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be placed 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 12(C) (2) above. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by fifty percent (50%) or less of the market value of the structure, excluding normal maintenance and repair may be reconstructed in place if a permit is obtained, from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the 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.

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, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water dependent uses.

D. Non-Conforming Uses:

1. Expansion: 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 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 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 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.A. sections 4807-A through 4807-D and State of Maine Subsurface Wastewater Disposal Rules are complied with.
3. Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

**SECTION 13. ESTABLISHMENT OF DISTRICTS**

A. Resource Protection District: The Resource Protection District includes area 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 and the Wetland 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 two hundred fifty (250') feet, horizontal distance, of the upland edge of freshwater wetlands, 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 (DIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. 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.
2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the hundred (100) year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
3. Areas of two or more contiguous acres with sustained slopes of twenty (20%) percent or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater 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 riverbed movement.

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, Wetlands Protection District, or Stream Protection District, and areas, which are used less intensively than those in the Limited Commercial District, and 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 and Wetlands Protection District, which should not be developed as intensively as the General Development Districts. This district includes areas of two (2) or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

D. General Development District: The General Development District includes the following types of areas:

1. Areas of two (2) or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
  - a. Areas devoted to manufacturing, fabricating, or other industrial activities;
  - b. Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
  - c. Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, racetracks, and fairgrounds.
2. Areas otherwise discernable as having patterns of intensive commercial, industrial or recreational uses.

Portions of the General Development District may also include residential development. However, no area shall be designated as a General Development District based solely on residential use.

In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance.

There shall be no newly established General Development Districts or expansions in area of existing General Development Districts adjacent to great ponds classified GPA, and adjacent to rivers, which flow to great ponds, classified GPA.

E. Wetland Protection District: The Wetlands Protection District includes all land areas within two hundred fifty (250') feet, horizontal distance, of the upland edge of a freshwater wetland not rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife as of December 31, 2008.

F. The 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 wetland. Where a

stream and its associated shoreland area is located within two hundred and fifty (250') feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shorelands district associated with that water body or wetland.

**SECTION 14. TABLE OF LAND USES**

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The District designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table:

- 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
- LC - Limited Commercial
- GD- General Development
- WP- Wetland Protection
- SP - Stream Protection

**TABLE 1. LAND USES IN THE SHORELAND ZONE**

<u>LAND USES</u>	<u>DISTRICTS</u>					
	SP	RP	LR	LC	GD	WP
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking.	Yes	Yes	Yes	Yes	Yes	Yes
2. Motorized vehicular traffic on existing roads and trails.	Yes	Yes	Yes	Yes	Yes	Yes
3. Forest management activities except for timber harvesting and land management roads.	Yes	PB	Yes	Yes	Yes	Yes
4. Timber harvesting	Yes	CEO	Yes	Yes	Yes	Yes
5. Clearing or Removal of vegetation for approved construction and other allowed uses.	CEO	CEO <sup>①</sup>	Yes	Yes	Yes	CEO
6. Fire prevention activities	Yes	Yes	Yes	Yes	Yes	Yes
7. Wildlife management practices	Yes	Yes	Yes	Yes	Yes	Yes
8. Soil and Water conservation practices	Yes	Yes	Yes	Yes	Yes	Yes
9. Mineral exploration	No	Yes <sup>②</sup>	Yes <sup>②</sup>	Yes <sup>②</sup>	Yes <sup>②</sup>	CEO
10. Mineral extraction including sand and gravel extraction	No	PB <sup>③</sup>	PB	PB	PB	PB
11. Surveying and resource analysis	Yes	Yes	Yes	Yes	Yes	Yes
12. Emergency Operations	Yes	Yes	Yes	Yes	Yes	Yes
13. Agriculture	Yes	PB	Yes	Yes	Yes	Yes
14. Aquaculture	PB	PB	PB	Yes	Yes	PB



<u>LAND USES</u>	<u>DISTRICTS</u>					
	SP	RP	LR	LC	GD	WP
15. Principal Structure and uses						
A. One and two family residential	PB④	No <sup>(12)</sup>	CEO	CEO	CEO	PB
B. Multi-unit residential	No	No	PB	PB	PB	No
C. Commercial	No	No	NoⓉ	PB	PB	No
D. Industrial	No	No	No	No	PB	No
E. Governmental, Institutional & Professional	No	No	PB⑨	PB	PB	PB
F. Small non-residential facilities for educational, scientific or nature interpretation purposes	PB④	PB	CEO	CEO	CEO	PB⑤
16. Structures accessory to allowed uses	PB④	PB	CEO	CEO	YES	CEO
17. Docks, bridges, and other structures and uses extending over or below the normal high water line or within a wetland:						
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>	<u>GD</u>	<u>WP</u>
A. Temporary	CEO○ PB	CEO ○ PB	CEO ○ PB	CEO ○ PB	CEO○ PB	CEO ○ PB
B. Permanent						
18. Conversions of seasonal residence to Year round residences	LPI	LPI	LPI	LPI	LPI	LPI
19. Home Occupations	PB	No	PB	CEO	Yes	PB
20. Private sewerage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	LPI
21. Essential services	PB⑥	PB⑥	PB	PB	PB	PB
22. Service drops, as defined to allow uses	Yes	Yes	Yes	Yes	Yes	Yes

<b><u>LAND USES &amp; DISTRICTS</u></b>	<b>SP</b>	<b>RP</b>	<b>LR</b>	<b>LC</b>	<b>GD</b>	<b>WP</b>
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	No	No <sup>⑦</sup>	PB	PB	PB	No
26. Road and driveway construction	PB	No <sup>⑧</sup>	PB	PB	PB	No
27. Land Management Roads	Yes	PB	Yes	Yes	Yes	Yes
28. Parking facilities	No	No <sup>⑦</sup>	PB	PB	PB	No
29. Marinas	PB	No	PB	PB	PB	No
30. Filling and earthmoving of less than 10 Cubic Yards	CEO	CEO	Yes	Yes	Yes	CEO
31. Filling or earthmoving of greater than 10 Cubic Yards	PB	PB	CEO	CEO	CEO	CEO
32. Signs	Yes	Yes	Yes	Yes	Yes	Yes
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB

1. In RP not allowed within seventy-five feet (75') horizontal distance of the normal high water line of great ponds, except to remove safety hazards.
2. Requires permit from the Code Enforcement Officer if more than one hundred (100) square feet of surface area, in total, is disturbed.
3. In RP not allowed in areas so designed because of wildlife value.
4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5. Functionally water dependent use and uses accessory to such water dependent uses only.
6. See further restrictions in Section 15(L)(2).
7. Except when area is zoned for resource protection due to flood plain criteria in which case a permit is required from the PB.

8. Except as provided in Section 15(H) (3).
9. Allowable uses in pre-existing residential structures shall maintain the architectural integrity of the structure and any addition or replacement building will conform to the architectural style of the original building.
10. Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
11. Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
12. Except as provided in Section 16 (E)\*

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.A. section 480-C, if the activity occurs in, on, or adjacent to any freshwater 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.

## SECTION 15. LAND USE STANDARDS

All land use activities within the shoreland zone shall conform with the following provisions, if applicable:

### A. Minimum Lots Standards:

1.	<u>Minimum Lot Area</u> (Square Feet)	<u>Minimum Shore</u> Frontage (in feet)
<u>Residential per dwelling unit:</u>		
a. Within the Shoreland Zone not served by municipal sewer and water	40,000	200
b. Within the Shoreland Zone when the lot is served by municipal sewer and water	10,000	100

### Governmental, Institutional, Professional, Commercial, and Industrial per principal structure:

- a. Within the Shoreland Zone not served

by municipal sewer and water	60,000	300
b. Within the Shoreland Zone when a lot is served by municipal sewer and water	20,000	100

Public and Private Recreational Facilities:

- |                              |        |     |
|------------------------------|--------|-----|
| a. Within the Shoreland Zone | 40,000 | 200 |
|------------------------------|--------|-----|
2. Land below the normal high water line of 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.

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 at least twenty-five (25') feet. 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 requirement 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) 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, Wetlands Protection, 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 elevated at least one foot above the elevation of the one hundred (100) year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.
4. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20%) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to rivers that do not flow to great ponds classified GPA, where lot coverage shall not exceed seventy (70%) percent.
4. 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 flood plain on rivers, streams, 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 standard in Section 15(P)(2)(a), may traverse the buffer;

- 6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; 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, section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High Water Line of a Water Body or Within a Wetland:

- 1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and use, of the area.
5. No new structure shall be built on, over, or abutting a pier, wharf, 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.
6. No existing structures built on, over or abutting a pier, wharf, or other structure extending beyond the normal high water line shall be converted to residential dwelling units in any district.
7. 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.A., section 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, except that in Resource Protection district, the minimum site size shall be ten thousand (10,000) square feet. Land supporting wetland vegetation, land with slopes greater than twenty percent (20%), and land below the normal high water line of a body of water shall not be included in calculating land area per site.
2. The area intended for placement of a recreational vehicle, tent, or shelter or utility and service building 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, except that in the Resource Protection district, no permanent structures may be placed within two hundred and fifty (250') feet of the protected resource.



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 vehicles 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 (1,000) 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 receiving facility or landowner 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 amounts normally associated 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

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 requirements for parking areas serving public boat launching facilities, in Districts other than the General Development may be reduced to no less than fifty feet (50') 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 off street and shall be adequately sized for the proposed use as specified in the most recent edition of the Transportation and Engineering Handbook Institute of Transportation Engineers. All parking areas also shall be designed to prevent storm water 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 feet (10') wide and twenty feet (20') long, except that parking spaces for a vehicle and boat trailer shall be forty feet long (40').
  - b. Internal Travel Aisles: Approximately twenty feet (20') 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 driveway shall be set back at least one hundred feet (100') 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 feet (75') horizontal distance from the normal high water line of other water bodies, tributary stream, or the upland edge of a wetland unless no reasonable alternative exists. If no other reasonable alternative exists the road and/or the driveway setback requirement shall be no less than fifty feet (50') 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 percent (20%), the road and/or driveway setback shall be increased by ten feet (10') horizontal distance, for each five percent (5%) increase in slope above twenty percent (20%).

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. 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 its setback from a body of water.
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 (10%) percent except for short 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 fifty (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 un-scarified 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 turn-outs 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 water turn-outs 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 turn-outs 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, Wetlands Protection, Stream Protection, and Limited Residential 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. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

4. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
5. Signs relating to public safety shall be allowed without restriction.
6. No sign shall extend higher than twenty (20') feet above the ground.
7. Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff:

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Septic Waste Disposal:

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the 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 Rules, among other requirements, include: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding full 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, Wetlands 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, if a substantially similar replacement is used.

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) (4) 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 of the normal high water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75') feet of any property line, without written permission of the owner of such adjacent property.
3. (Repealed)
4. Within twelve (12) month 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 month period, ground levels and grades shall be established in accordance with the following:
  - a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
  - b. The final graded slope shall be two to one (2:1) slope or flatter.

- or
- c. Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
5. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture:

1. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
2. Manure shall not be stored or stockpiled within 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. Within five (5) years of the effective date of this Ordinance, all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities, which do not meet the setback requirement, may remain, but must meet the no discharge provision within the above five (5) year period.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said Plan shall be considered to be a violation of this Ordinance.
4. There shall be no new tilling of soil within one hundred (100') feet, horizontal distance, or the normal high water line of a great pond classified GPA; within seventy-five (75') feet, horizontal distance, from other water bodies; nor within twenty-five (25') feet, horizontal distance, of tributary streams, and wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.
5. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within one hundred (100') feet, horizontal distance, of the normal high water line of a great pond classified GPA; within seventy-five (75') feet, horizontal distance of, other bodies, nor; within twenty-five (25') feet, horizontal distance, of tributary streams, and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback



with provisions may continue, provided that such grazing is conducted in accordance a Soil and Water Conservation Plan.

## O. Timber Harvesting

### Timber Harvesting – Statewide Standards

(1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary stream and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

(2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

(a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

(b) Adjacent to great ponds, rivers and wetlands:

(i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland: and

(ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

(3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

(a) Option 1 (40% volume removal), as follows:

(i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period as allowed. Volume may be considered to be equivalent to basal area;

(ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater wetland, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(b) Option 2 (60 square foot basal area retention), as follows:

(i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;

(ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies, and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

(c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

(4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

(a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

(b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

(c) Setbacks:

(i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

(ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements of Section 15 (O-1)(7) of this rule.

(a) Land management roads and associated ditches, excavation, and fill must be set back at least:

(i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater wetland;

(ii) 50 feet, horizontal distance, from the normal high-water line of streams; and

(iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams

(b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the 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 to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

(d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

(e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts

and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(O-1)(5)(e) must continue until use of road is discontinued and the road is put to bed by effective installation of water bar or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.

(g) Upgrading existing roads. Extension or enlargement of presently existing roads conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.

(h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the 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 to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

(6) Crossings of waterbodies. Crossings of river, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.

(a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing size as required in Section 15(O-1): and The United States Geological Survey (USGS) Methods; Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water

Resources Investigation Report 99-4008. 45pp.

(b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1)

(c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.

(d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.

(e) Notice of Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:

- (i) a map showing the location of all proposed permanent crossings;
- (ii) the GPS location of all proposed permanent crossings;
- (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit of permits; and
- (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

(f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1)(6)(g) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

- (i) concentrated water runoff does not enter the stream or tributary stream;
- (ii) sedimentation of surface waters is reasonably avoided;
- (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
- (iv) fish passage is not impeded; and,
- (v) water flow is not unreasonably impeded.

Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

(i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 ½ times the cross-sectional area of the river, stream, or tributary stream channel.

(ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of a culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

(iii) Culverts utilized in river, stream and tributary stream crossings must:

1. be installed at or below river, stream and tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

(iv) River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a



100-year flood event.

(v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

(h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

(i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.

(ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.

(iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

(i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.

(ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body of tributary stream.

(iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
2. it shall be designed to provide an opening with a cross-sectional area at least 3 ½ times the cross-sectional area of the river, stream or tributary stream channel; or
3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

#### (7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(O-1), but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral Soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
1	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

#### 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 seventy-five (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, and seventy-five (75') feet, horizontal distance, from any other waterbody, 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 two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a 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 twenty-four (24) or more in each twenty-five (25') foot by fifty (50') foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4½ feet		
<u>Above Ground Level (inches)</u>		<u>Points</u>
2	- < 4 in.	1
4	- <8 in.	2
8	- <12 in.	4
12 in. or greater		8

Adjacent to other water bodies, tributary streams, and wetlands, a “well-distributed stand of trees ” is defined as maintaining a minimum rating score of sixteen (16) per twenty-five (25') foot by fifty (50') rectangular area.

NOTE: As an example, adjacent to a great pond, if a twenty-five (25') foot by fifty (50') foot plot contains four (4) trees between two (2") and four (4") inches in diameter, two (2) trees between four (4") and eight (8") inches in diameter, and three (3) trees between eight (8") and twelve (12") inches in diameter, and two trees over twelve (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 twenty-five (25') foot by fifty (50') foot plot contains trees worth thirty six (36) points. Trees totaling twelve (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:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
- vi. 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 1/2) 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.

4 1/2 feet Notwithstanding the above provisions, no more than forty (40%) percent of the total volume of trees four (4") inches or more in diameter, measured at 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 foot path or other permitted uses as described in Section 15 (P) paragraphs two (2) and two (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 result 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, twenty-five (25%) percent of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously 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 riprap.
2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
3. Erosion and Sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall

- occur within nine (9) months of the initial date of exposure. In addition:
- a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
  - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion and from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

R. Soils: All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data, which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

S. Water Quality: No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classified of the water body, tributary stream or wetland.

T. Archaeological Sites: Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the national Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

## **SECTION 16. ADMINISTRATION**

A. Administering Bodies and Agents:

1. Code Enforcement Officer: A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
2. Board of Appeals: A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A., Section 2691.
3. Planning Board: A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required: After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued non-conforming 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 water-course.

- (2) 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 thirty-five (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 thirty-five (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 thirty-five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty-five (35) days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will avoid problems associated with flood plain development and use; and
8. 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.

**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 the 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, 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  $\frac{1}{2}$  the width of the 100-year floodplain.

- (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-dependant 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 floodplain, 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:

1. Powers and Duties of the Board of Appeals: The Board of Appeals shall have the following powers:

- a. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirements, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
  - b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.
2. Variances Appeals: Variances may be granted only under the following conditions:
- a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
  - b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
  - c. The Board shall not grant a variance unless it finds that:
    - (1) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
    - (2) The strict application of the terms of this Ordinance would result in undue hardship.

The term “undue hardship” shall mean:

- i. That the land in question cannot yield a reasonable return unless a variance is granted,
  - ii. That the need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood;
  - iii. That the granting of a variance will not alter the essential character of the locality; and
  - iv. That the hardship is not the result of action taken by the applicant or a prior owner.
- d. Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- e. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- f. A copy of each variance request, including the application and all supporting information supplied by applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

3. Administrative Appeals:

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law,

and reaching its own decision. When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence, which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

#### 4. Appeal Procedure

##### a. Making an Appeal:

- (1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the official, written date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (2) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal, which includes:
  - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - b. A sketch drawn to scale showing lot line, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (3) Upon receiving an application for an administrative appeal, or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (4) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

##### b. Decision by the Board of Appeals:

- (1) A majority of the full voting membership of the board shall constitute a quorum for the purpose of deciding an appeal.
- (2) The person filing the appeal shall have the burden of proof.
- (3) The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- (4) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

5. Appeal to Superior Court. Except as provided by 30-A M.R.S.A., 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 (45) days from the date of any decision of the Board of Appeals.

6. Reconsideration: In accordance with 30-A M.R.S.A. section 2691 (3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsideration decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

I. Enforcement:

1. Nuisances: Any violation of this Ordinance shall be deemed to be a nuisance.
2. Code Enforcement Officer:

shall be  
record.

- a. It shall be the duty of the Code Enforcement Officer (CEO) to enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices submitted to the municipal officers and be maintained as a permanent
  - b. The CEO shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The CEO shall also investigate all complaints of alleged violations of this Ordinance.
  - c. The CEO 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 Bureau of Land and Water Quality within the Department of Environmental Protection.
3. Legal Actions: The Municipal Officers, upon notice from the CEO, 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 provisions or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A., subsection 4452.

