

**AGENDA**  
**TOWN COUNCIL MEETING #1-97**  
**COUNCIL CHAMBERS**  
**JANUARY 7, 1997 - 7:00 P.M.**

**SPECIAL NOTE:** THIS AGENDA IS A WORKING AGENDA THAT INCLUDES BACKGROUND INFORMATION AND IS FOR DISTRIBUTION TO COUNCIL MEMBERS ONLY.

**FROM:** DALE C. OLMSTEAD, JR.

**TO:** GENIE BEAULIEU, CHAIRPERSON, LARUE DRIVE  
EDWARD CAMPBELL, VICE CHAIRPERSON, GAY DRIVE  
ALAN HINDLEY, WARDTOWN ROAD  
KENNETH MANN, MANN ROAD  
CHARLOTTE BISHOP, MAQUOIT DRIVE  
STAFFORD SOULE, ARNOLD ROAD  
DAVID SOLEY, ARNOLD ROAD

**FIRST ORDER OF BUSINESS:** TO WAIVE THE READING OF THE MINUTES OF #36-96 DECEMBER 17, 1996 AND ACCEPT THE MINUTES AS PRINTED.

**SECOND ORDER OF BUSINESS:**  
PUBLIC COMMENT PERIOD - 30 MINUTES  
(NON-AGENDA ITEMS ONLY)

**THIRD ORDER OF BUSINESS:** TO TAKE ACTION ON THE FOLLOWING ITEMS OF BUSINESS AS READ BY THE COUNCIL CHAIRPERSON.

COUNCIL MEETING #1-97  
JANUARY 7, 1997

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ITEM #1-97      TO CONSIDER ACTION RELATIVE TO A DONATION TO THE POLICE DEPARTMENT.

---

**BE IT ORDERED:** THAT A \$500.00 DONATION FROM PAUL MAKANOWITZKY TO THE FREEPORT POLICE DEPARTMENT BE ACCEPTED.

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ITEM #2-97      TO CONSIDER ACTION RELATIVE TO A UNUM FOUNDATION VOLUNTEER SERVICE GRANT.

---

**BE IT ORDERED:** THAT A UNUM FOUNDATION VOLUNTEER SERVICE GRANT IN THE AMOUNT OF \$500.00 IN RECOGNITION OF MICHAEL VOGEL'S VOLUNTEER SERVICE TO THE FREEPORT POLICE DEPARTMENT, BE ACCEPTED.

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ITEM #3-97      TO CONSIDER ACTION RELATIVE TO THE APPROVAL OF TRANSFER OF FORFEITURE ASSETS RESULTING FROM SUPERIOR COURT CRIMINAL ACTION DOCKET NO. CR-96-2183 STATE OF MAINE V. MALCOLM D. MCINTOSH, DEFENDANT.

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**BE IT ORDERED:** THAT THE TOWN OF FREEPORT, MAINE, BY AND THROUGH ITS LEGISLATIVE BODY, THE TOWN COUNCIL, DOES HEREBY GRANT APPROVAL PURSUANT TO SECTION 5824(3) AND SECTION 5826(6) OF TITLE 15 OF THE MAINE REVISED STATUTES ANNOTATED, TO THE TRANSFER OF THE ABOVE CAPTIONED DEFENDANT IN REM, OR ANY PORTION THEREOF, ON GROUNDS THAT THE TOWN OF FREEPORT POLICE DEPARTMENT DID MAKE A SUBSTANTIAL CONTRIBUTION TO THE INVESTIGATION OF THIS OR A RELATED CRIMINAL CASE.

**BE IT FURTHER ORDERED:** THAT THE FREEPORT TOWN COUNCIL, DOES HEREBY APPROVE OF THE TRANSFER OF THE DEFENDANT IN REM, OR ANY PORTION THEREOF, TO THE TOWN OF FREEPORT, MAINE PURSUANT TO 15 MRSA SECTION 5824(3) AND SECTION 5826(6) BY VOTE ON JANUARY 7, 1997.

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ITEM #4-97      TO CONSIDER ACTION RELATIVE TO AN EXPENDITURE OF FUNDS FROM THE FISCAL YEAR 1997 MISCELLANEOUS AND CONTINGENCY ACCOUNT TO PROVIDE FOR CABLE T.V. FRANCHISE CONSULTANT FEES.

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**BE IT ORDERED:** THAT \$ \_\_\_\_\_ BE EXPENDED FROM THE FY '97 MISCELLANEOUS AND CONTINGENCY ACCOUNT TO PROVIDE FOR CABLE T.V. FRANCHISE CONSULTANT FEES.

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ITEM #255-96 TABLED DECEMBER 17, 1996

TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE FREEPORT ZONING ORDINANCE CONCERNING THE U.S. ROUTE #1 SOUTH COMMERCIAL DISTRICTS (CHAPTER 21).

**BE IT ORDERED:** THAT THE PROPOSED AMENDMENTS TO THE FREEPORT ZONING ORDINANCE, AS SUBMITTED TO PUBLIC HEARING ON DECEMBER 17, 1996, BE APPROVED.

**MOTION:** TO AMEND ITEM #255-96 AS OUTLINED IN THE DECEMBER 30, 1996 MEMO FROM THE TOWN PLANNER.

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ITEM #256-96 TABLED DECEMBER 17, 1996

TO CONSIDER ACTION RELATIVE TO A PROPOSED AMENDMENT TO THE FREEPORT ZONING MAP REZONING A SECTION OF TAX MAP 24, LOT 79 FROM RP-I TO RR-I.

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**BE IT ORDERED:** THAT THE PROPOSED AMENDMENT TO THE FREEPORT ZONING MAP, AS SUBMITTED TO PUBLIC HEARING ON DECEMBER 17, 1996, BE APPROVED.

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ITEM #257-96 TABLED DECEMBER 17, 1996

TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE GENERAL ASSISTANCE ORDINANCE TO BRING THE ORDINANCE INTO COMPLIANCE WITH STATE GUIDELINES (CHAPTER 48).

---

**BE IT ORDERED:** THAT THE PROPOSED AMENDMENT TO THE GENERAL ASSISTANCE ORDINANCE, AS SUBMITTED TO PUBLIC HEARING ON DECEMBER 17, 1996, BE APPROVED.

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ITEM #258-96 TABLED DECEMBER 17, 1996

TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE VEHICLE TOWING ORDINANCE CONCERNING RATES FOR SERVICES AND VEHICLE INSPECTION (CHAPTER 49).

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**BE IT ORDERED:** THAT THE PROPOSED AMENDMENTS TO THE VEHICLE TOWING ORDINANCE, AS SUBMITTED TO PUBLIC HEARING ON DECEMBER 17, 1996, BE APPROVED.

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ITEM #259-96 TABLED DECEMBER 17, 1996

TO CONSIDER ACTION RELATIVE TO THE PROPOSED ABANDONMENT OF HIGH STREET.

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**BE IT ORDERED:** THAT THE PROPOSED ABANDONMENT OF HIGH STREET, AS SUBMITTED TO PUBLIC HEARING ON DECEMBER 17, 1996, BE APPROVED.

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ITEM #260-96 TABLED DECEMBER 17, 1996

TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE WINSLOW PARK ORDINANCE CONCERNING RATES FOR HARB COTTAGE (CHAPTER 34).

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**BE IT ORDERED:** THAT THE PROPOSED AMENDMENTS TO THE WINSLOW PARK ORDINANCE, AS SUBMITTED TO PUBLIC HEARING ON DECEMBER 17, 1996, BE APPROVED.

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**OTHER BUSINESS:**

1. DISCUSSION OF RETENTION OF MILLER & VAN EATON TO REPRESENT THE TOWN OF FREEPORT IN CABLE T.V. FRANCHISE NEGOTIATIONS.

ADJOURN.

**TOWN COUNCIL WORKSHOP  
JANUARY 7, 1996 8:30 P.M.  
TOWN HALL COUNCIL CHAMBERS**

**AGENDA**

- 1. CHAIRPERSON'S REVIEW OF COUNCIL RULES AND PROCEDURES.***
- 2. CHAIRPERSON'S PROPOSED COUNCIL GOALS FOR THE COMING YEAR.***

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***NOTE: PLEASE BRING NECESSARY MATERIALS.***