## **SECTION 17. DEFINITIONS**

**Accessory Structure or Use**: A use or structure, which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or 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 ½ feet above ground level and inclusive of bark.

**Basement:** any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**Boat Launching Facility:** A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles, and trailers.

**Bureau:** State of Maine Department of Conservation's Bureau of Forestry

**Campground:** Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

**Canopy:** The more or less continuous cover formed by tree crowns in a wooded area.

**Commercial Use:** The use of lands, buildings, or structures, other than a "home occupation", defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

**Cross-sectional area:** the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or

tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

**DBH:** The diameter of a standing tree measured 4.5 feet from ground level.

**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.

**Disruption of shoreline integrity:** the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

**Driveway:** A vehicular access way less than five hundred (500') feet in length serving two (2) single-family dwellings or one two-family dwelling or other allowed non-dwelling uses.

**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 boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Expansion of a Structure:** An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches and greenhouses.

**Expansion of Use:** The addition of weeks or months to a use's operating season; or the use of more floor area devoted to a particular use.

**Family:** One or more persons occupying a premises and living as a single housekeeping unit.

**Floor Area:** The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**Forest management Activities:** Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

**Forested Wetland:** A freshwater wetland dominated by woody vegetation that is six (6) meters [approximately twenty (20') feet] tall or taller.

**Forest Stand:** A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

**Foundation:** The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls or other base consisting of concrete, block, brick or similar material.

**Freshwater Wetland:** Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten (10) or more contiguous acres; or of less than ten (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 ten (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, 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, fish storage and retail and wholesale fish marketing facilities, waterfront dock facilities, boat building facilities, marinas, navigation aides, 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 inland waters.

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

**Great Pond Classified GPA:** Any great pond classified GPA, pursuant to Title 38, Article 4-A, Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

**Ground Cover:** small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Harvest Area:** The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

**Height of a Structure:** The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances, which have no floor area.

**Home Occupation:** An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

**Increase in nonconformity of a structure** - any change in a structure or property which causes further deviation from the dimensions standard(s) creating the nonconformity such as, but no limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions, which in-fill irregularly, shaped structures.

**Individual Private Campsite:** An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited

to a gravel pad, parking area, fire place, or tent platform.

**Industrial:** The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

**Institutional:** A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipality owned or operated building, structure or land used for public purposes.

**Land Management Road:** A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

**Licensed Forester:** A forester licensed under 32 M.R.S.A. Chapter 76.

**Lot Area:** The area of land enclosed within the boundary lines of a lot, minus, land below the normal high water line of a water body or upland edge of a wetland and areas beneath roads serving more than two (2) 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.

**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 lines shall be considered to be side lot lines.

**Mineral Exploration:** Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**Mineral Extraction:** Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

**Multi-Unit Residential:** A residential structure containing three (3) or more residential dwelling units.

**Native:** Indigenous to the local forests.

**Non-conforming Condition:** non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

**Non-conforming Lot:** A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

**Non-conforming Structure:** A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this ordinance or subsequent amendments took effect.

**Non-conforming Use:** Use of buildings, structures, premises, land or parts thereof which is not allowed in the District in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Normal High Water Line:** 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.

**Person:** An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two (2) or more individuals having a joint or common interest, or other legal entity.

**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 Flood Plain Soils:** The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

**Recreational Facility:** A place designed and equipped for the conduct of sports, leisure time activities, excluding boat launching facilities.

**Recreational Vehicle:** 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, subject to the requirements of this Ordinance, the vehicle must: 1) remain with its tires on the ground; 2) possess a current registration sticker or plate from any State Division of Motor Vehicles; and 3) not be longer than forty-five feet (45'), higher than thirteen feet six inches (13'6"), nor wider than one hundred and eight inches (108"), exclusive of any slide-out room, awning or canopy that must be retracted for over-the-road transport.

**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 regardless of the time period rented. Recreational vehicles are not residential dwelling units.

**Residual Basal Area:** The average of the basal area of trees remaining on a harvested site.

**Residual Stand:** A stand of trees remaining in the forest following timber harvesting and related activities.



**Riprap:** Rocks, irregularly shaped, and at least six (6") inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**River:** A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

**Road:** A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

**Service Drop:** Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. In the case of electric service:

a. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

b. The total length of the extension is less than one thousand (1,000') feet.

2. In the case of telephone service:

a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000') feet in length.

**Setback:** The nearest horizontal distance from the normal high water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

**Shore Frontage:** The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline.

**Shoreland Zone:** The land area located within two hundred-fifty (250') feet, horizontal distance, of the normal high water line of any great pond, or river; within two hundred-fifty (250') feet, horizontal distance, 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 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 topographic map, or if not available, a 15 minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the Shoreland Area.

**Structure:** Anything built for the support, shelter or enclosure of person, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios and satellite dishes.

**Substantial Start:** Completion of thirty (30%) percent of a permitted structure or use measured as a percentage of estimated total cost.

**Subsurface Sewage Disposal System:** Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

**Sustained Slope:** A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**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.

**Timber harvesting and related activities:** Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**Tributary Stream:** A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland

vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which 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 freshwater wetland, the upland edge is formed where the soils are not saturated for 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 four (4") inches in diameter, measured at 4½ feet above ground level.

**Volume of a Structure:** The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**Water Body:** Any great pond, river, 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 roads, fords, bridges, culverts, water lines, sewer lines, and cable as well as maintenance work on these crossings.

**Windfirm:** Means the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

**Wetland:** A freshwater wetland.

**Woody Vegetation:** Live trees or woody, non-herbaceous shrubs.



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**TOWN OF SKOWHEGAN**  
**SITE PLAN REVIEW ORDINANCE**

**(Approved Town Meeting, 3/13/95)**  
**(Amended Town Meeting, 3/9/98)**  
**(Amended Town Meeting, 3/8/99)**  
**(Amended Town Meeting, 7/20/99)**  
**(Amended Town Meeting, 3/13/00)**  
**(Amended Town Meeting, 3/12/01)**  
**(Amended Town Meeting, 3/11/02)**  
**(Amended Town Meeting, 3/10/03)**  
**(Amended Town Meeting, 3/8/04)**  
**(Amended Town Meeting, 6/9/08)**

**SECTION I GENERAL**

**A. TITLE**

This Ordinance shall be known and cited as the “Site Plan Review Ordinance” of the Town of Skowhegan, Maine, and will be referred to as “this ordinance”.

**B. AUTHORITY**

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, part 2, section 1 of the Maine Constitution; the provisions to Title 30-A, M.R.S.A. Section 3001 (Home Rule); the State’s Growth Management Law, Titles 30-A, M.R.S.A., Section 4311 et.seq. or successor statutes.

**C. PURPOSE**

The site plan review provisions set forth in this Ordinance are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that non residential construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

#### **D. APPLICABILITY OF SITE PLAN REVIEW**

1. A person who has right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities on the parcel or undertaking any alteration or improvement of the site including grubbing or grading.
  - 1.1 The construction or placement of any new building or structure for a non-residential use, including accessory buildings and structures, if such buildings or structures have a total area for all floors of five thousand (5,000) square feet or more, or which exceeds thirty-five (35) feet in height, exclusive of flagpoles, antennae intended for non-commercial use, and similar structures
  - 1.2 The expansion of an existing non-residential building or structure, including accessory buildings, if the enlargement increases the total floor area, for all floors, within a five (5) year period by more than twenty (20) percent of the existing total floor area or five thousand (5,000) square feet, whichever is greater.
  - 1.3 The conversion of an existing building in which five thousand (5,000) or more square feet of total floor area are converted from residential to non residential use.
  - 1.4 The establishment of a new non-residential use, occupying more than one acre, even if no buildings or structures are proposed, including uses such as gravel pits, cemeteries, golf courses, and other nonstructural nonresidential uses. Such uses are major developments.
  - 1.5 The conversion of an existing use, in whole or in part, to non-residential use if the new use changes the basic nature of the existing use such that it increases the intensity of on or off-site impacts of the use subject to the standards and criteria of site plan review described in Section III.
  - 1.6 The construction or expansion of paved areas or other impervious surfaces, including buildings, structures, walkways, access drives and parking lots involving an area of ten thousand (10,000) square feet or more within any five (5) year period.

- 1.7 The construction or installation of a sign, including replacements, which is greater than thirty-two (32) square feet and not included as part of a development already subject to review under this ordinance.
2. The following activities shall not require site plan approval. Certain of these activities will, however, require the owner to obtain a plumbing permit and/or other State or local approvals:
  - 2.1 The construction, alteration, or enlargement of a single family or two-family dwelling, including accessory buildings and structures.
  - 2.2 The placement, alteration, or enlargement of a single manufactured housing or mobile home dwelling, including accessory buildings and structures on individually owned lots.
  - 2.3 Reconstruction or replacement of nonresidential structures provided such reconstruction or replacement approximates the original structure in floor area and is not an expansion under Section I, D, 1.2 of this Ordinance, and provided such reconstruction or replacement is substantially complete within 12 months of the destruction or demolition of the original structure.
  - 2.4 Agricultural activities, as defined, including agricultural buildings and structures.
  - 2.5 Timber harvesting and forest management activities.
  - 2.6 The establishment and modification of home occupations that do not result in changes to the site or exterior of the building.
  - 2.7 Activities involving nonresidential buildings or activities that are specifically excluded from review by the provisions of this section.
3. In instances where there is a question of whether an activity is subject to review under this ordinance, the Code Enforcement Officer shall make the determination.

#### **E. CONFLICT WITH OTHER ORDINANCES.**

Whenever a provision of this Ordinance conflicts with, or is inconsistent with, another provision of this Ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control.

#### **F. VALIDITY AND SEVERABILITY**



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

#### **G. EFFECTIVE DATE.**

The effective date of this Ordinance shall be the date of Adoption by the Legislative Body of the Town.

#### **H. AMENDMENTS**

Amendments of this ordinance may be initiated by the Board of Selectmen, the Planning Board, or by petition as provided in Title 30-A M.R.S.A. \_2522 or successor statute.

No proposed amendments to this ordinance shall be referred to the Town Meeting until the Board of Selectmen or the Planning Board, have held a public hearing on the proposal, notice of which shall be posted at least fourteen (14) days prior to such hearing and advertised in a newspaper of general circulation in the municipality at least two (2) times with the date of first publication being at least fourteen (14) days prior to the hearing and the second at least seven (7) days prior to the hearing.

The proposed amendments shall be adopted by a simple majority vote of the Town Meeting.

### **SECTION II APPLICATION**

#### **A. REVIEW AND APPROVAL AUTHORITY**

The review and approval authority for site plans shall depend on the classification of the project:

##### **1. Major Developments**

The Planning Board is authorized to review and act on all site plans for major developments. In considering site plans under this section, the Planning Board may act to approve, disapprove, or approve the project with such conditions as are authorized by this Section.

##### **2. Minor Developments**

In lieu of Planning Board action, for minor developments the Staff Review Committee is authorized to review all site plans and may approve, disapprove, or approve the project with such conditions as are authorized by this Section. Where a minor development displays

unique characteristics or is likely to create unusual impacts, the Committee may choose to forward it to the Planning Board with its recommendations for Planning Board action.

## **B. STAFF REVIEW COMMITTEE**

### **1. Staff Review Committee Established**

There is hereby created a Staff Review Committee. The Staff Review Committee shall consist of the Planner (or other person designated by the Planning Board), Road Commissioner, Code Enforcement Officer, Police Chief, Fire Chief, and a Skowhegan Economic Development Board Member or their designees and may include other department heads, in a non-voting capacity, based on the nature of the proposed project.

### **2. Operation of the Staff Review Committee**

A person designated by the Planning Board shall serve as Chair of the Staff Review Committee and shall be responsible for calling meetings of the Committee, presiding at its meetings, and maintaining the records of the Committee.

If any member of the Staff Review Committee is unable to attend any meeting of the Committee, he/she may designate another member of the department to serve in his/her place. Such designation must be in writing and shall apply only to that meeting. This designee shall have the same power and authority as the member.

The Staff Review Committee shall meet as needed. Meetings of the Committee must be advertised in the same manner as those of other Town committees and must be open to the public.

If a vacancy exists in any of the positions serving on the Committee, the Town Manager shall name an interim committee member with appropriate expertise in the respective department, until such vacancy is filled.

## **C. CLASSIFICATION OF PROJECTS**

1. The Code Enforcement Officer shall classify each project as a major or minor development. Minor developments are smaller scale, less complex projects for which a less complex review process is adequate to protect the Town's interest. Major developments are larger, more complex projects for which a more detailed review process and additional information are necessary.

Minor developments shall include applicable projects involving the construction or addition of between five thousand (5,000) and ten thousand (10,000) square feet of gross non-residential floor area, or ten thousand (10,000) square feet, or more, of impervious surface with less than ten thousand (10,000) square feet of building or structure, or

applicable projects involving only the installation of paved areas or signs, or applicable projects involving the conversion of existing buildings or structures from one use to another without enlargement of the gross floor area.

Major developments shall include applicable projects involving the construction or addition of buildings or structures with more than ten thousand (10,000) square feet of gross non-residential floor area, projects that require a traffic movement permit from MDOT, or other applicable projects requiring review which are not classified as a minor development.

2. An applicant may request that the Code Enforcement Officer classify a project prior to submission of an application. In this case, the applicant must make a written request for a classification. This request must include the following information:

- (1) The names and addresses of the record owner and the applicant and the applicant's legal interest in the property.
- (2) The location of the project, including the tax map and lot number.
- (3) A brief description of the proposed activities in such detail as to allow a classification to be made.

Within ten (10) working days of the receipt of a site plan application or a request for a classification, the Code Enforcement Officer shall notify the applicant, and the Chair of the Planning Board of the classification of the project in writing.

When the Code Enforcement Officer has classified a project based upon a request for classification rather than an application, the subsequent application must be consistent with the activities described in the request for classification. The Code Enforcement Officer shall review such application to determine if the classification is still correct and may reclassify the application if the scope of activities has been changed.

3. At any time prior to substantive review of the application, the applicant or Chair of the Planning Board may request a review of the determination of classification. If such a review is requested, it shall be conducted at the next regularly-scheduled Planning Board meeting. The applicant may appear to describe his project, but no review of the merits of the application shall be conducted.

## **D. REVIEW PROCEDURES**

### **1. Procedures for Minor Developments**

#### **1.1 Preapplication Conference**

Applicants for site plan review of a minor development are encouraged to schedule a preapplication conference with planning staff. The purpose of this meeting is to familiarize the applicant with the review procedures and submission requirements, and approval criteria, and to familiarize the planning staff with the nature of the project. Such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302 (or successor statute), and the merits of an application shall not be considered.

In connection with the preapplication review, the planning staff may suggest that an on-site inspection be held to familiarize the Staff Review Committee with the project site. The on-site inspection shall be attended by the applicant or the applicant's representative and members of the Staff Review Committee.

## **1.2 Application Procedure**

The property owner or his/her representative must submit a formal minor development application for review and approval.

Upon receipt of the application, the planning staff shall provide the applicant with a dated receipt showing the nature of the application and the fees paid. Within five (5) working days of receipt of an application for a minor development, the planning staff shall review the application and determine if the application meets the submission requirements. The planning staff shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application.

If the application is complete, the planning staff shall notify the applicant and the Chair of the Planning Board in writing of this determination and the action on any waivers, and shall provide copies of the application to the Code Enforcement Office, Road Commissioner, Police Department and Fire Department. If the application is incomplete, the planning staff shall notify the applicant in writing of this determination, specify what additional materials or information are required to complete the application, and advise the applicant that the revised application package will be re-reviewed for completeness when it is resubmitted.

If the application is deemed to be complete, the planning office shall notify all landowners within 500 feet of the site, by first-class mail, that an application has been filed. This notice shall contain a brief description of the proposed activity and the name of the applicant. It shall advise landowners that a copy of the application is available for inspection and that written comments on the application will be received and considered by the Staff Review Committee, and provide the date, time, and place of the Committee meeting at which the application will be considered. Failure of a person to receive such notice shall not be grounds for delay of any consideration nor denial of the application.

## **1.3 Staff Review Committee Meeting**

Within fifteen (15) working days of the application being determined to be complete, the Staff Review Committee shall meet to consider the application. The applicant, Chair of the Planning Board and media shall be notified in writing of the date, time and place of the meeting.

The applicant and/or his/her representatives shall be allowed to make a presentation on the application, address any comments made by the staff or public, and present any proposed revisions to address these issues.

Any members of the public may comment on the application or ask questions of the applicant and/or his/her representatives.

The Staff Review Committee shall consider if the application complies with the standards and criteria of this ordinance. If the Committee finds that the application conforms to these requirements, it shall make written findings of fact and it shall vote to approve; approve with conditions deemed advisable to assure compliance with the approval standard and performance standards of this Ordinance; or deny the application. Approval by the Committee shall require the affirmative vote of a majority of the members of the Committee present and voting. The applicant, Chair of the Planning Board, the Planning Board and any interested parties who commented on the application or attended the Committee meeting shall be notified in writing of the Committee's action. The minutes of the Committee shall be adequate notification.

#### **1.4 Planning Board Review of Staff Review Committee Decision**

Any party aggrieved by the decision of the Staff Review Committee may seek a review by the Planning Board. A review must be requested within ten (10) days of the committee's decision. A request for a review must be filed in writing and specify why the appellant believes the action of the Staff Review Committee was in error.

If a review is requested, it shall be placed on the agenda of the next regular meeting of the Planning Board. The appellant, the applicant, and interested parties shall be notified in writing of the Board meeting. The planning office shall provide members of the Planning Board with copies of the application, supporting material, any staff review comments, public comments, and minutes of the Staff Review Committee meeting at which the application was considered.

The Planning Board shall conduct the review consistent with the procedures for reviewing a major development, but may forego the requirement for a public hearing. The planning office shall notify the appellant, the applicant, and all persons who participated in the review of the decision of the Planning Board.