**TOWN COUNCIL MEETING #1-97  
JANUARY 7, 1997 - 7:00 P.M.  
TOWN HALL COUNCIL CHAMBERS**

**SUMMARY AGENDA**

- ITEM #1-97      TO CONSIDER ACTION RELATIVE TO A DONATION TO THE POLICE DEPARTMENT.**
- ITEM #2-97      TO CONSIDER ACTION RELATIVE TO A UNUM FOUNDATION VOLUNTEER SERVICE GRANT.**
- ITEM #3-97      TO CONSIDER ACTION RELATIVE TO THE APPROVAL OF TRANSFER OF FORFEITURE ASSETS RESULTING FROM SUPERIOR COURT CRIMINAL ACTION DOCKET NO. CR-96-2183 STATE OF MAINE V. MALCOLM D. MCINTOSH, DEFENDANT.**
- ITEM #4-97      TO CONSIDER ACTION RELATIVE TO AN EXPENDITURE OF FUNDS FROM THE FISCAL YEAR 1997 MISCELLANEOUS AND CONTINGENCY ACCOUNT TO PROVIDE FOR CABLE T.V. FRANCHISE CONSULTANT FEES.**
- ITEM #255-96    TABLED DECEMBER 17, 1996**
- TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE FREEPORT ZONING ORDINANCE CONCERNING THE U.S. ROUTE #1 SOUTH COMMERCIAL DISTRICTS (CHAPTER 21).**
- ITEM #256-96    TABLED DECEMBER 17, 1996**
- TO CONSIDER ACTION RELATIVE TO A PROPOSED AMENDMENT TO THE FREEPORT ZONING MAP REZONING A SECTION OF TAX MAP 24, LOT 79 FROM RP-I TO RR-I.**
- ITEM #257-96    TABLED DECEMBER 17, 1996**
- TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE GENERAL ASSISTANCE ORDINANCE TO BRING THE ORDINANCE INTO COMPLIANCE WITH STATE GUIDELINES (CHAPTER 48).**
- ITEM #258-96    TABLED DECEMBER 17, 1996**
- TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE VEHICLE TOWING ORDINANCE CONCERNING RATES FOR SERVICES AND VEHICLE INSPECTION (CHAPTER 49).**
- ITEM #259-96    TABLED DECEMBER 17, 1996**
- TO CONSIDER ACTION RELATIVE TO THE PROPOSED ABANDONMENT OF HIGH STREET.**

**ITEM #260-96 TABLED DECEMBER 17, 1996**

**TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE  
WINSLOW PARK ORDINANCE CONCERNING RATES FOR HARB COTTAGE  
(CHAPTER 34).**

**OTHER BUSINESS:**

- 1. DISCUSSION OF RETENTION OF MILLER & VAN EATON TO REPRESENT  
THE TOWN OF FREEPORT IN CABLE T.V. FRANCHISE NEGOTIATIONS.**

**ADJOURN.**

**MINUTES**  
**FREEPORT TOWN COUNCIL MEETING #1-97**  
**January 7, 1997 - 7:00 P.M.**

<u>CHAIRPERSON'S CALL TO ORDER:</u>	<u>Present</u>	<u>Absent</u>	<u>Excused</u>
Genie Beaulieu, Chairperson Larue Drive	X		
Edward Campbell, Vice-Chairperson Gay Drive	X		
Alan Hindley Wardtown Road	X		
Kenneth Mann Mann Road	X		
Charlotte Bishop Maquoit Drive	X		
Stafford Soule Arnold Road	X		
David Soley Arnold Road	X		

**FIRST ORDER OF BUSINESS:** TO WAIVE THE READING OF THE MINUTES OF MEETING # 36-96, HELD ON DECEMBER 17, 1996, AND ACCEPT THE MINUTES AS PRINTED.

**MOVED AND SECONDED:** TO WAIVE THE READING OF THE MINUTES OF MEETING #36-96, HELD ON DECEMBER 17, 1996, AND ACCEPT THE MINUTES AS PRINTED. (Councilors Campbell & Bishop) (7 Ayes) (0 Nays)

**SECOND ORDER OF BUSINESS:** PUBLIC COMMENT PERIOD - 30 MINUTES.

Rodney Curtis raised concerns regarding keeping his neighborhood quiet from summer traffic; he questioned who authorized the paving of Snow Road.

Chief Schofield stated that the area is monitored by the Police Department in the mornings and the afternoons, when school is out.

Councilor Mann stated that the issue of paving has come up at various times; he requested clarification of the road selection process.

Chairperson Beaulieu stated that she would check with Manager Olmstead and report back to Mr. Curtis.

**MOVED AND SECONDED:** THAT THE PUBLIC COMMENT PERIOD BE CLOSED. (Councilors Campbell & Bishop) (7 Ayes) (0 Nays)

**THIRD ORDER OF BUSINESS:** TO TAKE ACTION ON THE FOLLOWING ITEMS OF BUSINESS AS READ BY THE COUNCIL CHAIRPERSON.



COUNCIL MEETING #1-97  
JANUARY 7, 1997

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ITEM #1-97 TO CONSIDER ACTION RELATIVE TO A DONATION TO THE POLICE DEPARTMENT.

---

**BE IT ORDERED:** THAT A \$500.00 DONATION FROM PAUL MAKANOWITZKY TO THE FREEPORT POLICE DEPARTMENT BE ACCEPTED.  
ROLL CALL VOTE (Councilors Campbell & Soule) (7 Ayes) (0 Nays)

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ITEM #2-97 TO CONSIDER ACTION RELATIVE TO A UNUM FOUNDATION VOLUNTEER SERVICE GRANT.

---

**BE IT ORDERED:** THAT A UNUM FOUNDATION VOLUNTEER SERVICE GRANT IN THE AMOUNT OF \$500.00 IN RECOGNITION OF MICHAEL VOGEL'S VOLUNTEER SERVICE TO THE FREEPORT POLICE DEPARTMENT, BE ACCEPTED. (Councilors Hindley & Campbell)

Chief Schofield explained grant application; Officer Vogel volunteered over 100 hours, which fulfilled the grant application requirements and Unum approved the grant.

ROLL CALL VOTE (7 Ayes) (0 Nays)

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ITEM #3-97 TO CONSIDER ACTION RELATIVE TO THE APPROVAL OF TRANSFER OF FORFEITURE ASSETS RESULTING FROM SUPERIOR COURT CRIMINAL ACTION DOCKET NO. CR-96-2183 STATE OF MAINE V. MALCOLM D. MCINTOSH, DEFENDANT.

---

**BE IT ORDERED:** THAT THE TOWN OF FREEPORT, MAINE, BY AND THROUGH ITS LEGISLATIVE BODY, THE TOWN COUNCIL, DOES HEREBY GRANT APPROVAL PURSUANT TO SECTION 5824(3) AND SECTION 5826(6) OF TITLE 15 OF THE MAINE REVISED STATUTES ANNOTATED, TO THE TRANSFER OF THE ABOVE CAPTIONED DEFENDANT IN REM, OR ANY PORTION THEREOF, ON GROUNDS THAT THE TOWN OF FREEPORT POLICE DEPARTMENT DID MAKE A SUBSTANTIAL CONTRIBUTION TO THE INVESTIGATION OF THIS OR A RELATED CRIMINAL CASE.

**BE IT FURTHER ORDERED:** THAT THE FREEPORT TOWN COUNCIL, DOES HEREBY APPROVE OF THE TRANSFER OF THE DEFENDANT IN REM, OR ANY PORTION THEREOF, TO THE TOWN OF FREEPORT, MAINE PURSUANT TO 15 MRSA SECTION 5824(3) AND SECTION 5826(6) BY VOTE ON JANUARY 7, 1997. (Councilors Soley & Campbell)

Chief Schofield explained the procedure involved in the above case. There are 5 firearms involved.

Discussion followed re: how to dispose of these firearms, etc.

ROLL CALL VOTE (7 Ayes) (0 Nays)

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ITEM #4-97 TO CONSIDER ACTION RELATIVE TO AN EXPENDITURE OF FUNDS FROM THE FISCAL YEAR 1997 MISCELLANEOUS AND CONTINGENCY ACCOUNT TO PROVIDE FOR CABLE T.V. FRANCHISE CONSULTANT FEES.

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**COUNCIL MEETING #1-97  
JANUARY 7, 1997**

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John Arsenault explained the shortages, a consultant fee unpaid bill of \$1,342.00 and an estimated \$1,200 for a total request of \$4,000. The \$1,200 may not have to be expended.

**BE IT ORDERED: THAT \$4,000 BE EXPENDED FROM THE FY '97 MISCELLANEOUS AND CONTINGENCY ACCOUNT TO PROVIDE FOR CABLE T.V. FRANCHISE CONSULTANT FEES. (Councilors Bishop & Campbell)**

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Discussion followed re: the need for \$4,000, what monies were left over from last year's budget, reasons for overruns in this year's budget, need for more information, future meeting schedule to review the process, need for consultants in negotiations with FrontierVision, etc.