## **2. Procedures for Major developments**

## **2.1 Preapplication Conference**

Applicants for site plan review of a major development are required to schedule a preapplication conference with planning office staff. The purpose of this meeting is to familiarize the applicant with the review procedures, submission requirements, and approval criteria, and to familiarize the planning staff with the nature of the project. Such review shall not cause the plan to be a pending application or proceedings under Title 1 M.R.S.A. §302. No decisions relative to the plan may be made at this meeting.

At the time of the preapplication conference, the applicant shall present a preliminary site plan illustrating the proposed project, together with a narrative briefly describing the proposed site, including its location, size, and general characteristics and the nature of the proposed use and potential development. The applicant should also be prepared to discuss any issues or questions about existing municipal regulations and their applicability to the project, and any anticipated requests for waivers from the submission requirements.

## **2.2 Site Inventory and Analysis**

Applicants for projects classified as major developments must submit a site inventory and analysis for Planning Board review. This review must be completed prior to the preparation and submission of a site plan review application.

The Planning Board shall review the site inventory and analysis with the applicant and shall authorize the submission of the formal application when the site analysis is complete.

### **1) Site Inventory and Analysis Procedure**

Upon receipt of a site inventory and analysis, the planning office shall give a dated receipt to the applicant. Within ten (10) days of the receipt of the submission, the planning office shall determine whether it contains all of the items required by section II.E.1 of this ordinance. If the submission is determined to be incomplete, the office shall notify the applicant in writing of this finding, shall specify the additional material required to make the submission complete, and shall advise the applicant that the Planning Board will not conduct a review until the additional information is submitted. These steps shall be repeated until the application is found to be complete.

When the submission is determined to be complete, the office shall notify the applicant in writing of this finding and place this item on the agenda for review by

the Planning Board. The material shall also be provided to the members of the Staff Review Committee.

As part of the Site Review and Analysis, the Planning Board shall hold an on-site inspection of the proposed project to review the existing conditions, field verify the information submitted and investigate the development proposal. The Planning Board may schedule this visit either before or after the first meeting at which the application is considered. The Planning Board may decide not to hold an on-site inspection when the site is snow covered. If a review is pending during a period when there is snow cover, the deadline by which the Planning Board shall take final action on the application may be extended, which extension shall not exceed thirty (30) days after the Planning Board is able to conduct an on-site inspection.

Written notice of the date of review of the Site Inventory and Analysis, as well as the on-site inspection, shall be provided to the applicant, to members of the Staff Review Committee, and all landowners within 500 feet of the proposed site.

Within forty-five (45) days of the Planning Board finding that the Site Inventory and Analysis submission is complete, the Planning Board shall complete its review of the submission and notify the applicant in writing of its findings.

## **2) Site Inventory and Analysis Review**

The review of the Site Inventory and Analysis shall be informational and shall not result in any formal approval or disapproval of the project by the Planning Board. The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used and developed. The outcome of the review process shall be a determination by the Board of the issues and constraints that must be addressed in the formal site plan review application.

The Board shall also act on any requests for waivers.

If the proposed development is a “large scale retail development” as defined by 30-A M.R.S.A. sec. 4366, or successor statute, the Site Inventory and Analysis Review shall also include the commissioning of a comprehensive economic impact study, in accordance with the requirements of 30-A M.R.S.A. sec. 4367.

## **2.3 Site Plan Review Application**

The applicant shall, within sixty (60) days, or within another time limit mutually agreed to by the Planning Board and the applicant, file a formal site plan review application with the planning office.



- (1) Upon receipt of a formal site plan review application, the planning office shall issue a dated receipt to the applicant.
- (2) Within ten (10) days of the receipt of a formal development review application, the planning office will review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the office shall notify the applicant in writing of this finding, and specify the additional materials required to make the application complete. The notification will advise the applicant that the application will not be considered by the Planning Board until the additional information is submitted. These steps shall be repeated until the application is found to be complete.
- (3) When the planning office determines that the application is complete, it shall notify the applicant in writing of this finding, forward the application to the Staff Review Committee, and place the item on the agenda of the Planning Board for hearing and review at its next regularly scheduled meeting, consistent with meeting notice requirements for public hearing in subsection (5), below.
- (4) Prior to consideration of the application by the Planning Board, the Staff Review Committee shall review the application and make recommendations to the Planning Board.
- (5) The planning office shall give written notice of the date, time and place of the public hearing at which the application will be considered, to the applicant and to all owners of record of land within 500 feet of the site to be developed, notice to be mailed at least ten (10) days prior to the hearing. Notice of the hearing shall be published in a newspaper of general circulation Skowhegan at least once, the date of publication shall be at least seven (7) days prior to the hearing.
- (6) The Planning Board may hold another on-site inspection to verify and investigate the information provided by the application. The Planning Board may schedule this visit either before or after the public hearing. If an application is pending during a period when there is snow cover, the Planning Board may request that the applicant agree to extension of the review period to allow an on-site inspection. Written notice of the on-site inspection shall be provided to all parties receiving notice of the pending application.

#### **2.4 Public Hearing Procedures**

- (1) The Chair of the Planning Board or his/her designee shall chair the public hearing. The Chair shall open the public hearing by identifying the application and explaining the purpose of the hearing and the procedures to be followed.

- (2) The purpose of the public hearing is to allow the applicant and affected property owners to provide information as part of the record that the Planning Board will use in considering its action on the application. Testimony presented at the hearing should be related to factual information about the application and related submissions and the project's compliance with this Ordinance or other municipal ordinances.
- (3) The Chair shall provide the applicant or his/her representative with an opportunity to make a presentation at the beginning of the hearing. The planning office staff shall then present any comments or recommendations from the Staff Review Committee. The Chair shall then allow the members of the Planning Board to ask questions of the applicant and for the applicant to answer those questions. Following Board questions, the Chair shall open the public hearing to the public for statements, information submissions, or questions about the project. At the close of the public comment period, the Chair shall afford the applicant an opportunity to answer any questions raised by the public, rebut any statements or information submitted, and cross-examine anyone offering testimony on the application. The Chair may allow the applicant this opportunity after each member of the public testifies if that is deemed to be desirable. At the conclusion of the applicant's response, the hearing shall be closed.

## **2.5 Final Action on the Application**

The Planning Board shall take action on the application within thirty (30) days of the public hearing. The Planning Board shall act to deny, to approve, or to approve the application with conditions. The Planning Board may impose such conditions as are deemed advisable to assure compliance with the criteria for approval and performance standards of this ordinance. The vote to deny, approve, or approve with conditions shall constitute final action on the application.

Prior to issuing its decision, the Planning Board shall make written findings of fact that establish whether the proposed development does or does not meet the criteria for approval, performance standards and other requirements of this Ordinance.

The Planning Board shall notify the applicant and interested parties of the action of the Planning Board including the findings of fact and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Planning Board.

## **2.6 Final Approval and Filing**

Upon an affirmative vote by a majority of the Planning Board members present and voting, the application shall be deemed to have final approval. The approved site plan,

which may be altered only to incorporate or note conditions of approval determined by the Planning Board, shall be signed by the Chairman of the Planning Board.

A copy of the site plan as approved and signed must be submitted for filing with the Skowhegan planning office. Any plan not so filed within thirty (30) days of the date upon which such plan is approved and signed by the Planning Board shall become null and void. The Planning Board, by vote, may extend the filing period for good cause.

### **3. Fees**

#### **3.1 Site Inventory and Analysis Fee**

Prior to submitting a site inventory and analysis for a major development, the applicant must pay a non-refundable review fee. This fee must be paid to the Town of Skowhegan, and evidence of payment of the fee shall be included with the submission.

#### **3.2 Application Fee**

An application for site plan review must be accompanied by an application fee. This fee is intended to cover the cost of administrative review and processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee must be paid to the Town of Skowhegan, and evidence of payment of the fee must be included with the application.

#### **3.3 Technical Review Fee**

In addition to the application fee, the applicant for site plan review must also pay a technical review fee to defray the legal and technical cost of the application review. This fee must be paid to the Town of Skowhegan and must be deposited in the Planning Board Trust Account, which shall be separate and distinct from all other municipal accounts. The application will be considered incomplete until this fee is paid. The Planning Board may reduce the amount of the technical review fee or waive it if it determines that the scale or nature of the project will require little or no outside review.

The technical review fees may be used by the Planning Board to pay for reasonable costs incurred by the Planning Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting engineering or other professional fees, attorney fees, recording fees, and appraisal fees. The Town shall refund all of the remaining monies, including accrued interest, in the account after the payment of all costs and services related to this review. Refund of remaining monies shall be made no later than sixty (60) days after final action on the application. Such refund shall be accompanied by a final accounting of expenditures from the fund.

The monies in the Planning Board Trust Account shall not be used by the Planning Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Planning Board, which do not relate directly to the applicant's project.

#### **3.4 Establishment of Fees**

The Board of Selectmen may, from time to time and after consultation with the Planning Board, establish the appropriate fees following posting of the proposed schedule of fees and public hearing.

## **E. SUBMISSION REQUIREMENTS**

### **1. Site Inventory and Analysis Submission Requirements**

The site inventory and analysis is intended to provide both the applicant and the Planning Board with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. It is anticipated that this analysis will result in a development plan that reflects the conditions of the site; those areas most suitable for the proposed use will be utilized, while those that are not suitable or present significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements provide that the applicant submit basic information about the site and an analysis of that information.

The site inventory and analysis submission must contain, at minimum, the following information:

- (1) The names, addresses, and phone numbers of the record owner and the applicant.
- (2) The names and addresses of all consultants working on the project.
- (3) Evidence of right, title, or interest in the property.
- (4) Evidence of payment of the site inventory and analysis fee.
- (5) Eight (8) copies of an accurate scale "Existing Features Plan" of the parcel at a scale of not more than one hundred (100) feet to the inch showing as a minimum:
  - a. The name of the development, north arrow, date and scale.
  - b. The approximate boundaries of the parcel.
  - c. The relationship of the site to the surrounding area.
  - d. The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site (in many instances, submittal of the U.S.G.S. 10' contours will be adequate);
  - e. Major natural features of the site and vicinity, including wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats and fisheries or other important natural features (if none, so state).
  - f. Existing buildings, structures, or other improvements on the site and within fifty feet (50') of property lines. (if none, so state).

- g. Existing streets, rights-of-way, restrictions or easements on the site (if none, so state).
  - h. The location and size of existing utilities or improvements servicing the site (if none, so state).
  - i. A High Intensity soil survey of any portion of the site located in a resource protection district or wetland and a Medium Intensity soil survey in all other areas.
- (6) Eight (8) copies of a “Site Analysis Plan” at the same scale as the Existing Features Plan highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to determine: which portions of the site are unsuitable for development or use; which portions of the site are unsuitable for on-site sewage disposal if public sewerage is not available; which areas of the site have development limitations (steep slopes, flat, soil constraints, wetlands, aquifers, wildlife habitat, fisheries, scenic vistas, floodplains, drainage, etc.) to be addressed in the development plan; which areas may be subject to off-site conflicts or concerns (i.e., noise, lighting, traffic, etc.); and which areas are intended for development.
- (7) Eight (8) copies of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.
- (8) A list containing the names and mailing addresses of all owners of record of property located within 500 feet of the site to be developed.
- (9) Any requests for waivers from the submission requirements for the site plan review application.

## **2. Site Plan Review Submission Requirements**

Applications for site plan review must be submitted on application forms provided by the Town. The complete application form, required fees, and the required plans and related information must be submitted to the planning office. The applicant may choose to submit all or a portion of the application electronically, with the advance consent of the planning office.

An applicant for a major development may not submit an application until the review of the site inventory and analysis is completed.

Applications must contain at least the following exhibits and information, unless specifically waived in writing:

## **2.1 All applications**

All applications for site plan review must include fully executed and signed copy of the application for development review and evidence of payment of the application and technical review fees.

Eight (8) copies of written materials plus eight (8) sets of maps or drawings shall be submitted. The written materials must be contained in a bound report. The maps or drawings must be at a scale sufficient to allow of the items listed under approval criteria, but in no case shall be more than one hundred (100) feet to the inch for that portion of the tract of land being proposed for development:

### **2.1. a General Information**

- (1) Record owner's name, address, and phone number and applicant's name, address and phone, if different.
- (2) The location of all required building setbacks, yards, and buffer.
- (3) An updated list of names and mailing addresses of all property owners within five hundred (500) feet of any and all property boundaries.
- (4) Sketch map showing general location of the site within the municipality based upon a reduction of the tax maps.
- (5) Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.
- (6) The tax map and lot number of the parcel or parcels on which the project is to be located.
- (7) A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
- (8) The name, registration number and seal of the person who prepared the plan, if applicable.
- (9) Evidence of the applicant's technical and financial capability to carry the project as proposed.



- (10) Copies of any permits required by the Maine Department of Environmental Protection; the Maine Department of Transportation; or the Army Corps of Engineers.
- (11) A listing of waivers to submission requirements that have been requested or granted.

**2.1. b Existing Features**

- (1) Shoreland zoning classification(s) of the property and the location of shoreland zoning district boundaries if the property is located in two (2) or more zoning districts or abuts a different district.
- (2) The bearings and length of all property lines of the property to be developed and the source of this information. This requirement may be waived only if sufficient information is available on the ground, to establish all property boundaries.
- (3) Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed and on abutting streets or land that may serve the development and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.
- (4) Location, names, and present dimensions of existing public and/or private streets, driveways, parking areas, sidewalks, and rights-of-way within and 200 feet surrounding the proposed development.
- (5) The location, dimensions and ground floor elevation of all existing buildings on the site.
- (6) The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.
- (7) The location, front view, dimensions, and lighting of existing signs.
- (8) Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

- (9) The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

**2.1. c Proposed Development Activity**

- (1) Estimated demand for water supply and sewage disposal, together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed.
- (2) The direction of proposed surface water drainage across the site, and from the site, with an assessment of impacts on downstream properties.
- (3) A plan for erosion and sedimentation control.
- (4) Provisions for handling all solid wastes, including hazardous and special wastes, with the location and proposed screening of any on-site collection or storage facilities.
- (5) The location, dimensions, and detail drawings of materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.
- (6) Proposed landscaping and buffering.
- (7) The location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed on the site.
- (8) Location, front view, materials, and dimensions of proposed signs including note of the method for securing the sign.
- (9) Location and type of exterior lighting.
- (10) The location of all utilities, including fire protection systems.
- (11) A general description of the proposed use or activity being conducted within different areas of the building(s) and site.
- (12) An estimate of the peak hour and daily traffic to be generated by the project.
- (13) If the project requires a stormwater permit from the Maine Department of Environmental Protection, or if the Planning Board or Staff Review Committee determines that such information is necessary based upon the scale of the project

or the existing conditions in the vicinity of the project, a Stormwater Management Plan including stormwater calculations, water quality and/or phosphorous export management provisions.

#### **2.1. d Approval Block**

Space must be provided on the plan drawing for the signature of the Chair of the Planning Board/Staff Review Committee and date, together with the following words for a minor project, "Approved: Skowhegan Staff Review Committee."; for a major project, "Approved: Skowhegan Planning Board."

### **2.2 Major Developments**

In addition to submissions required for all applicants, an application for a major development must contain the following information:

- (1) A narrative and/or plan describing how the proposed development plan is based on the site inventory and analysis.
- (2) A grading plan showing the existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine.
- (3) A Stormwater Management Plan showing:
  - a) The existing and proposed method of handling stormwater runoff.
  - b) The direction of flow of the runoff, through the use of arrows.
  - c) The location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers.
  - d) Engineering calculations used to determine drainage requirements based upon the twenty-five (25) year twenty-four (24) hour storm frequency -- required only if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.
  - e) Methods of controlling erosion and sedimentation during and after construction.

- (4) A groundwater impact analysis prepared by groundwater hydrologist for projects involving on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons or more per day.
- (5) The name, registration number, and seal of the architect, engineer, landscape architect and/or similar professional who prepared the plan(s).
- (6) A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, cable TV, and any other utility services to be installed on the site.
- (7) A planting schedule keyed to the site plan indicating the general varieties and sizes of trees, shrubs, and other vegetation to be planted on the site, as well as information pertaining to provisions that will be made to retain and protect existing trees, shrubs, and other vegetation.
- (8) A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets, if the project or expansion will provide parking for fifty (50) or more vehicles or generate more than two hundred (200) trips during the a.m. or p.m. peak hour based upon the latest edition of *Trip Generation* published by the Institute of Traffic Engineers.
- (9) A written statement from the Water Company and the Pollution Control Facility as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, and the capacity of the sewer system to accommodate additional wastewater if public water or sewerage will be utilized. If the applicant proposes to extend or expand water supply or sewage disposal lines, the statement must also include approval of design specifications for the system.
- (10) Cost of the proposed development and evidence of the applicant's financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing available, and individual's or institution's interest in financing the project or in the form of a letter from a certified accountant or annual report indicating that the applicant has adequate cash flow to cover anticipated costs.

### **3. Waiver of Submission Requirements**

The planning staff, for minor developments, or Planning Board for major developments may waive submission requirements based upon a written request of the applicant. Such request must be made at the time of the pre-application conference or at the Site Review and Analysis stage for major developments. A waiver of any submission requirement may be granted only if the reviewing body finds that the information is not required to determine compliance with the standards and criteria.

## **SECTION III CRITERIA AND STANDARDS FOR DEVELOPMENT**

### **GENERAL**

The following criteria shall be used by the Planning Board/Staff Review Committee in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board/ Staff Review Committee determines that the applicant has failed to meet one or more of these criteria. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

Each criterion is accompanied by a set of development standards. Compliance with development standards is *prima facie* evidence of meeting the criteria. However, applicants for site plan review may propose alternative designs and approaches that will satisfy the criteria equally as well or better than the ordinance standards. In all instances, the burden of proof shall be on the applicant to demonstrate that criteria have been met. This shall not be construed as limiting the authority of the Planning Board/Staff Review Committee to require additional evidence or meet additional standards based on characteristics of the site or development.

- A. **PUBLIC SERVICE CRITERIA:** The proposed development will not result in an undue burden on the ability of the Town to provide public services:
1. Public water and sanitary treatment services, if accessible, have the capacity to serve the development and improvements are designed to the satisfaction of these service providers. If public water and sewer are not accessible, provision has been made to provide private services without negatively affecting public resources.
  2. Public safety and utility services have the capacity to meet the demands of the development, and security and fire protection improvements are designed to the satisfaction of these service providers.
  3. The development will not create or generate solid, liquid, hazardous, or other types of waste products that exceed the capacity of the Town's waste handling systems.

## PERFORMANCE STANDARDS:

### 1. Public Water Supply:

If the project is accessible to a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide estimated daily usage and fire protection flows.

If the project is not accessible to the public water supply system, the applicant will show evidence that adequate quantity and quality of water will be delivered to the development without negatively impacting groundwater supplies.

The planning board may require the applicant to make improvements to the public water supply system in order to meet this criterion.

### 2. Sanitary Treatment Systems

The development must be provided with a method of disposing of sanitary wastes which is in compliance with the State Plumbing Code.

- (a) All sanitary sewage from the development must be discharged into a public sanitary collection and treatment system when such facilities are accessible (within three hundred (300) feet of the property to be developed) and have adequate capacity to handle the projected waste generation. The sanitary treatment district shall find that the proposed system conforms to its design and construction standards, will not result in an undue burden on the collection or treatment system, and will be installed in a manner adequate to serve estimated daily flows.
- (b) If the public collection system is not at the lot line, but can be extended in the public right-of-way, the collection system must be extended by the applicant. Such extension shall be required if the public system is within one hundred (100) feet of a new use with a design sewage flow of less than five hundred (500) gallons per day or within three hundred (300) feet of a new use with a design sewage flow of five hundred (500) or more gallons per day and the system has adequate capacity to accommodate the additional flow. The Planning Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided that connection to the public system must occur if and when the subsurface system needs to be replaced.



- (c) If the public system cannot serve or be extended to serve a new or expanded use, the sewage must be disposed of by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules.
- (d) When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.
- (e) Industrial or commercial wastewater may be discharged to public sewers in such quantities and/or of such quality as to be compatible with sewage treatment operations. Such wastes may require pretreatment at the development site in order to render them amenable to public treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The pretreatment standards shall be determined by Pollution Control Facility.

### 3. Public Safety Services:

- (a) The development must be designed to provide protection from the spread of fire. At a minimum, the requirements of NFPA – 1 and NFPA – 101 must be met. Whenever possible, a key box security system should be installed, and may be required on some projects.

The applicant must submit evidence that proposed fire protection measures are adequate, in the form of a written statement from the fire chief that the proposed development will not exceed the capacity of his/her department to provide adequate protection. The fire chief may recommend additional protective improvements, including but not limited to fire ponds, dry hydrants, fire lanes, separation of flammable wastes, or sprinkler systems.

- (b) The development must be designed to provide security consistent with the capacity and practices of the town police department. The applicant shall provide a written statement from the police chief approving any proposed security measures.

### 4. Utility Services

- (a) The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project.

- (b) New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

5. Waste Disposal and Storage:

- (a) The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes. The applicant shall present a written statement from the Manager of the Solid Waste Disposal facility, approving the quantity and type of waste expected to be received.
- (b) The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies. The applicant shall identify any wastes proposed to be generated of these types and provide evidence that they will be disposed of in accordance with said standards.
- (c) No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location, which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

B. TRANSPORTATION CRITERIA: The proposed development will provide for adequate access for all users without placing an undue burden on the public transportation system.

- 1. The development will provide for adequate access to the site for all available modes of travel, without creating a negative effect on the mobility of public roads.
- 2. The development will provide sufficient parking to provide for the needs of its users without impact on the mobility of public roads.

PERFORMANCE STANDARDS:

- 1. **Adequacy of Road System:** Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development.

- (a) For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the *Trip Generation Manual* of the Institute of Traffic Engineers, all access points as well as intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of D or better prior to the development must function at a minimum at Level of Service D after development. If any such intersection is functioning at a Level of Service E or lower prior to the development, the project must not reduce the current level of service. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality. This standard may be waived by the Planning Board if the project will access a road inside the urban compact boundary and the Planning Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.
- (b) A development not meeting the above standard may be approved if the applicant demonstrates that a public agency has committed funds to construct the improvements necessary to bring the level of access to this standard.
- (c) For roads and projects on which the Maine Department of Transportation is responsible for issuing Traffic Movement Permits, an applicant may demonstrate compliance with the above standard by submitting an approved Traffic Movement Permit at the time of application.

2. Access into the Site: Vehicular access to and from the development must be safe and convenient.

- (a) Any driveway or proposed street must be designed so as to provide sight distance of ten (10) feet for every mile per hour of posted speed limit, or two hundred fifty (250) feet for roads without a posted speed.
- (b) Points of access and egress must be located to avoid conflicts with existing turning movements and traffic flows.
- (c) The grade of any proposed drive or street must be not more than 3percent for a minimum of forty (40) feet from the intersection.
- (d) Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrian hazards. Access from other streets may be allowed if it is safe and does not promote “shortcutting” through the site.

- (e) Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
  - (f) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
  - (g) The following criteria must be used to limit the number of driveways serving a proposed project:
    - i. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two (2) way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
    - ii. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all access ways must not exceed sixty (60) feet.
  - (h) Access points must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the access way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
  - (i) Access points in or out of a development must be separated by a minimum of seventy-five (75) feet where possible and practicable.
  - (j) When accessing streets subject to Maine Department of Transportation *Driveway Rules* or *Entrance Rules*, an applicant may demonstrate compliance with the above standards by the submittal of an approved driveway or entrance permit with the application.
3. Internal Vehicular Circulation: The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.
- (a) Projects that will be served by delivery trucks must provide a clear route with appropriate geometric design to allow turning and backing for a minimum vehicle length of seventy-two (72) feet. Maneuvering and parking of delivery trucks at loading bays/docks shall be designed not to impede normal circulation and parking on the site.

- (b) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and the routes must be posted with appropriate signage (fire lane - no parking).
  - (c) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
  - (d) The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.
  - (e) The development shall provide for convenient bicycle storage facilities, unless the Planning Board finds that there is no significant chance that bicyclists will use the development.
  - (f) Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive-through facility shall be located in the area of the site adjacent to a pre-existing home. Communication systems must not be audible to adjacent homes. Vehicular access to the drive-through shall be through a separate lane that prevents vehicle queuing within normal parking areas. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street, within the entry from the street, or within designated parking areas. Queuing for the drive-through must not interfere with any sidewalk or bicycle path.
4. Off-street Parking: The development shall be designed to accommodate parking for the expected number of vehicles or provide suitable alternatives. The table below shall be used as a guideline for parking supply. The Planning Board may modify parking requirements consistent with the objective to reduce impervious surface and environmental impact while avoiding on-street parking outside of the downtown area. For uses not contemplated by the table, the publication *Parking Demand* (ITE, 1987 or most recent edition) shall be consulted.

# of Spaces	Land Use Activity
<i>Places of Residence or Accommodation</i> -- spaces per room or dwelling unit	
1/3	Dedicated Retirement Home, Nursing Care Facility
1	Overnight accommodations
1.5	Multifamily buildings
<i>Places of Public Assembly</i> -- spaces per seat based on maximum seating capacity	
1/4	Theater, with fixed seating
1/3	Religious Institution, Restaurant (except fast food)

1/2	Convention Center, Meeting Hall, Grange, Bottle Club
<b><i>Places of Commerce and Industry</i></b> -- spaces per 1,000 sq.ft. of gross floor area.	
1	Warehouses, including self-storage
1 1/2	Industrial and Manufacturing Facilities, furniture and appliance stores
3	Grocery Stores over 5,000 sq.ft., Offices, except as noted.
3.5	Retail Sales, except as noted
5	Banks, Medical, Dental, and Veterinary Offices, Fitness Clubs, Child Care
6	Fast food restaurant, snack bar
<b><i>Public and Institutional Facilities</i></b> -- spaces per 1,000 sq.ft. of gross floor area	
2	Elementary Schools, Library, Museum
4	Other education – classroom area only, Community Center, Municipal Office.
6	Hospital
<b><i>Miscellaneous</i></b> -- criteria as specified	
1 per 1,000 sf	Indoor Sports Facility (Tennis, Fitness, etc.) -- no spectators
1 per 4 seats, based on max seating capacity	Stadiums, Arenas, Racetracks, and other spectator sport venues
30 per acre	Mini-golf, Go-Carts, and other Outdoor Amusements
4 per lane	Bowling Alley
3 per service bay + 1 per 10 vehicles displayed	Motor Vehicle Sales or Service

Within each development, at least one space, plus one additional space for every twenty-five (25) spaces provided, shall be designated for use of handicapped persons.

Where the proposed development is for expansion of or addition to an existing use that will continue, the requirement for parking spaces will include sufficient spaces for the existing use, even if the existing use did not previously have sufficient spaces.

Where multiple uses of the lot or building are proposed the minimum requirement shall be the sum of the requirements for the separate uses. Where a building or use consists of multiple functions, such as a church with school, or college with offices and classrooms, each separate function shall be calculated independently.

The Board may permit phased installation of parking spaces provided that adequate provision is made for the development of these spaces as needed in the future. The permit shall specify conditions for phasing, including but not limited to, permanent set-aside of adequate land area, and a schedule showing under what construction phase or development conditions the required parking shall be provided.

Area devoted to parking for vehicles used in the ordinary conduct of the business, such as construction vehicles, tractor-trailers, and vehicles displayed for sale, shall not be included in the above calculations.

Within Skowhegan's Urban Compact Area it is recognized that lot sizes and building coverage is such that the provision of on-site parking is impractical. Developers within this area may offer to meet their parking requirement through an agreement with the Town for support of the municipal parking lot. The Planning Board may designate a fee to be paid in lieu of parking, in proportion to the estimated parking generation.

5. Parking Layout and Design: Off-street parking must conform to the following standards:
  - (a) Parking areas must be arranged so that it is not necessary for vehicles to back into the street.
  - (b) All parking spaces, access drives, and impervious surfaces must be located at least five (5) feet from any lot line, except where standards for buffer yards require a greater distance. Parking lots on adjoining lots may be connected by access ways not exceeding twenty-four (24) feet in width.
  - (c) In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
  - (d) Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.
  - (e) Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow, pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.



(f) Parking stalls and aisle layout must conform to the following standards.

Parking Angle (degrees)	Stall Width	Skew Width	Stall Depth	Aisle Width	
90	9'-0"		18'-0"	24'-0"	two way
60	8'-6"	10'-6"	18'-0"	16'-0"	one way
45	8'-6"	12'-9"	17'-6"	12'-0"	one way
30	8'-6"	17'-0"	17'-0"	12'-0"	one way

(g) Stalls designated for handicapped use shall be a minimum of 12' 6" in width and shall be signed or pavement marking provided.

6. Pedestrian Circulation: The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development.

(a) Sidewalks must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned for the vicinity of the project. Sidewalks may be located either in the street right-of-way or outside of the right-of-way in public areas. Sidewalks should link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

(b) Where an existing or planned public sidewalk is interrupted by a proposed project driveway, the sidewalk material must continue to be maintained across the driveway, or the driveway must be painted to distinguish it as a sidewalk. Further, if street trees exist on an adjacent property, street trees must be planted, in a like manner, on the new site.

(c) If a sidewalk exists on property abutting the development, it shall be extended into the development. In urban situations, widening of the sidewalk onto private property to encourage window shopping and an improved streetscape is encouraged. Benches, sculpture, planters and other street furniture are encouraged.

C. NEIGHBORHOOD COMPATIBILITY CRITERIA: The proposed development will not result in an undue adverse impact on the existing use and quiet enjoyment of properties, both immediately abutting and within the neighborhood of the development.

1. The development will not produce noise, light, or other deleterious effects that would constitute a nuisance to neighboring properties.

2. The development will provide a buffer against its visual impacts.

3. The development will blend, insofar as possible, with existing built-up neighborhoods.

PERFORMANCE STANDARDS:

1. Exterior Lighting: Lighting may be used which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways.
  - (a) Lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky. Direct or indirect illumination must not exceed 0.5 footcandles at the lot line or upon abutting residential properties.
  - (b) When practicable, exterior lighting, except security lighting, should be turned off between 11 P.M. and 6 A.M. unless located on the site of a commercial or industrial use which is open for business during that period.
  - (c) Building facades may be illuminated with soft lighting of low intensity that does not draw inordinate attention to the building. The light source for the building facade must be concealed, whenever possible. Building entrances may be illuminated using recessed lighting in overhangs and soffits, or by use of spotlighting focused on the building entrances with the light source concealed (e.g., in landscaped areas). Direct lighting of limited exterior building areas is permitted when necessary for security purposes.
  
2. Noise: The estimated sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity on the site shall be limited by the time period and by the abutting land use as listed below. Sound levels shall be measured at least four (4) feet above ground at the property boundary of the source.

Sound Pressure Level Limits Using the Sound Equivalent Level of  
One Minute (leq 1) (Measured in dB(a) Scale)

<u>Abutting Use</u>	<u>7 am - 10 pm</u>	<u>10 pm - 7 am</u>
Residential	55	45
Public, semipublic and institutional	60	55
Vacant or rural	60	55
Commercial	65	55
Industrial	70	60

Noise shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the American National Standards Institute (ANSI S1 4- 1961) *American Standards Specification for General Purpose Sound Level Meters.*

Construction of projects approved under this ordinance and on a site abutting any residential use, shall limit external building activity to between the hours of 7:00 A.M. and 10:00 P.M.

3. Buffering of Adjacent Uses: New development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use, for reducing the impact of the development site on public streets, and for screening of mechanical equipment and service and storage areas.
- (a) Buffering must be designed to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof.
  - (b) A development must provide sufficient buffering when topographical or other barriers do not provide reasonable screening and where there is a need to shield neighboring properties from any adverse external effects of the development, or shield the development from the negative impacts of adjacent uses.
  - (c) The width of the buffer may vary depending on the treatment of the area. Within densely built-up areas, a buffer with dense plantings, fencing, or changes in grade may fit within the building setback requirement. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width. In suburban and rural settings, the width of the vegetated buffer should be increased to a minimum of twenty-five (25) feet. Areas adjacent to service, loading, or storage areas should be screened by dense planting, berms, fencing, or a combination thereof sufficient to substantially eliminate the visual appearance of the area.
  - (d) Whenever the area between the street and the front of the building is used for parking or vehicle movement, a vegetated buffer strip must be established along the edge of the road right-of-way. This buffer strip must soften the appearance of the site from the road and must create defined points of access to and egress from the site. The width of the buffer strip must increase with the setback of the building as follows:

<u>Building Setback</u>	<u>Buffer Width</u>
<50 feet	10 feet
50-74 feet	15 feet
75-99 feet	20 feet
100 feet or more	25 feet

Where the buffer width cannot be achieved, a low wall, fence, or hedge may be used to create the buffer.

- (e) Outdoor storage areas, external machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets. All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces, which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.
- (f) Where a potential safety hazard to children is likely to arise, a physical barrier sufficient to deter small children from entering the premises must be provided and maintained in good condition.

4. Landscape:

- (a) The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.
- (b) Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

Landscaping may include plant materials such as trees, shrubs, groundcovers, perennials, and annuals, and other materials such as rocks, water, sculpture, art, walls, fences, paving materials, and street furniture.

- (c) Landscaping around and within parking lots shades hot surfaces and visually “softens” the hard surface look of parking areas. Parking areas should be designed and landscaped to create a pedestrian-friendly environment. A landscaped border should be created around parking lots. Any parking lot containing forty (40) or more parking spaces should include one (1) or more landscaped islands within the interior of the lot. There should be at least one (1) island for every twenty (20) spaces. Landscaping must screen the parking area from adjacent residential uses and from the street.

5. Business Signs:

- (a) Freestanding commercial business signs should be placed at right angles to the street so as to be viewed from both directions. Simple, geometrically shaped signs set low to the ground should be used where practicable. The number of words on signs should be minimized and symbols should be used to catch the eye. Signs may be double sided.
  - (b) In order to maintain vehicle and pedestrian safety, signs shall not be placed at a height or location which obstructs the view of sidewalks or driveway entrances. Free-standing signs shall not be placed within five (5) feet of a property line, and shall not be erected more than twenty (20) feet in height as measured from the elevation of the road centerline.
  - (c) Free-standing signs shall be sufficiently secured to the ground to withstand strong winds. (Free-standing signs which are in place for fewer than sixty (60) days per year are considered temporary and are not subject to the requirements of this Ordinance.)
  - (d) All signs shall conform to the standards of the *Maine Traveler Information Services Act*, 23 M.R.S.A. sec. 1901 et seq. or successor statute.
  - (e) Unless licensed as an Official Business Directional Sign in accordance with 23 M.R.S.A. sec. 1918, or successor statute, signs must be placed on the property of the business offering the goods or service being advertised.
  - (f) For development adjoining roads surrounding the “Flatiron Block,” signs must be placed on the building, unless visibility is impaired and a freestanding sign is the best option.
6. Orientation and Placement of Buildings and Structures: The layout of buildings, parking lots, and other structures on a site shall be consistent with features of the natural and built landscape, through the use of some or all of the techniques described in this section.
- (a) Utilization of the Site - Buildings, lots, and support facilities should be located and oriented in those portions of the site that have the most suitable conditions for development. The site design should avoid creating a building surrounded by a parking lot.
  - (b) In urban, built-up areas, buildings should be placed close to the street. Where adjacent lots have been developed, new buildings shall be set back from the street line a distance equal to or within ten (10) feet of the average setback distance of the adjacent buildings. For buildings on corner lots, the setback relationship of both streets should be maintained.

- (c) In undeveloped areas, buildings should be placed well back from the road so as to conform with the rural character of the area. Where the existing site condition is natural woodland, the buffer requirements of Section C.3.(d), above, may be met by retaining undisturbed woodland.
- (d) Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.
- (e) The main entrance to the building should be oriented to the street unless the parking layout or the grouping of the buildings justifies another approach, and should be clearly identified as such through building and site design, landscaping, and/or signage. Site furnishings such as benches and sitting walls and, if appropriate, bicycle racks shall be encouraged. Additional plantings may be desirable at these points to identify the building entrance and to complement the pedestrian activity at this point.
- (f) Location of Off-Street Parking - Within built-up areas, parking lots shall be located to the side or rear of the building. Parking may be located between the building and the street when it is not economically feasible to locate it either behind or beside the building. The use of shared parking, shared driveways and the cross-connection of parking lots is encouraged.
- (g) Building Scale - When large new buildings or structures are proposed in built-up areas where their scale (size) and other features may be significantly different from that which already exists in the immediate neighborhood, care must be taken to design the new building or structure so that it is compatible with its neighbors. This may include making the building appear small, using traditional materials, styles and/or proportions.