**MOVED AND SECONDED: TO AMEND ITEM #4-97 TO ADD UP TO \$2,900. (Councilors Soule & Soley) (7 Ayes) (0 Nays)**

**ROLL CALL VOTE ITEM #4-97 AS AMENDED (7 Ayes) (0 Nays)**

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**ITEM #255-96 TABLED DECEMBER 17, 1996**

TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE FREEPORT ZONING ORDINANCE CONCERNING THE U.S. ROUTE #1 SOUTH COMMERCIAL DISTRICTS (CHAPTER 21).

**BE IT ORDERED: THAT THE PROPOSED AMENDMENTS TO THE FREEPORT ZONING ORDINANCE, AS SUBMITTED TO PUBLIC HEARING ON DECEMBER 17, 1996, BE APPROVED.**

**MOTION: TO AMEND ITEM #255-96 AS OUTLINED IN THE DECEMBER 30, 1996 MEMO FROM THE TOWN PLANNER. ROLL CALL VOTE (Councilors Mann & Campbell) (6 Ayes) (1 Abstain-Mann)**

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**ITEM #256-96 TABLED DECEMBER 17, 1996**

TO CONSIDER ACTION RELATIVE TO A PROPOSED AMENDMENT TO THE FREEPORT ZONING MAP REZONING A SECTION OF TAX MAP 24, LOT 79 FROM RP-I TO RR-I.

---

**BE IT ORDERED: THAT THE PROPOSED AMENDMENT TO THE FREEPORT ZONING MAP, AS SUBMITTED TO PUBLIC HEARING ON DECEMBER 17, 1996, BE APPROVED. ROLL CALL VOTE (Councilors Soule & Campbell) (7 Ayes) (0 Nays)**

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**ITEM #257-96 TABLED DECEMBER 17, 1996**

TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE GENERAL ASSISTANCE ORDINANCE TO BRING THE ORDINANCE INTO COMPLIANCE WITH STATE GUIDELINES (CHAPTER 48).

---

**BE IT ORDERED: THAT THE PROPOSED AMENDMENT TO THE GENERAL ASSISTANCE ORDINANCE. AS SUBMITTED TO PUBLIC HEARING ON**

**COUNCIL MEETING #1-97  
JANUARY 7, 1997**

**DECEMBER 17, 1996, BE APPROVED. ROLL CALL VOTE (Councilors Campbell & Soule) (7 Ayes) (0 Nays)**

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**ITEM #258-96 TABLED DECEMBER 17, 1996**

**TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE VEHICLE TOWING ORDINANCE CONCERNING RATES FOR SERVICES AND VEHICLE INSPECTION (CHAPTER 49).**

---

**BE IT ORDERED: THAT THE PROPOSED AMENDMENTS TO THE VEHICLE TOWING ORDINANCE, AS SUBMITTED TO PUBLIC HEARING ON DECEMBER 17, 1996, BE APPROVED. ROLL CALL VOTE (Councilors Hindley & Campbell) (7 Ayes) (0 Nays)**

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**ITEM #259-96 TABLED DECEMBER 17, 1996**

**TO CONSIDER ACTION RELATIVE TO THE PROPOSED ABANDONMENT OF HIGH STREET.**

---

**BE IT ORDERED: THAT THE PROPOSED ABANDONMENT OF HIGH STREET, AS SUBMITTED TO PUBLIC HEARING ON DECEMBER 17, 1996, BE APPROVED. (Councilors Soley & Campbell)**

Discussion followed re: abutters being notified about this item, description of the easement of the apartments there, etc.

**MOVED AND SECONDED: TO TABLE ITEM #259-96 TO THE NEXT REGULARLY SCHEDULED COUNCIL MEETING. (Councilors Mann & Soule) (4 Ayes) (3 Nays-Bishop, Soley, Campbell)**

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**ITEM #260-96 TABLED DECEMBER 17, 1996**

**TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE WINSLOW PARK ORDINANCE CONCERNING RATES FOR HARB COTTAGE (CHAPTER 34).**

---

**BE IT ORDERED: THAT THE PROPOSED AMENDMENTS TO THE WINSLOW PARK ORDINANCE, AS SUBMITTED TO PUBLIC HEARING ON DECEMBER 17, 1996, BE APPROVED. ROLL CALL VOTE (Councilors Mann & Bishop) (7 Ayes) (0 Nays)**

---

**OTHER BUSINESS:**

1. DISCUSSION OF RETENTION OF MILLER & VAN EATON TO REPRESENT THE TOWN OF FREEPORT IN CABLE T.V. FRANCHISE NEGOTIATIONS.

**COUNCIL MEETING #1-97  
JANUARY 7, 1997**

Councilor Mann referenced the letter received by Manager Olmstead from Mr. Van Eaton, regarding legal services in connection with franchise renewal with FrontierVision.

Councilor Campbell stated he would prefer to pursue hiring Mr. Scally, a Portland attorney to handle this.

Chairperson Beaulieu stated that the Town had a contract with Van Eaton which expired 12-31-96. She agreed that it may be valuable to explore the expertise of a Portland attorney; she suggested capping the negotiations at \$5,000. She stated that if the Town does not want to use Van Eaton, we need to notify him.

Councilor Mann stated that he prefers to see what the Town's law firm can recommend. He suggested scheduling an executive session or workshop to focus on this.

John Arsenault stated that Mr. Van Eaton had been hired at a reduced rate and that he was recommended to be utilized for his expertise.

2. Chairperson Beaulieu stated that there will be a workshop with the School Board and the union negotiators. It is scheduled for January 14, 1997 at 7:00 P.M.

**MOVED AND SECONDED:** THAT THE MEETING BE ADJOURNED AT 8:22 P.M. (Councilors Campbell & Bishop) (7 Ayes) (0 Nays)

Respectfully submitted,

Pat Goodwin, Recording Secretary

# TOWN OF FREEPORT

11/29 # 1-97  
Item # 255-96  
P.H. # 36-96

Municipal Offices  
(207) 865-4743  
FAX (207) 865-0929



October 3, 1996

## MEMO

To: Freeport Town Council  
From: Freeport Planning Board  
Subject: Route One South Zoning Amendments

The Route One South Advisory Committee was appointed in September of 1995 by the Town Council to evaluate the zoning currently in effect in the C-I and C-II Districts. Its charge, according to the Comprehensive Plan, was to "review and revise the Zoning Ordinance as needed, to avoid strip development, especially in the C-I and C-II Districts". The Committee met twice a month for one year and, in August of 1996, it presented its report to the Planning Board. This report was developed through the consensus method.

The Planning Board extensively reviewed the recommendations for amendments to various sections of the Zoning Ordinance and held a public hearing on October 2, 1996. It unanimously voted to recommend to the Town Council the adoption of the attached document which is the Route One Committee's report with minor amendments. In its motion, the Planning Board added that the recommendations are consistent with the Comprehensive Plan's goal of minimizing strip development on Route One South.

The recommendations propose changes in the space standards in the C-I and C-II Districts which will permit greater diversity of building location along the roadway and also provide for landscaping in the front and side setbacks. It also encourages vehicle and pedestrian connections between parcels. Other changes in the space standards, e.g., reductions in the setbacks and impervious surface ratios, were recommended in order to permit property owners to create developments which are appropriate to the size of the parcels in this area which are now served by public water and sewer. A new Section 527, Performance Standards, describes a variety of guidelines for developments in the C-I, C-II, C-III and C-IV Districts for signage, building design, vehicular access, pedestrian access, lighting, front landscaped setback and site features (flagpoles). The Planning Board and applicants will use the guidelines during the site review process. It was agreed not to extend the Design Review District to the C-I and C-II Districts.

Mr. Chairman, members of the planning board, members of the public both here and at home. We are pleased to bring forward the final report of the Route One South Advisory Committee for your review. Our Committee was formed in September 1995 per the dictate of the Comprehensive Plan. We have met semi-monthly since that date. The committee consists of:

Leon Arsenault	resident of the C-II District
Kenn Guimond	developer in the C-II District
Ken Gardiner	property owner in the C-II District
Genie Beaulieu	representing the Town Council
George Fraser	chair, representing the Planning Board

Staff	Ms. Jacki Cohen, AICP
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In addition to the above members we drew heavily on the expertise of various members of the community such as land owners, Mr. Barry Saxe of the Design Review Board, sign makers, and existing ordinances of surrounding towns.