D. ENVIRONMENTAL PROTECTION CRITERIA: The proposed development will not create or compound undue effects on natural resources or the environment.

1. The development will not result in degradation of air or water quality, including lake and groundwater.
2. The development will not result in degradation of wetlands or other wildlife habitat.

3. The development will not cause excessive erosion or sedimentation onto adjacent properties and downgrade resources.

PERFORMANCE STANDARDS:

1. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved by minimizing the degree of grading and filling. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limitation on the extent of excavation.
2. Groundwater Protection
  - (a) The proposed development must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.
  - (b) The proposed extraction of two thousand (2,000) gallons per day of water from groundwater sources must be supported by a report from a qualified hydrogeologist stating that: i. the quantity of water to be taken will not substantially lower the ground water table beyond the property lines or cause undesirable changes to subsurface flow patterns under drought conditions, and ii. the proposed facility will not cause diminution of the quality of the aquifer from which water is to be extracted.
  - (c) The operator of a groundwater extraction project shall establish a system of regular monitoring and reporting on the quantity of water extracted and removed from the site.
  - (d) Within the bounds of sand and gravel aquifers identified by the Town of Skowhegan Comprehensive Plan, no use, disposal, or storage of toxic or hazardous shall be permitted except in compliance with a Spill Prevention and Management Plan, to be submitted to the Town at the time of application.
3. Water Quality Protection: All aspects of the project must be designed so that:



- (a) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwater's so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- (b) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.
- (c) If the project is located within the direct watershed of Lake George or Oak Pond, the project must comply with the standards to manage the export of phosphorous consistent with the standards of the DEP manual *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, revised May 1992, or as further revised.

4. Erosion Control:

- (a) Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of *Maine Erosion and Sediment Control BMPs*, published by DEP (March, 2003 or as revised).

5. Stormwater Management:

- (a) Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a Stormwater Management Plan.
- (b) To the extent possible, the plan must retain stormwater on the site using the natural features of the site and must not have adverse impacts on abutting or downstream properties.
- (c) Unless the discharge is directly to the Kennebec River, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

- (d) Any project which requires a Stormwater Management Permit from the Maine Department of Environmental Protection must submit a copy of the approved permit at time of application.
- (e) For projects which do not require a DEP Stormwater Management Permit, the use of Low Impact Development techniques, consistent with the publication *Stormwater Management for Maine*, (DEP, January 2006 or as revised) is highly encouraged.
- (f) For projects involving structural treatments, a Stormwater Maintenance Agreement must be submitted at the time of application. The SMA must indicate how stormwater facilities will be maintained through the course of their projected life.
- (g) The biological and chemical properties of receiving waters must not be degraded by stormwater runoff. The use of oil and grease traps in catch basins, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required.

6. Preservation of Wildlife Habitat

- (a) No development shall involve the filling of wetlands that have been identified by the Maine Department of Inland Fisheries and Wildlife as having high or moderate value for wildlife habitat.
- (b) If an area within the proposed development site has been identified as a critical natural area or critical habitat for endangered or threatened species, the development will avoid impacts to that area insofar as practicable.
- (c) If an area within the proposed development site has been identified by the Maine Department of Inland Fisheries and Wildlife or the *Town of Skowhegan Comprehensive Plan* as a Deer Wintering Area, the developer shall consult with a qualified wildlife biologist and incorporate measures for protection of the resource into the development plan.

E. CULTURAL RESOURCES CRITERIA: The proposed development will not have an undue negative impact on the cultural assets of the Town of Skowhegan.

1. The development will not result in the loss or deterioration of archeological or historical resources of the town.
2. The development will not result in the loss of scenic and aesthetic assets.

## PERFORMANCE STANDARDS:

1. Historic and Archaeological Resources: If any portion of the site has been identified by the *Town of Skowhegan Comprehensive Plan* or competent authority as containing the potential for historic or archaeological resources, the application shall include an assessment of those resources. The development must include appropriate measures for protecting those resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.
  1. Shoreland Development - When a proposed development is immediately visible from a great pond, river or stream, the development must be designed so that it fits harmoniously into the visual environment when viewed from the water body.
    - (a) In predominantly natural environments, site clearing must be minimized, natural vegetation must be maintained adjacent to the shoreline to soften the appearance of the development, and vegetation must be retained or provided to minimize the visual intrusion of the development.
    - (b) In developed shoreland environments, the appearance of the new development when viewed from the water must be compatible with the existing visual character in terms of scale, massing, and height to the maximum extent possible.
  3. View Protection: When a proposed development is located within the viewshed of an identified view from a public street or facility, as noted in the *Town of Skowhegan Comprehensive Plan*, the development must be designed to minimize the encroachment of all buildings, structures, landscaping, and other site features on the identified view.
  4. Hillside Development: When a proposed development is located on a hillside that is visible from a public street, water body, or facility, the development must be designed so that it fits harmoniously into the visual environment when viewed by the public from public areas. Site clearing must be minimized and vegetation must be retained or provided to minimize the visual intrusion of the development. The development must be designed so that buildings, structures, and other improvements do not extend above the existing ridgeline or alter the ridge profile significantly. This provision may be waived for communication towers, spotting towers, and similar facilities that must be located above the ridgeline for operational reasons.
- F. COMPLIANCE CRITERION: The proposed development will comply with other ordinances and regulations of the Town of Skowhegan regarding land use and development.

PERFORMANCE STANDARDS:

1. If the proposed project qualifies as a subdivision under the definition of the Skowhegan Subdivision Ordinance, the review of the subdivision and site plan may be carried out concurrently, with the approval of the site plan being completed at the same time as the final subdivision plan. In the event of procedural conflicts, all of the requirements of both ordinances must be followed. The Planning Board shall find that all of the criteria of both ordinances are met in order to grant approval.
2. If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Skowhegan Floodplain Management Ordinance.
3. If any portion of the site is located within a shoreland zoning district as identified in the Skowhegan Shoreland Zoning Ordinance, the development shall demonstrate compliance with the standards of that ordinance. If the project is required to get a Planning Board permit under the terms of that ordinance, the approval process for both ordinances may be done concurrently. In the event of procedural conflicts, all of the requirements of both ordinances must be followed.

- G. FINANCIAL AND TECHNICAL CAPACITY CRITERION: The proposed development must demonstrate the financial and technical capacity to complete the development and required public improvements in a timely manner.

PERFORMANCE STANDARDS:

1. The applicant must demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.
  - (a) The application must list the names of architects, engineers, and other professionals who were involved in the development of the project.
  - (b) The application must list either the names of contractors who have been engaged to construct the project, or the process by which those contractors will be hired.
  - (c) The application must include the estimated cost of the project, including required public improvements, and the source of funding sufficient to meet those costs.
2. If any public improvements are proposed or required for the development of this project, the terms of performance guarantees must be approved as part of the application process. Performance Guarantees will be developed in accordance with section 4.C of this ordinance.

H. SPECIAL CRITERION: If a proposed structure exceeds thirty-five feet in height, it will not have an undue adverse impact on public health, safety or visual resources.

PERFORMANCE STANDARDS:

1. Wireless Communications Facilities
  - (a) Wireless Communications Facilities may be either free-standing or building-mounted.
    1. A free-standing wireless communication tower shall be a monopole-type construction and shall not exceed one hundred seventy five (175) feet in height.
    2. A building-mounted structure shall not extend more than fifteen (15) feet above the primary roof line of the building upon which it is mounted.
  - (b) In order to protect public safety, the minimum horizontal distance from the base of any freestanding tower to any property line, road, or residential structure shall be equal to fifty (50) percent of the height of the structure. A security fence at least eight (8) feet in height shall be installed to completely enclose the tower and any associated buildings or structures.
  - (c) All wireless communication facilities shall be designed to facilitate co-location of services. Accommodation for co-location shall be demonstrated at the time of application.
  - (d) No wireless communication facility shall commence construction without a commitment for occupancy from at least one communication service provider. If at any time a facility has not supported a communication service provider for a period of six (6) consecutive months, the planning board may declare the facility abandoned and shall order its removal. If the facility tower has not been removed within ninety (90) days of such order, the Town shall contract to remove the tower and assess the cost to the property owner, said cost to become a lien against the property.
  - (e) Visual impact of facilities shall be minimized, through choice of siting, design of the structure itself, or structural or vegetative buffering. No signage shall be placed on the tower itself, except for warning signs at the base. Signs on supporting buildings and structures shall be limited to those identifying the facility, the owner and operator, and emergency contact information.

- (f) Lighting of towers and antennae shall be prohibited except as required by the Federal Aviation Administration.
- (g) In review of the application for a wireless communication facility, the planning board is specifically authorized to retain an expert in the field of RF engineering to review technical details of the application. The cost of this expertise shall be borne by the applicant through the technical review fee and such additional assessment as is necessary.

## 2. WIND ENERGY CONVERSION SYSTEMS

Proposed wind energy conversion systems shall meet the following Standards:

- (a) The minimum distance between the ground and any part of a rotor blade system shall be fifty (50) feet.
- (b) All access doors to towers and electrical equipment shall be lockable.
- (c) Towers shall not be artificially lighted, except as required by the FAA or other applicable authority. All lights shall be designed to minimize visibility from the ground to the extent allowed by the FAA or other applicable authority.
- (d) Turbines shall have an automatic braking, governing, and/or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades and turbine components caused by extremely high winds, icing or other weather phenomena.
- (e) Turbines shall be equipped with a fire suppression system that will extinguish any fire located in the nacelle portion of the turbine.
- (f) The tower and all ground-level equipment such as transformers and substations shall be enclosed within a security fence at least eight (8) feet in height. The fence shall be placed a minimum distance from the tower of three times (3x) the radius of the rotor blades.
- (g) Prior to the start of construction an applicant shall provide the town proof of adequate liability insurance.
- (h) All wiring between generating facilities and transformers or substations shall be underground unless the developer provides evidence that underground wiring is unfeasible.
- (i) Setbacks:

- 1 If a facility is to be sited on existing farmland, towers shall be a minimum setback distance from all surrounding property lines equal to 1.25 times the height of the tower. No structural development other than that directly connected with the facility, will be permitted in the setback zone.
  - 2 Facilities on non-farmland will be required to meet a minimum setback distance from all property lines equal to 1.5 times the height of the tower plus the length of one blade.
  - 3 Towers shall be set back at least 2,500 feet from wildlife sanctuaries or wetlands of high value for waterfowl and wading bird habitat as identified by Maine Department of Inland Fisheries and Wildlife.
- (j) Towers and turbines shall not contain advertising except for reasonable identification of the manufacturer or operator of the wind energy facility. Appropriate warning signs shall be placed on electrical equipment and facility entrances.
- (k) The installation shall minimize visual impact, through choice of siting, design of the structures, or structural or vegetative buffers.
- (l) The facility shall avoid, to the extent practicable, the creation of artificial habitat for raptors or raptor prey, such as a) electrical equipment boxes on or near the ground that can provide shelter and warmth, or b) horizontal perching opportunities on the towers or related structures.



- I. ECONOMIC IMPACT CRITERION: If the proposed development is a large scale retail development, as defined by 30-A M.R.S.A. sec. 4366, or successor statute, it will not result in an undue adverse impact on the community.

PERFORMANCE STANDARDS:

1. A comprehensive economic impact study shall be performed by a qualified preparer and submitted with the application for site review.
2. In order to find that there is an undue adverse impact on the community, the Planning Board must find from the economic impact study and other evidence submitted that at least two of the factors in the economic analysis are negative and that the overall economic impact is negative.
3. The impact on neighboring municipalities within the comprehensive economic impact area must be considered as well as the impact on Skowhegan.

## SECTION IV POST APPROVAL ACTIVITIES

### **A. LIMITATION OF APPROVAL**

Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted and must be substantially completed within twenty-four (24) months. If construction has not been substantially commenced, and substantially completed, within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

### **B. INCORPORATION OF APPROVED PLAN**

1. One copy of the approved site plan must be submitted to the Code Enforcement Officer prior to commencing construction of the project. All construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions.
2. Any project involving the construction of more than twenty thousand (20,000) square feet of gross floor area or fifty thousand (50,000) square feet of impervious surface, must provide the Code Enforcement Officer with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These “as-built” plans must be submitted within thirty (30) days of the issuance of a certificate of occupancy for the project or occupancy of the building.

### **C. IMPROVEMENT GUARANTEES**

#### **1. Application**

- (1) Improvement Guarantee - The Planning Board/Staff Review Committee may require the posting of an improvement guarantee in such amount and form as specified in subsection 2 below as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

- (2) Upon substantial completion of all required improvements, the developer must notify the Planning Board/Staff Review Committee of the completion or substantial completion of improvements, and must send a copy of such notice to the appropriate municipal officials. The respective municipal officials shall inspect all improvements and shall file a report indicating approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.
- (3) The Planning Board/Staff Review Committee shall approve, partially approve, or reject the improvements on the basis of the report of the municipal officials.
- (4) If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

## **2. Form of Guarantee**

Improvement guarantees may be provided by a variety of means including, but not limited to, the following:

- (1) Security Bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.
- (2) Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
- (3) Escrow Account. The applicant may deposit cash or other instruments readily convertible into cash at face value, either with the Town of Skowhegan, or in escrow with a bank. Any such account must require Town approval for withdrawal and must stipulate that the Town can withdraw the money upon forty-eight (48) hour advance notice to the applicant to complete the guaranteed improvements.

The Board of Selectmen shall review and approve all documents for form and enforceability.

## **D. MINOR CHANGES TO APPROVED PLANS**

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing on the approved plan by the Code Enforcement Officer, and a report presented to the Planning board at their next regularly scheduled meeting.

## **E. AMENDMENTS TO APPROVED PLANS**

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval.

## **F. ENFORCEMENT**

It shall be the duty of the CEO or his/her agent to enforce the provisions of this ordinance. If the CEO or his/her agent shall find that any provision of this ordinance is being violated, he/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. He/she shall order discontinuance of illegal use of buildings, structures, additions, or work being done, or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

The CEO is hereby authorized to institute or cause to be instituted, in the name of the Town, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this ordinance; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this ordinance.

Any person, firm, or corporation being the owner of or having control or use of any building or premises who violated any of the provisions of this ordinance, shall be fined in accordance with Title 30-A M.R.S.A. sec. 4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. The Board of Selectmen, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

## **SECTION V. APPEALS PROCEDURE**

- A. Any person whose property is directly or indirectly affected by the granting or denial of a permit under this Ordinance; any person whose land directly abuts land for which a permit has been granted; or any person who has suffered a particularized injury as a result of the granting or denial of a permit or the action of the Code Enforcement Officer, may appeal to the Board of Appeals within thirty (30) days of the date upon which action was taken by the Planning Board or the Code Enforcement Officer.
  
- B. Any appeal taken to the Board of Appeals under this Ordinance shall be an appellate review and shall be based on the evidence, testimony and information upon which the Planning Board, or Code Enforcement Officer made their original decision. No appeal shall be considered to be a “de novo” action.
  
- C. Any person who participates as a party during the proceedings before the Board of Appeals may take an appeal to the Superior Court in accordance with State laws within thirty (30) days from the date of any decision by the Board of Appeals.

## SECTION VI. DEFINITIONS

### **Construction of Terms:**

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural.

**ABUTTING PROPERTY:** Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property. An **Abutter** is a person, business or other entity who is the record owner of abutting property.

**ACCESSORY BUILDING:** A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

**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.

**AGGRIEVED PARTY:** An owner of land whose property is directly or indirectly affected by the granting or denial of an approval under this ordinance; a person whose land abuts land for which approval 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 approval.

**AGRICULTURAL ACTIVITY:** The cultivation of food or fiber or husbandry of animals for sale in essentially raw form. The following are examples of activities which are not considered within this definition and may be subject to review if meeting size thresholds: packaging, processing, or butchering of agricultural produce, artificially heated and lighted greenhouses, feedlot, retail sales.

**BUILDING:** Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building.

**BUILDING FOOTPRINT:** The area covered by a building measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above grade level on posts or similar devices, the building footprint is the area the building would cover if it were located at ground level.

**CHANGE FROM ONE CATEGORY OF NONRESIDENTIAL USE TO ANOTHER CATEGORY OF NONRESIDENTIAL USE:**

A change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

**CURB CUT:** The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street.

**DEVELOPMENT:** The construction, reconstruction, conversion alteration or enlargement of any structure, or the establishment of a new non-residential use of land. The term includes grading and filling of land preparatory to actual construction. A **developer** is any person, corporation, or other entity who engages in development activities.

**ENLARGEMENT OR EXPANSION OF A STRUCTURE:** An increase of the building footprint and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

**12. ENLARGEMENT OR EXPANSION OF USE:** Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans with Disabilities Act and/or the State Fire Code are not considered to be enlargements or expansions of use.

**FLOOR AREA:** The sum of the horizontal areas of the floor(s) of a structure enclosed by two or more exterior walls.

**FREE STANDING SIGN:** A sign which is physically separated and not attached to a building. Free-standing signs which are in place for fewer than sixty (60) days per year are considered temporary and are not subject to the requirements of this ordinance.

**GROUNDWATER:** All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

**HISTORIC OR ARCHAEOLOGICAL RESOURCES:** Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource; areas identified in the Town of Skowhegan comprehensive plan; or other areas identified by qualified professional archeologist or historian.



**HOME OCCUPATION:** An occupation, or profession, which is customarily conducted in a residential structure, or on a residential 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.

**IMPERVIOUS SURFACE:** The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater.

**LEVEL OF SERVICE:** A description of traffic conditions along a street or within an intersection. Level of Service is a term used by traffic engineers to classify congestion on a scale of “A” to “F”, with Level of Service “E” presenting an unacceptable degree of congestion.

**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.

**NATURAL AREAS/NATURAL COMMUNITIES, UNIQUE NATURAL AREA/COMMUNITIES:** Areas identified by the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and also any areas so identified in the Town of Skowhegan comprehensive plan.

**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 STREET:** Any street or road on which travel by the general public is permitted, regardless of whether the street is owned by the Town, State, or private entity.

**RESIDENTIAL BUILDING OR USE -** a single family or two-family dwelling.

**SETBACK:** An area adjacent to the boundaries of a lot on which placement of buildings, parking areas, or other structures are prohibited by law, ordinance, or private agreement; a distance usually measured from the lot boundary, street line, or other feature.

**SIGHT DISTANCE:** The distance of unobstructed vision experienced by a motorist entering a street from an access point. Sight distance is measured from a point on the driveway ten (10) feet from the edge of the travelled way and three-and-one-half (3 ½) feet above the surface, to a point four-and-one-quarter (4 ¼) feet above street level.

**STRUCTURE:** Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including a tent or vehicle.

**SUBSTANTIALLY COMMENCED; SUBSTANTIALLY COMPLETED:** Construction shall be considered to be substantially commenced when any work beyond the stage of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home on a foundation has begun. Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum it shall include the completion of no less than [*seventy (70)*] percent of the costs of the proposed improvements within a development and shall include permanent stabilization and/or revegetation of areas of the site that were disturbed during construction.

**URBAN COMPACT:** The urban compact is a boundary of demarcation along state highways that is intended to mark an “urban” development form, and within which the Town of Skowhegan has been granted certain regulatory and maintenance authority. The boundaries of the urban compact are depicted on DOT maps and on maps posted at the Skowhegan Town Office.

**USE:** The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

**VEGETATION:** All live trees, shrubs, ground cover, and other plants.

**WILDLIFE HABITAT; SIGNIFICANT WILDLIFE HABITAT:** Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the municipality’s comprehensive plan.

**WIND ENERGY CONVERSION SYSTEM:** A structure built for the purpose of converting wind energy into electrical energy for commercial purposes. The wind energy conversion system includes all towers, turbines, powerhouses, and substations associated with provision of electrical energy to the grid.

**WIRELESS COMMUNICATION FACILITY (“cell tower”):** A tower or other structure mounted with antennae for the purpose of broadcasting or relaying radio signals for communications services, including commercial radio and television, telephonic and other devices. The wireless communications facility includes support structures, antennae, maintenance buildings, and all other buildings and structures associated with the service.

# **Town of Skowhegan**

## **Subdivision Review Ordinance**

### **Ordinance History:**

**Approved March 6, 1989**  
**Amended March 12, 1990**  
**Amended March 11, 1991**  
**Amended March 9, 1992**  
**Amended March 9, 1993**  
**Amended March 13, 1995**  
**Amended March 9, 1996**  
**Amended March 10, 1997**  
**Amended March 10, 1998**  
**Amended March 12, 2001**  
**Amended March 11, 2002**  
**Amended March 10, 2003**  
**Amended March 8, 2004**  
**Amended March 7, 2005**  
**Amended June 7, 2010**  
**Amended February 14, 2012**  
**Amended June 11, 2012**

## ARTICLE 1 - PURPOSES AND STATUTORY REVIEW CRITERIA

1.1 **Purposes.** The purposes of this ordinance are:

- A. To provide for an expeditious and efficient process for the review of proposed subdivisions;
- B. To assure new development in the Town of Skowhegan meets the goals and conforms to the policies of the Skowhegan Comprehensive Plan;
- C. To assure the comfort, convenience, safety, health and welfare of the people of the Town of Skowhegan;
- D. To protect the environment and conserve the natural and cultural resources identified in the Skowhegan Comprehensive Plan;
- E. To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;
- F. To minimize the potential impacts from new subdivisions on neighboring properties and on the Town of Skowhegan; and
- G. To promote the development of an economically sound and stable community.

1.2. **Statutory Review Criteria:** When reviewing any application for a subdivision, the planning board shall find that the criteria found in Title 30-A M.R.S.A. §4404 have been met. As of the enactment of this ordinance, those criteria require that the proposed subdivision:

- A. Will not result in undue water or air pollution. In making this determination, it shall at least consider:
  - 1. The elevation of the land above sea level and its relation to the flood plains;
  - 2. The nature of soils and subsoils and their ability to adequately support waste disposal;
  - 3. The slope of the land and its effect on effluents;
  - 4. The availability of streams for disposal of effluents; and
  - 5. The applicable State and local health and water resources rules and regulations;
- B. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be used;

- D. Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, located outside the urban compact area of an urban compact municipality, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
- F. Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- G. Will not cause an unreasonable burden on the Town's ability to dispose of solid waste if municipal services are to be utilized;
- H. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- I. Is in conformance with the duly adopted subdivision ordinance, comprehensive plan, development plan or land use plan. In making this determination, the board may interpret these ordinances and plans;
- J. The developer has adequate financial and technical capacity to meet the standards of this ordinance.
- K. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, sections 435 through 490, or within 250 feet of tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
- L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water
- M. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that

- principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- N. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
  - O. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;
  - P. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
  - Q. The proposed subdivision will provide for adequate storm water management;
  - R. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
  - S. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;
  - T. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
  - U. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a

determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.



## **ARTICLE 2 - AUTHORITY AND ADMINISTRATION**

### **2.1 Authority.**

- A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.
- B. These standards shall be known and may be cited as "Subdivision Ordinance of the Town of Skowhegan, Maine."

### **2.2 Administration.**

- A. The Planning Board of the Town of Skowhegan, hereinafter called the Board, shall administer this ordinance.
- B. The provisions of this ordinance shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Skowhegan.

### **2.3 Amendments.**

- A. These regulations may be amended by a majority vote at a legally convened town meeting of the Town of Skowhegan.
- B. A public hearing shall be held prior to the enactment of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

### **2.4 Conflict with Other Ordinances**

These Standards shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where these Standards impose a greater restriction upon the use of land or structure, the provisions of these Standards shall control.

### **2.5 Validity and Severability**

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

### **2.6 Abrogation**

This Ordinance repeals and replaces any municipal ordinance previously enacted to control the development of Subdivisions in the Town of Skowhegan.

### ARTICLE 3 -- DEFINITIONS

In general, words and terms used in this ordinance shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Abutting Property: All parcels of land which share a common boundary or adjoin at any line or point, or which are separated only by a street, right-of-way, or stream. An *abutter* is a person who is the listed owner of abutting property as recorded in the Town of Skowhegan tax records.

Building Envelope: The space within a lot in which a building may be placed. A building envelope excludes all areas which are unbuildable due to wetlands, excessive slopes, protected areas or legal restrictions such as setbacks, separation requirements or easements.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this ordinance, as determined by the planning office or by a vote by the board to waive the submission of required information.

Comprehensive Plan: The comprehensive plan of the Town of Skowhegan, or any other locally adopted policy documents including, but not limited to plans for open space, downtown redevelopment, or historic preservation.

Drinking Water Standards: Thresholds for contaminants set by the Maine Department of Health and Human Services. Standards have been established for contaminants which pose a health threat (“primary”) and those which pose an aesthetic concern (“secondary”).

Driveway: A vehicular access way serving one or two dwelling units or commercial traffic of fewer than 50 vehicle trips per day.

Dwelling Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities; includes single family houses, manufactured housing, and the units in a duplex, apartment house, multi-family dwellings, and residential condominiums.

Farmland: Any area of five (5) or more acres of land that is classified as prime farmland, unique farmland, or farmland of statewide importance by the USDA Natural Resource Conservation Service, or is used for the production of agricultural products as defined in 7 M.R.S.A. section 152 (2).

Flood-prone Area: Those land areas which are susceptible to inundation during a 100-year flood (a flood with a one percent probability of occurring in any given year). Flood-prone areas shall include mapped areas of floodplain and floodway (zones A or AE). Where maps are unavailable or of insufficient accuracy, a determination may be made by a licensed professional surveyor.

Freshwater Wetland: A freshwater wetland means freshwater swamps, marshes, bogs and similar areas, which are:

- A. 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 adopted for life in saturated soils; and
- B. Not considered part of a great pond, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of the subsection.

Frontage: That portion of a lot boundary which abuts a street or shoreline. A frontage measurement consists of the horizontal distance between the points where side lot lines intersect the street or shoreline. On lots with more than one frontage, such as corner lots, a requirement for street frontage shall apply to only one frontage.

Hydrogeologic Assessment: An assessment of groundwater quantity, quality, availability, and movement, for the purpose of determining whether adequate water supply exists for development needs without significant negative impact to neighboring properties.

Level of Service: A measurement of the traffic conditions on a street, based on a scale of A-F, as described by the *Highway Capacity Manual*, published by the Transportation Research Board.

Lot Length (Lot Width): The horizontal distance between front and rear (length) or side (width) lot lines. Where lots are not rectangular, length and width shall be calculated as the average distance between the most-parallel lines of the lot.

Medium Intensity Soil Survey: A soil survey designating areas of similar characteristics with accuracy as small as three acres. For Skowhegan, the *Soil Survey of Somerset County, Maine; Southern Part*, published by the USDA, Soil Conservation Service, is recognized as a medium intensity soil survey.

Mobile Home Park: A parcel of land under single ownership, improved for the placement of three or more mobile homes which are owned or leased by individuals other than the landowner.

Open Space: Land within or related to a subdivision, not within an individual lot or part of a right-of-way, which is essentially unimproved and set aside for the common use and enjoyment of residents of the subdivision.

Performance Guarantee: Any surety or commitment that may be accepted by the Town of Skowhegan to assure that infrastructure improvements required as part of the subdivision approval will be satisfactorily completed.

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Planning Board: The Planning Board of the Town of Skowhegan. Where the term “board” is used in this ordinance, it shall refer to the planning board unless a different board is specifically mentioned.

Point of Curvature: The point at which a straight line meets a curved line.

Principal Structure: Any building or structure in which the main use of the premise takes place.

Public Water Supply System: A water supply system that provides drinking water to at least 15 service connections or services water to at least 25 individuals daily.

Staff Review Committee: The committee established and described in section II.B of the Skowhegan Site Plan Review Ordinance.

Street: Public and private ways such as alleys, avenues, boulevards, highways, roads and other rights-of-way, as well as areas on Subdivision Plans designated as right-of-ways.

Subdivision: A subdivision shall be as defined in 30-A M.R.S.A. section 4401, with the following modifications:

A lot of 40 (forty) or more acres shall not be counted as a subdivision lot for purpose of review; and

A new commercial development shall be reviewed exclusively under the Town of Skowhegan Site Plan Review Ordinance, regardless of the number of occupancies. An existing lot or building which is to be divided into multiple lots or occupancies shall be reviewed as a subdivision if it is not otherwise required to be reviewed under the Site Plan Review Ordinance.

Tract, or Parcel of Land: All contiguous land in same ownership, whether or not the tract is separated at any point by an intermittent or non-navigable stream, or a private road established by the abutting land owners.

Traffic Impact Analysis: A study and report assessing road and traffic conditions with and without the addition of traffic from a proposed development, and which includes an analysis of mitigation measures necessary to address congestion or unsafe conditions on public roads.

Variance: Modification or relief of a provision of this ordinance, as granted by the Skowhegan Board of Appeals. A variance shall only be granted in cases of undue hardship.

Vehicle Trip: A single, one-way motor vehicle movement past a point or into or out of a subject property.

Waiver: A modification of one or more submission requirements for subdivision review, granted by the planning board upon a finding that the submission requirement is not necessary to proper review of the application.

## ARTICLE 4 -- PREAPPLICATION

### 4.1 Procedure:

The purpose of the preapplication is to provide the prospective applicant with guidance and direction to facilitate the application process, and to inform the planning board regarding the timing and scope of the application.

- 4.1.1 The prospective applicant shall submit to the Town a preapplication showing, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. The sketch plan may be accompanied by either a copy of the assessors map or the USGS topographic map showing the parcel to be subdivided.
- 4.1.2 The planning office shall schedule a preapplication review meeting with the planning board at the first meeting consistent with the item appearing on the published agenda (seven (7) days prior.)
- 4.1.3 The planning board, at the preapplication review meeting, will provide guidance to the prospective applicant as follows:
- A determination of the scope of the application, for example, whether it contains roads or other utilities which may require detailed information, or whether the proposed subdivision may need permits or review by state or federal agencies and the proposed timeline for approval;
  - A determination of a suitable contour interval to be utilized on the Plan, and whether additional submittals, such as a traffic study, erosion control plan, or analysis of special historic or ecological resources, should be included;
  - An opinion concerning any waivers to submission requirements to be proposed by the applicant.
  - An opinion on the requirement for and amount of a technical review fee.
- 4.1.4 The planning board may hold an on-site inspection of the property. The applicant shall, if requested by the board, place “flagging” at the center of any proposed streets and at the approximate intersections of the street center lines and lot corners prior to the on-site inspection.

### 4.2 Rights Not Vested:

The pre-application review shall not be considered the initiation of the review process for the purposes of bringing the Plan under the protection of Title 1 M.R.S.A § 302.

## ARTICLE 5 – REVIEW OF SUBDIVISION APPLICATIONS

### 5.1 General

Review of subdivision applications by the Town of Skowhegan is intended to meet the statutory requirements of 30-A M.R.S.A. §4401 et seq. and to give public service providers adequate information for the efficient servicing of the development. The application process is designed to permit information relevant to the development to be presented for technical review and board approval while incurring the least financial and administrative burden on the applicant.

### 5.2 Preliminary Review Procedure

5.2.1 In order to assure that the preapplication discussions between the board and the applicant remain timely, an application shall be submitted as soon as the applicant is prepared following the pre-application meeting. Under normal circumstances, the application should be submitted within ninety (90) days of the pre-application meeting; however, the board and applicant may mutually agree upon a longer time limit provided circumstances of the property or the law have not changed.

5.2.2 A completed application shall be submitted to the Skowhegan planning office. The planning office will provide the applicant with a dated receipt of application and fees. The planning office shall determine whether the application contains all of the elements required to be submitted by section 5.4 of this ordinance. The planning office will notify the applicant within ten (10) working days if the application is complete. If the application is not complete, the planning office will list the items that must be submitted to form a complete application. This procedure will be repeated until the application has been determined to be complete.

5.2.3 Upon determination that a complete application has been submitted, the planning office shall place the application on the agenda of the board for review at its next meeting, provided that the meeting is no less than fourteen (14) days in advance, to allow for adequate notice. The office shall also:

- Schedule a meeting of the Staff Review Committee;
- Notify, within seven (7) days, all owners of abutting property that an application for subdivision approval has been submitted and the time and place that the board will meet to discuss the application;
- Publish notice of the date, time, and place of the board's meeting in a newspaper of general circulation within the Town of Skowhegan at least two (2) times, the date of the first publication to be at least seven (7) days prior to the meeting; and
- When a Subdivision is located within 500 feet of a municipal boundary, notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten (10) days prior to the meeting.

5.2.4 The Skowhegan Staff Review Committee shall meet on a date prior to the board's meeting, for the purpose of providing technical advice to the board's review. The applicant is not required to attend this meeting; however, he/she is strongly advised either to attend or to meet with or provide information to individual department heads/committee members prior to the meeting to facilitate discussion and answer questions. The staff review committee will prepare a written set of findings and recommendations to the board by the time of its meeting to review the application.

5.2.5 Board review of the application shall be conducted in open, public session. The conduct of the meeting shall be as follows:

- The applicant or his/her representative shall attend and give an oral presentation concerning the application;
- The planning office will present the findings and recommendations of the staff review committee;
- Members of the public who wish to may speak for, against, or concerning the application. The applicant may respond to questions if permitted by the Chairman of the board;
- The board will act on any request by the applicant to waive submission requirements;
- The board will engage in deliberations concerning the application. The applicant is entitled to participate in these deliberations. Members of the public may speak during this period only at the discretion of the Chairman of the board.
- The board shall make findings of fact and conclusions of law and shall vote to approve or deny the application.

5.2.6 The board is not required to complete review of the application in one meeting. The board may defer any portion of the decision-making process to a subsequent meeting. The vote to approve or deny the application will take place no more than thirty-five (35) days from the date of the initial meeting for board review, unless a delay is mutually agreed upon by the applicant and the board.

5.2.7 If any portion of the Subdivision crosses municipal boundaries, the board shall offer to meet jointly with reviewing authorities from each affected municipality to discuss the application.

### **5.3 Final Review Procedure**

5.3.1 Preliminary approval of the application shall be conditional. When granting preliminary approval, the Board shall state, in writing, the conditions of such approval. Conditions shall include, but not be limited to:

1. The final subdivision plan will contain an actual field survey of the boundary lines of the tract and individual lots, giving complete descriptive data by bearings and distances. The corners of the tract and all lots shall be located on the ground and marked by monuments. The Plan shall indicate the type of



monument set or found at each lot corner and be signed and sealed by a licensed professional land surveyor.

2. The final plan will include final designs and cost estimates for any public improvements (roads, utilities, etc.) proposed to be built or improved. A performance guarantee shall be provided, in accordance with section 7.1 of this ordinance. The performance guarantee will be approved by the Skowhegan Board of Selectmen prior to submittal.
3. The final plan will be accompanied by a copy of any easements, rights-of-way, offers of cession of land or facilities, articles of incorporation and bylaws of homeowners' associations, or other legal documents associated with the plan. Where necessary, such documents will be approved by the Skowhegan Board of Selectmen prior to submittal.
4. If required, the final plan will include an *Erosion Control Plan*, prepared in accordance with or at least equivalent to the standards contained in the latest revised edition of the Environmental Quality Handbook published by the U.S. Soil Conservation Service. and a *Stormwater Management Plan* prepared by a Registered Professional Engineer, in accordance with or at least equivalent to the latest revised edition of Technical Release 55, Urban Hydrology for Small Watersheds, published by the U.S. Soil Conservation Service.
5. The final plan will be accompanied by copies of permits received by the applicant from state or federal reviewing authorities.

The final plan will show on its face the terms of any conditions imposed on approval by the board which cannot be met by the time of final plan signing.

- 5.3.2 The applicant shall submit the final plan to the Skowhegan planning office. If the plan is not received within twelve (12) months of approval of the plan by the board, the planning office may require a new planning board review of the application under the rules then applying.
- 5.3.3 The planning office shall review and certify that all of the documents and such changes as may be required by the board's conditions of approval have been included. The planning office shall make this determination within ten (10) working days of submission of the plan. The planning office shall inform the applicant in writing that all conditions of approval have been met, or shall note deficiencies.
- 5.3.4 The planning office shall submit the final plan to the board for final review and signature at the next available meeting, but not less than seven (7) days from the time of its determination. The planning office shall note in its submission any changes to the plan or continuing conditions of approval.

5.3.5 The signing by the board of a Subdivision Plan shall not be deemed to constitute or evidence acceptance by the Town of any street, easement or title to land area shown on such Plan.

#### **5.4 Application Submission Requirements**

5.4.1 All applications shall include sufficient and legible copies for technical and administrative review. These shall include:

- Eight (8) copies of the application, attachments, and plan drawings reduced to fit on 11 x 17 pages. *Except that* reports, plans, or third party permitting materials that exceed twenty pages in length may be submitted in electronic form.
- Three (3) copies of plan drawings at a size of 24 x 36 inches. Subdivision plats shall be drawn at a scale of no smaller than one hundred feet (100') to the inch. Design plans for streets, water and sewer facilities, and other infrastructure shall include plans, profiles, and cross-sections, as appropriate.
- For the final plan only, the page for planning board signature shall be 24 x 36 inches in size and shall be presented on a reproducible, stable based transparent original. Two (2) copies shall be provided, one to be retained by the Town and one to be filed in the Somerset County Registry of Deeds.
- The plat of the final plan shall also be submitted in electronic form, suitable to be imported into the Town's GIS database.

5.4.2 Application for subdivision approval shall be submitted on a form provided by the Town. The application shall be accompanied by the items listed in sections 5.4.3 and 5.4.4 below.

5.4.2.1 All applications shall be accompanied by a review fee in the amount specified in the fee schedule adopted by the Board of Selectmen.

5.4.2.2 Where required, an application shall be accompanied by a technical review fee in an amount to be specified by the board. The technical review fee is authorized to be assessed against the applicant to pay for the cost of professional expertise not ordinarily available to the board. To the extent that it is not used in review of the application, it shall be refunded to the applicant upon conclusion of the process.

5.4.3 Items to be included on the subdivision plan drawing:

1. Proposed name of the subdivision and municipality(ies) in which it is located, together with assessor's map and lot number(s) and street address if available.
2. Name and address of the applicant, his/her agent, and the person(s) who prepared the application.

3. Contour lines at the interval specified by the board, showing elevations in relation to Mean Sea Level. (Most common contour interval is five feet (5'))
4. The number of acres within the proposed subdivision, location of property lines, existing buildings, and other essential existing physical features.
5. The date the Plan was prepared, magnetic north point, declination, and graphic map scale.
6. The boundary lines of the tract being subdivided and the proposed lot lines with approximate dimensions and lot areas.
7. The boundaries of all water bodies, wetlands or significant vernal pools located on the tract, and location of any shoreland zoning boundaries affecting the tract.
8. If any portion of the Subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the Plan.
9. The approximate alignment and dimensions of any road(s) proposed to be constructed or improved to serve the subdivision.
10. The size, type, and location of water lines, sewer lines, hydrants, fire ponds, drainage facilities, street lights, electric and telephone lines and other utilities designed to service the subdivision.
11. The boundaries of any farmland within the tract.
12. A location map insert showing an outline of the subdivision and any remaining portion of the owner's property at a scale sufficient to show adjacent roads, water bodies, municipal boundaries and other significant features in the vicinity.

5.4.4 Items to be included with the application as attachments:

1. Verification of right, title, or interest in the property by means of a deed, lease, signed purchase and sales agreement or similar document.
2. A copy of the deed from which the original survey was based together with copies of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
3. A copy of any covenants or deed restrictions proposed to cover all or part of the subdivision.

4. Indication of the type of sewage disposal to be used in the Subdivision. When sewage disposal is to be accomplished by subsurface sewage disposal system, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits on the site shall be submitted. (Form HHE 200 – Page 2 of 3)
5. Indication of the type of water supply system(s) to be used in the Subdivision. When water is to be supplied by public water supply, a written statement from the water company shall be submitted indicating that the company has capacity to provide sufficient pressure and volume to the subdivision. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted in the form of test wells or a written statement from either a well driller or a geologist familiar with the area.
6. A description of fire protection measures to be available within the subdivision. Proposed sources of water not associated with the public water supply system must be reviewed by the fire chief prior to submittal of the application.
7. The names and addresses of owners of record of abutting property, including any property directly across an existing public street from the subdivision.
8. A medium intensity soil survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the applicant shall provide a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
9. An estimate of the amount and type of vehicle trips to be generated on a daily basis and at peak hours. For subdivisions involving forty (40) or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic, shall be submitted. The *Traffic Impact Analysis* shall indicate recommended improvements to maintain the desired level of service on affected streets in the vicinity.
10. An affidavit that no timber harvesting has occurred on the tract within the preceding five (5) years, or if it has, that it has not been conducted in violation of rules adopted pursuant to 12 M.R.S.A. §8869(14). The affidavit may be signed by a licensed forester or an agent of the Maine Bureau of Forestry.
11. An estimate of the costs of public improvements and a proposed form of Performance Guarantee.

12. Any other plans or specifications as determined by the board, necessary to review the Subdivision, including, but not limited to, an erosion control plan, a preliminary street construction plan and a stormwater management plan.

## **5.5 Waivers to Submission Requirements**

- 5.5.1 The board may grant a waiver to a submission requirement only where it finds that there are special circumstances of a particular development, provided the public health, safety, and welfare are protected, and provided the waiver would not have the effect of nullifying the intent and purpose of the Comprehensive Plan or this ordinance.
- 5.5.2 The board may grant a waiver of the submission requirements only upon viewing the otherwise-completed application. The submitted application shall specify any submission requirements proposed for waiver and the reasons for the request. The planning office will note the requested waivers in its report to the board and the board will act on them prior to its deliberation on the application.
- 5.5.3 The board shall make a written record of waivers granted and the reasons for granting them. The record shall be attached to the record of decision on the application.

## **5.6 Revisions to Approved Plans**

- 5.6.1 An applicant for a revision to a previously approved Plan shall submit the application to the planning office. The application shall identify the subdivision and original approval date and describe the nature of the revision being sought. If the revision involves a change to any of the plan drawings, the revised plan drawing (s) shall be included with the application.
- 5.6.2 If the proposed revision does not involve the adjustment of lot boundaries or the creation of a new lot or unit, the planning office will act to approve or deny the application. The planning office will make a written record of its action to attach to the subdivision file. The planning office will act within ten (10) working days.
- 5.6.3 If the proposed revision does involve the adjustment of lot boundaries or the creation of a new lot or unit, the planning office will submit the application to the board for official review and action, in accordance with the procedure in section 5.2 of this ordinance. The planning office may require additional items to be submitted for the review, *provided that* the office shall not unreasonably impose submission requirements not related to the requested revision.
- 5.6.4 The board's scope of review shall be limited to those portions of the plan which are proposed to be revised. The board shall use the ordinance standards currently in effect at the time of review of the proposed revision.

## 5.7 Appeals

- 5.7.1 Any person aggrieved by a decision of the board or the planning office regarding any proposed Subdivision, or any person requesting a variance to the terms of this ordinance may appeal to the Board of Appeals created for such purposes - as provided by 30-A M.R.S.A. §2691 et seq. Any appeal must be submitted within thirty (30) calendar days of the date of the decision being appealed.
- 5.7.2 Any appeal taken to the Board of Appeals under this ordinance shall be an appellate review and shall be based on the evidence, testimony and information upon which the board or planning office made their original decision. No appeal shall be considered to be a “de novo” action.
- 5.7.3 The Board of Appeals shall grant a variance only when the applicant can prove a condition of undue hardship, as defined by 30-A M.R.S.A. section 4353(4) or successor statute.
- 5.7.4 Any person or Board aggrieved by any decision of the Board of Appeals may appeal such decision to Somerset County Superior Court within thirty (30) days.

## ARTICLE 6 – REVIEW CRITERIA AND STANDARDS

### 6.1 Interpretation of Criteria and Standards

The provisions of this article are intended to assure that each of the statutory review criteria has been met. Each criterion is accompanied by a set of development standards. Compliance with development standards is *prima facie* evidence of meeting the criteria. However, applicants for subdivision approval may propose alternative designs and approaches that will satisfy the criteria equally as well or better than the ordinance standards. In all instances, the burden of proof shall be on the applicant to demonstrate that criteria have been met. This shall not be construed as limiting the authority of the board to require additional evidence or impose additional standards based on characteristics of the site or development.

### 6.2 Pollution

6.2.1 *Criterion:* Will not result in undue water or air pollution.

6.2.2 *Standard:*

Discharge of point source pollutants is regulated by the Maine Department of Environmental Protection pursuant to the federal Clean Air Act. The applicant may demonstrate compliance with this criterion if he or she is required to obtain a permit from Maine DEP and does so.

Non-point pollutants are controlled by the proper management of storm water. The applicant will identify all land disturbance created by development of the subdivision, and will provide for management of storm water flows as provided in section 6.18, below.

### 6.3 Sufficient Water

6.3.1 *Criterion:* Has sufficient water available for the reasonably foreseeable needs of the subdivision;

6.3.2 *Standards:*

6.3.2.1 The applicant shall provide a written statement from the water company that adequate water for both domestic and fire fighting purposes can be provided without placing an undue burden on the source, treatment facilities or distribution system involved.

6.3.2.2 When the location of a subdivision does not allow for a financially reasonable connection to a municipal water supply system, based on a fiscal analysis, the



board may allow the use of individual wells or a licensed public community water system.

6.3.2.2.1 If a public water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system and shall conform to the Standards of the Maine Rules Relating to Drinking Water (10-144 A.C.M.R. 231). The applicant will demonstrate that an adequate wellhead protection zone exists and submit a wellhead protection management plan.

6.3.2.2.2 If individual wells are proposed for the subdivision, the applicant will provide evidence of the quantity and quality of the aquifer. A test well may be driven on the tract and test results provided to the board or the applicant may provide test results demonstrating both quantity and quality from at least two (2) existing wells within five hundred (500) feet of the tract to be subdivided.

6.3.2.3 If proposed lots will not be accessible to the public water supply, the subdivider will construct ponds, dry hydrants, or measures to provide for adequate water storage for firefighting purposes. An easement shall be granted to the Town granting access to the water source where necessary. If buildings within the subdivision will be provided with sprinkler systems, the board may reduce this requirement accordingly.

#### **6.4 Impact on Existing Water Supplies**

6.4.1 *Criterion:* Will not cause an unreasonable burden on an existing water supply, if one is to be used.

6.4.2 *Standards:*

6.4.2.1 When a Subdivision is to be served by a public water system, the complete distribution system, including expansion of existing distribution lines if necessary, shall be installed at the expense of the subdivider.

6.4.2.2 The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the water company.

#### **6.5 Soil Erosion**

6.5.1 *Criterion:* Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

6.5.2 *Standards:*

- 6.5.2.1 Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of *Maine Erosion and Sediment Control BMPs*, published by DEP (March, 2003 or as revised). All areas of soil disturbed in the development of the subdivision will be addressed by the provisions of the Erosion Control Plan prepared in accordance with the above-cited manual.
- 6.5.2.2 Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
- 6.5.2.3 Except for normal thinning, landscaping, and cutting trees to provide access to sunlight, existing vegetation shall be left intact to prevent soil erosion and minimize storm water runoff.

## **6.6 Traffic Conditions**

6.6.1 *Criterion:* Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.

6.6.2 *Standards:*

6.6.2.1 Provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to safeguard against hazards to traffic and pedestrians, to avoid traffic congestion on any street, and to provide safe and convenient circulation on public streets and within the subdivision. More specifically, access and circulation shall conform to the following standards and the design criteria below:

1. Vehicular access to the subdivision should be arranged, whenever possible, to avoid traffic use of existing residential streets.
2. Where a subdivision lot is proposed to have frontage on two or more streets, access to the lot shall be restricted to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
3. The street giving access to the subdivision and neighboring streets which can be expected to carry traffic to and from the subdivision shall have traffic carrying capacity adequate to meet Level of Service C. If streets cannot meet this level of service, they shall be suitably improved to accommodate the amount and types of traffic generated by the proposed subdivision.
4. If the proposed subdivision requires driveways or street entrances onto a state or state aid highway, located outside the urban compact, the applicant shall provide documentation indicating that the driveways or entrances

conform to Maine DOT Chapter 299, *Highway Driveway and Entrance Rules*.

5. All access ways, as well as streets, alleys, sidewalks, and other transportation infrastructure, shall conform to the design and construction standards of the Town of Skowhegan *Road and Entrance Design Standards Ordinance*.
6. Where topographic and other conditions allow, provision on the plan shall be made for connections to adjoining lots of similar existing or potential use wherever:
  - a. the access connection will facilitate fire protection services as approved by the Fire Chief;
  - b. the adjoining tract is deeded to or otherwise under the control of the subdivider; or
  - c. it would enable the public to travel between adjacent developments without need to travel upon a street outside the subdivision.

## **6.7 Sewage Disposal**

6.7.1 *Criterion:* Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.

6.7.2 *Standards:*

6.7.2.1 The Town of Skowhegan *Sewerage Ordinance* requires that any development on a lot located in proximity to existing public sewer is required to connect to it. In the case of a subdivision, this requirement shall apply to the original parcel before subdivision, and the applicant shall show location and design of the system within the subdivision. The board may waive the requirement for lots which are isolated by a watercourse or other topographical challenge from the remainder of the subdivision. The complete system, including manholes, pump stations, an expansion of lines outside of the subdivision, if necessary, shall be installed at the expense of the applicant. The Supervisor of the Pollution Control Facility shall certify that providing service to the proposed subdivision is within the capacity of the system's collection and treatment system. The Road Commissioner and/or Pollution Control Facility Supervisor shall review and approve in writing the construction drawings for the sewage system.

6.7.2.2 Where an individual subsurface wastewater disposal system is proposed, the applicant shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

On lots in which the limiting factor has been identified as being within twelve (12) inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the system. The reserve area shall be designated on the plan as not to be built upon.

## **6.8 Solid Waste**

6.8.1 *Criterion:* Will not cause an unreasonable burden on the Town's ability to dispose of solid waste.

6.8.2 *Standard:*

If solid waste estimated to be generated by the proposed subdivision exceeds the capacity of the Town of Skowhegan Solid Waste Facility, or would cause the facility to no longer be in compliance with its license from the Maine Department of Environmental Protection, the applicant will make alternate arrangements for disposal of solid waste from the subdivision.

## **6.9 Aesthetic, Cultural, and Natural Values**

6.9.1 *Criterion:* Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

6.9.2 *Standards:*

6.9.2.1 The board may require the reservation of open space within a proposed subdivision in order to provide for the recreational needs of the occupants of the subdivision or to maintain the scenic or natural beauty of the area. In determining the need for open space the board shall consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the needs identified in the comprehensive plan for open space or recreation facilities in the neighborhood of the Subdivision; the type of development and the demographic characteristics of potential residents in the Subdivision; and the density or lot sizes of the development.

Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. A site for scenic or passive recreation purposes shall have no less than twenty-five (25) feet of road frontage. Sites shall be deemed adequate by the board with regard to scenic or natural attributes to be preserved.

- 6.9.2.2 The board may require that the application include a landscape plan that will show the extent of preservation of existing trees, the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally significant areas. Cutting of trees on the northern borders of lots should be avoided as far as possible, to retain a natural wind buffer.
- 6.9.2.3 If the proposed subdivision contains any historical or archeological sites identified by the comprehensive plan or reports from the Heritage Council, the applicant shall contact the Maine State Historic Preservation Commission for a review of the development plan and recommendations for preserving the resources. The applicant shall describe how historic or archeological resources on the site will be avoided or preserved.
- 6.9.2.4 If any portion of the tract to be subdivided contains areas identified on maps published by the Beginning with Habitat Program of the Maine Department of Conservation as being significant wildlife habitat, habitat for threatened or endangered species, or a critical natural area, the applicant will propose that these areas be shown on the subdivision plan as designated open space or part of lots of no less than ten (10) acres.
- 6.9.2.5 Any public rights of access to the shoreline of a water body or to abutting property shall be included by means of easements or right-of-way, or should be included in the open space, with provisions made for continued public access.

## **6.10 Conformity with Local Ordinances and Plans**

6.10.1 *Criterion:* Is in conformance with the duly adopted plans and ordinances for the Town of Skowhegan.

### 6.10.2 *Standards*

- 6.10.2.1 Lots within the proposed subdivision will conform to the dimensional standards and design criteria below:
1. All lots proposed to be connected to the public sewer line shall have a minimum of one hundred feet (100') of frontage on an existing or proposed street and contain not less than 10,000 square feet. No more than two (2) dwelling units may occupy a lot of less than 20,000 square feet.
  2. All lots serviced by individual subsurface wastewater disposal systems shall have a minimum of two hundred (200') feet of frontage on an existing or proposed street and contain not less than 40,000 square feet exclusive of areas of identified wetland.
  3. Lots proposed for multi-family dwellings to be connected to the public sewer shall have a minimum of two hundred (200) feet of frontage on an

existing or proposed street and shall contain a minimum of 10,000 square feet for the first dwelling unit and 5,000 square feet for each additional dwelling unit. All other multi-family dwelling lots shall have a minimum of (200') feet of frontage on an existing or proposed street and shall contain a minimum of 20,000 square feet for the first dwelling unit and 5,000 square feet for each additional dwelling unit. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities.

4. A subdivision proposed for commercial or industrial use shall have a minimum of one hundred (100) feet of frontage on an existing or proposed street and shall contain a minimum of 10,000 square feet for each building or building division. All commercial or industrial subdivisions shall access the public sewer system.
  5. Lots within a mobile home park shall not be less than fifty (50') feet in width:
    - a) Lots connected to the public sewer shall contain not less than 6,500 square feet;
    - b) Lots connected to a central, on-site subsurface wastewater disposal system approved by the Maine Department of Human Services shall contain not less than 12,000 square feet;
    - c) Lots served by individual subsurface wastewater disposal systems shall contain not less than 20,000 square feet.
  6. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as to either facilitate or preclude future additional divisions.
  7. Wherever possible, side lot lines should be perpendicular to the street.
  8. If a lot on one side of a road fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the road to meet the requirement.
  9. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.
- 6.10.2.2 Lots subject to the Skowhegan Shoreland Zoning Ordinance and/or Flood Management Ordinance shall comply with the provisions of those ordinances with regard to lot size.
- 6.10.2.3 Clustering of Lots: In order to reduce the costs of installing utilities (roads, water, sewer), promote more affordable housing, or preserve open space and resource land, a developer may propose to cluster lots within a subdivision.

Clustering means that dwelling units will be located closer together, and land will be associated with the subdivision which is not developed. The following provisions are intended to protect residents and the Town from potential negative impacts of this design.

1. Lots connected to the public sewer or to a common subsurface wastewater treatment facility may be reduced to no less than four thousand (4,000) square feet, with a street frontage no less than fifty (50) feet.
2. Lots to be served by individual subsurface wastewater treatment systems may be reduced to no less than twenty thousand (20,000) square feet in area, with a street frontage no less than one hundred (100) feet.
3. If lots are located within a shoreland zone, lot sizes shall not be reduced below the minimum required in that zone.
4. The total number of lots may exceed the number permitted by conventional subdivision by no more than twenty (20) percent. The number of lots permitted by conventional subdivision shall be calculated based on the following formula:

Total acreage of the parent parcel less the acreage of land unbuildable due to wetlands or slopes exceeding 25 percent, less the acreage of existing easements for rights-of-way, utilities or drainage; the result divided by the minimum lot size permitted under conventional subdivision.

5. The plan shall illustrate the placement of buildings and the treatment of open space, roads, service and parking. Building envelopes shall be drawn on the plan, and shall be separated by no less than twenty (20) feet in distance. Building envelopes shall exclude areas unbuildable due to wetlands, steep slopes, or utility or drainage easements. The plan shall contain a note that all buildings will be placed within the building envelope.
6. Proposed common land/open space shall be identified as a separate lot within the development. The precise description of the property restricted and the legal mechanism for the restriction shall be provided to the board. Common land or open space shall be identified on the subdivision plan with the words: "Not to be developed." Further subdivision of the open space lot and its use for other than non-commercial recreation, forestry, agriculture or conservation purposes, except for easements for underground utilities, shall be prohibited.
7. Ownership of the open space may be retained by the developer or transferred to a homeowners association as described in section 6.11.2.4, or to an association which has as its principal purpose the conservation or preservation of land, or proposed for transfer to the Town of Skowhegan or State of Maine. When open space is to be owned by an entity other than the Town of Skowhegan or State of Maine, there



shall be an easement in place prohibiting future development, except for structures and buildings accessory to uses listed in subsection 6, above.

8. A portion of proposed open space shall be suitable for use for passive recreation by owners of lots within the subdivision. The development shall be designed so that each lot has access to the open space, either directly abutting the parcel or along road frontage. Where the subdivision abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

6.10.2.4 All proposed lots shall be surveyed and monuments placed to designate lot boundaries. Monuments shall be placed as follows:

1. Stone monuments or iron pins shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
2. Stone monuments or iron pins shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the boundaries is 135 degrees or less.
3. Stone monuments shall be a minimum of four (4") inches square at the top and four (4') feet in length, and set in the ground at final grade level. After they are set, drill holes  $\frac{1}{2}$  inch deep shall locate the point or points described above.
4. Iron pins shall be of adequate size (no less than 1/2" bar) to identify corners and shall bear the number of the professional land surveyor who installed them.
5. All other Subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monuments.

## **6.11 Financial and Technical Capacity**

6.11.1 *Criterion:* The developer has adequate financial and technical capacity to meet the standards of this ordinance.

6.11.2 *Standards:*

6.11.2.1 The applicant shall demonstrate that he or she has adequate financial resources to complete the subdivision development. "Adequate financial resources" may be demonstrated by the development of an estimate of construction costs to be incurred with the subdivision and a plan for providing or obtaining the resources necessary to meet the costs.

6.11.2.2 The applicant shall demonstrate that he or she has the technical capacity to complete the subdivision development. The applicant will provide names and

addresses of contractors, engineers, or other professionals retained for the development or describe the process by which such individuals will be hired.

- 6.11.2.3 The applicant shall make provision for long-term maintenance of all land and facilities proposed for the general benefit of occupants of the development including but not limited to common open space, landscaping, drainage systems, private roads and parking lots, community recreation facilities or sewerage systems.
- 6.11.2.4 Within a residential subdivision, common land and facilities shall be placed under the ownership of a homeowner's association to be formed prior to the sale of lots. Division of interests or fractional ownership of common property shall be prohibited. Articles of incorporation and bylaws for a homeowners association shall be submitted to the Town prior to final review. Articles of incorporation shall require mandatory membership of all owners of property within the subdivision. Bylaws shall provide mechanisms for management and maintenance of common property, including provision for allocating costs among property owners and mandating payment. A transition arrangement shall be provided, with the developer responsible for maintenance until a sufficient number of lots have been sold to support the association.
- 6.11.2.5 The board shall not approve an application from a person who is in default on a previously approved subdivision or commercial development plan.

## **6.12 Surface Waters**

6.12.1 *Criterion:* Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

6.12.2 *Standard:*

The applicant will demonstrate that he or she has complied with all of the terms of the Town of Skowhegan Shoreland Zoning Ordinance. All permits required to be obtained under the Shoreland Zoning Ordinance will be provided prior to final review of the application.

## **6.13 Ground Water**

6.13.1 *Criterion:* Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

6.13.2 *Standards:*

- 6.13.2.1 No subdivision shall increase any contaminant in the ground water to more than one-half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

- 6.13.2.2 If ground water already contains contaminants in excess of the Primary Standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
- 6.13.2.3 If ground water already contains contaminants in excess of the Secondary Standards, the subdivision shall not cause the concentration of the substance in question to exceed 150% of the existing concentration.
- 6.13.2.4 The board may require a hydrogeologic assessment of the tract to be subdivided if it is located above the sand and gravel aquifer mapped for the Town of Skowhegan or if it exceeds forty (40) lots or dwelling units with individual wells and septic systems, or if it is a commercial or industrial subdivision. When a hydrogeologic assessment is required, the assessment should contain at least the following information:
1. A map showing the basic soils types.
  2. The depth to the water table at representative points throughout the subdivision.
  3. Drainage patterns throughout the subdivision.
  4. Data on existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
  5. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
  6. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential development, the evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentration at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. For subdivisions within the watershed of a lake, projections of the subdivision's impact on phosphate concentrations shall also be provided.
- 6.13.2.5 Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a condition of plan approval, and as restrictions in the deeds to the affected lots.

## **6.14 Flood Areas**

6.14.1 *Criterion:* Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area.

6.14.2 *Standards:*

6.14.2.1 If the subdivision, or any part of it, is in a flood-prone area, the applicant shall map the 100-year flood elevation and flood hazard boundaries within the subdivision.

6.14.2.2 All public utilities, such as sewer, gas, electrical, and water systems, shall be located and constructed to minimize or eliminate flood damage.

6.14.2.3 The plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest habitable floor, including the basement, at least one foot above the 100 year flood elevation. This provision shall also be included in the deed to any lot wholly or partially within the flood prone area.

## **6.15 Freshwater Wetlands**

6.15.1 *Criterion:* All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.

6.15.2 *Standard:*

Freshwater wetlands shall be delineated on the ground and on plan drawing submitted with the application. Wetlands shall be identified in accordance with the *1987 Corps. of Engineers Wetland Delineation Manual* or subsequent revision. Mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

## **6.16 Farmland**

6.16.1 *Criterion:* All farmland within the proposed subdivision has been identified on maps submitted as part of the application.

6.16.2 *Standard:*

All areas of farmland must be identified on one or more plan drawings. Farmland is defined by state statute as any area of five (5) or more acres of land that is classified as prime farmland, unique farmland, or farmland of statewide importance by the USDA Natural Resource Conservation Service, or is used for the production of

agricultural products as defined in 7 M.R.S.A. section 152 (2). Any mapping of farmland may be done with the help of the local soil and water conservation district.

## **6.17 River, Stream or Brook**

6.17.1 *Criterion:* Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application.

6.17.2 *Standard:*

All rivers, streams and brooks within the proposed subdivision shall be depicted on one or more plan drawings. For purposes of this section, "river, stream or brook" has the same meaning as in 38 MRSA, section 480-B(9).

## **6.18 Storm Water**

6.18.1 *Criterion:* The proposed subdivision will provide for adequate storm water management.

6.18.2 *Standards:*

6.18.2.1 Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, other impervious surfaces. A *Stormwater Management Plan* will be required when the subdivision involves the construction or improvement of roads.

6.18.2.2 To the extent possible, the plan should retain stormwater using the natural features of the site and without adverse impacts on abutting or downstream properties.

6.18.2.3 Unless the discharge is directly to the Kennebec River, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

6.18.2.4 Any applicant for a project which requires a Stormwater Management Permit from the Maine Department of Environmental Protection must submit a copy of the approved permit at time of final review.

6.18.2.5 For projects which do not require a Stormwater Management Permit, the use of Low Impact Development techniques, consistent with the publication

*Stormwater Management for Maine*, (DEP, January 2006 or as revised) is highly encouraged.

- 6.18.2.6 For projects involving structural treatments such as detention ponds, a Stormwater Maintenance Agreement must be submitted at the time of application. The SMA must indicate how stormwater management structures will be maintained through the course of their projected life.
- 6.18.2.7 The biological and chemical properties of receiving waters must not be degraded by stormwater runoff. The use of oil and grease traps in catch basins, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required.

## **6.19 Spaghetti Lots Prohibited**

6.19.1 *Criterion:* If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in 38 MRSA, section 480-B, none of the lots created within the subdivision will have a lot depth to shore frontage ratio greater than 5 to 1.

6.19.2 *Standards (Apply to all lots):*

- 6.19.2.1 The ratio of lot length to width shall not be more than five to one (5:1) except where the rural setting of the lot and topographic configuration of the land will permit a greater ratio, there is no shore frontage involved, and deed covenants or other restrictions prevent the resubdividing of the lot.
- 6.19.2.2 Panhandle (“Flag”) lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.

## **6.20 Lake Phosphorous Concentration**

6.20.1 *Criterion:* The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

6.20.2 *Standard:*

If the proposed subdivision is to be located all or part within the direct watershed of Lake George or Oak Pond, the application will demonstrate that the export of phosphorous will be consistent with the standards of the DEP manual *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, revised May 1992, or as further revised. In calculating the allowable level of

phosphorous import, a “moderate” level of lake water quality protection is to be assumed.

## **6.21 Impact on Adjoining Municipality**

6.21.1 *Criterion:* For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

### 6.21.2 *Standard:*

If any proposed subdivision crosses municipal boundaries, the board shall conduct a review parallel to the review of the adjoining municipality, and shall attempt to conduct at least one (1) joint meeting. If either municipality requests a traffic study or traffic impact analysis of the applicant, the study shall be made available to both review authorities.

## **6.22 Lands Subject to Liquidation Harvesting**

6.22.1 *Criterion:* Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 MRSA, section 8869, subsection 14, adopted by the Maine Forest Service to substantially eliminate liquidation harvesting.

### 6.22.2 *Standards:*

6.22.2.1 If the tract to be subdivided shows evidence of having been forested within the preceding ten (10) years, the applicant shall submit an affidavit concerning the status of timber harvesting operations. The affidavit shall be signed by the Department of Conservation, Bureau of Forestry or a forester licensed pursuant to Title 32, chapter 76. The affidavit shall state whether the timber was harvested in compliance with 38 MRSA, section 8869.

6.22.2.2 If a violation of the above-cited rules adopted by the Maine Forest Service has occurred, the board must determine prior to granting approval for the subdivision that five (5) years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred.



## ARTICLE 7 -- POST APPROVAL ACTIVITIES

### 7.1 Performance Guarantees

With submittal of the application for approval, the applicant shall provide a proposal for one of the following forms of Performance Guarantee. The guarantee must be for an amount adequate to cover the total construction costs of all required improvements and streets, taking into account the time span of the construction schedule and the inflation rate for construction costs. The type, conditions and amount of the Performance Guarantee shall be determined by the board with the advice of Road Commissioner, Board of Selectmen, and/or Town Attorney.

7.1.1 Conditional Agreement: The board at its discretion may permit the subdivider to enter into a binding agreement with the Town in lieu of financial performance guarantees. Such an agreement shall provide for approval of the plan on the condition that no lot may be sold or built upon until either:

1. It is certified by the board and the Road Commissioner or their agent that all the required improvements have been installed in accordance with this ordinance and the board's conditions of approval, or
2. A financial guarantee acceptable to the Town is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portion of the required improvements already installed.

All conditional agreements shall have a time limit for completion and shall be approved by the board and by the Board of Selectmen prior to final review of the plan. Notice of the agreement and any conditions shall be noted on the plan which is recorded at the Somerset County Registry of Deeds.

Release from the agreement shall follow the procedures contained in Section 7.1.7.

7.1.2 A Cash Bond for the establishment of an escrow account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town of Skowhegan, a direct deposit into a savings account, or the purchase of a certificate of deposit naming the Town as owner. For any account established by the subdivider, the Town of Skowhegan shall be named as owner or co-owner, and the consent of the Town shall be required for withdrawal. Any interest earned on the escrow account shall be returned to the subdivider unless the Town has found it necessary to draw on the account, in which case, the interest earned shall be proportionately divided between the amount returned to the subdivider and the amount withdrawn to complete the required improvements.

- 7.1.3 A Performance Bond payable to the Town issued by a surety company licensed to practice in the State of Maine and approved by the Board of Selectmen or Town Manager. The Performance Bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the subdivider, and the procedures for collection by the Town. The bond documents shall specifically reference the Subdivision for which approval is sought.
- 7.1.4 An irrevocable letter or line of credit from a financial institutional licensed to practice in the State of Maine, establishing funding for the construction of the improvements, from which the Town may draw if construction is inadequate. An irrevocable letter of credit shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.
- 7.1.5 Contents of Guarantees: The Performance Guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part of or all of the Guarantee to the subdivider, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.
- 7.1.6 Final Approval of Guarantees: The performance guarantee submitted for final review shall have received approval from the Town Manager or Board of Selectmen. All necessary agreements and other documents shall have been fully executed.
- 7.1.7 Release of Guarantees: Financial Performance Guarantees shall remain in effect for one year after completion of construction unless other arrangements are made, in writing, with the board or the Board of Selectmen. Prior to the release of any part of the Performance Guarantee, the board shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer (and any other departments involved) that the improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.
- 7.1.8 Default: If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plan specifications filed as part of the application, he or she shall so report in writing to the Board of Selectmen, the board and the subdivider or builder. The Board of Selectmen shall take any steps necessary to preserve the Town's rights.

## **7.2 Enforcement**

### **7.2.1 Violations and Enforcement:**

- 7.2.1.1 No plan of a division of land within the Town of Skowhegan which would constitute a subdivision shall be recorded in the Registry of Deeds until a Plan has been approved in accordance with this ordinance.

- 7.2.1.2 No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision, which has not been approved by the board and recorded in the Registry of Deeds, nor may they convey, offer or agree to convey any land in an approved subdivision which is not shown on the approved Plan as a separate lot.
- 7.2.1.3 No public utility, water company, sanitary district or any utility company of any kind shall serve a lot in a subdivision for which a Plan has not been approved.
- 7.2.1.4 Development of a subdivision without approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require approval under this ordinance.
- 7.2.1.5 No lot in a subdivision may be occupied and no occupancy permit will be issued before the street upon which the lot fronts is completed in accordance with this ordinance up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the driveway and parking lot serving the unit is completed in accordance with this ordinance.
- 7.2.1.6 Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved under this ordinance and under Title 38, chapter 3, subchapter 1, article 6 481-490, where applicable, shall be penalized in accordance with 30-A MRSA, section 4452.
- 7.2.1.7 Any person who sells, leases or conveys for consideration any land or dwelling unit in a subdivision approved under this ordinance and exempt from Title 38, chapter 3, subchapter 1, article 6, 481-490, because of the operation of Title 38, Section 488, Subsection 5, shall include in the instrument of sale, lease or conveyance a covenant to the transferee that all the requirements of Title 38, section 488, subsection 5, have been, and will be satisfied.

7.2.2 Enforcement Authority:

- 7.2.2.1 The Code Enforcement Officer shall be responsible for enforcing the provisions of this ordinance and shall have the following powers and duties:
  - 1. To enter property at reasonable hours and to enter any building with the consent of the property owner, occupant or agent to inspect the property for compliance with the provisions of this Ordinance.
  - 2. To issue a summons to any person who violates any provision of the ordinance.

3. When specifically authorized by the Board of Selectman to represent the Town of Skowhegan in the District Court in the prosecution of alleged violations of this ordinance.

7.2.2.2 The Board of Selectmen, upon notice from the Code Enforcement Officer, is hereby authorized 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 Town of Skowhegan. The Board of Selectmen, or their designated 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. If, however, the Town is the prevailing party it may collect attorney's fees and court costs.

### 7.2.3 Inspection of Required Improvements:

7.2.3.1 At least five (5) days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when they propose to commence construction of such improvements, so that the Board of Selectmen can cause inspection to be made to assure that all specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements.

7.2.3.2 If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specification filed by the subdivider, he shall so report in writing to the Town Manager, planning board, and the subdivider or builder. The Town Manager shall take any steps necessary to preserve the Town's rights, including declaring the subdivision to be in default of its obligations.

7.2.3.3 At any time before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the planning board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than one percent (1%), etc., the subdivider shall obtain permission to modify the plans from the board.

7.2.3.4 By December 1 of each year during which construction is done on the site, the inspecting official shall submit a report to the planning board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also

include a discussion and recommendations on any problems which were encountered.

- 7.2.3.5 Upon completion of street construction and prior to a vote by the Board of Selectman to submit a proposed town way to a town meeting, a written certification signed by a Registered Professional Engineer shall be submitted to the Board of Selectman at the expense of the subdivider, certifying that the proposed town way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. All fire hydrants will also be certified to meet construction and capacity specifications.
- 7.2.3.6 The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the Town.