I would like to stress that this document was forged through the use of the consensus method. Much deliberation went into even the smallest detail. We began in September with general discussions of the history of this area. We drew upon maps and aerial views of the area and a survey of the size and shape of existing lots and usage. It was not until all members had a firm grasp of the history of the area and the present uses of the area that we proceeded to deliberation on the future of the area. The availability of town sewer and water to service the area was probably the major catalyst for new thinking. I believe the document which you see before you is the result of carefully thought out strategies and is the consensus of the committee.

We were charged with avoiding "Strip Development" in these Districts. Although there is no strict definition of strip development..the members felt that we "knew it when we saw it" and that perhaps the two most prominent features were:

1. Lack of diversity
2. Long unbroken visages

With this in mind we sought to eliminate these, not through the dictates of ordinance, but rather through an ordinance that allowed for diversity of development and would encourage inventive solutions in an area that by its very nature could result in those things which we wished to avoid.

We further determined that mere numbers do not create a clear template of the expectations of the Town and its citizens for the development of commercial districts. It was the consensus of the committee that the creation of an additional design review district was not in the best interests of this area, but rather the creation of a set of performance standards to act as a template for developers and our various review boards.

Members of the Planning Board, in particular, will recognize many of these performance standards which it has followed over many years. We felt the inclusion of these standards would provide a flexible yet clear annunciation of our goals and objectives for all to follow.

Approved Jan. 7, 1997  
Meeting # 1-97; item #255-96  
P.H. - Mtg #36-96 (12-17-96)

*Adopted w/attached amendment*  
**DRAFT AMENDMENT** *rewording*

## CHAPTER 21 FREEPORT ZONING ORDINANCE

### Section 409. Commercial District I "C-I"

#### A. Purpose:

It is the intent of this District to provide for suitable locations for commercial uses which are appropriately situated at highway locations and to encourage an attractive entrance to the Town of Freeport. This District comprises land primarily between I-95 and U.S. 1 and is the major local connector between Yarmouth and Freeport. Because of the narrowness of the District, sizes, setbacks and road frontage requirements are smaller than the requirements of the C-II District. The purpose of landscaping requirements and limitation on outdoor storage, is to encourage an attractive entrance to the Town.

#### B. Permitted Uses

1. Single Family Dwelling
2. Two Family Dwelling
- 3.2. Peddler on Private Property subject to requirements of Section 526

The following uses are subject to site review regardless of size.

4. ~~3.~~ Construction Services
5. ~~4.~~ Auto Repair Service Garage
6. ~~5.~~ Auto Service Station
7. ~~6.~~ Retail Trade
8. ~~7.~~ Commercial Sales and Service - Outdoor
9. ~~8.~~ Business and Professional Offices
10. ~~9.~~ Commercial Recreation - Indoor
11. ~~10.~~ Public Utilities
12. ~~11.~~ Convenience Store with Gas Pumps
13. ~~12.~~ Restaurant
14. ~~13.~~ Restaurant - Drive-Up
15. ~~14.~~ Restaurant - Carry-Out
16. ~~15.~~ Bed and Breakfast Inn
17. ~~16.~~ Commercial Recreation - Outdoor
18. ~~17.~~ Hotel/Motel
19. Boatyard
20. Public Assembly - Indoor
21. Parking Facility
22. Commercial Sales and Service
23. Manufacturing and Processing
24. Day Care Center Facilities



C. Space Standards:

1. Minimum lot size: 1 acre
2. Maximum building height: 35 feet
3. Minimum Road Frontage: 300 feet
4. Maximum impervious surface to lot area: 70%
5. Minimum setback - front: 15 60 feet  
side: 15 60 feet  
rear: 15 60 feet
- ~~6. Maximum building size per minimum lot.~~

~~one story: 12,000 sq. ft.~~  
~~two story: 10,000 sq. ft.~~

D. Other Standards:

1. Outdoor storage for non-residential uses is prohibited in the front setback.
2. In the front setback, in a strip extending along the entire frontage of Route One, except for driveways ~~accessways~~, for a depth of 15 feet, landscaping is required. ~~Parking is permitted in the remainder of the front setback. Landscaping is also required in all side setbacks for a depth of 15 feet.~~ Accessways, walkways, pedestrian and vehicle connectors between parking lots on abutting lots and common driveways for abutting lots are permitted in the side landscaped setbacks only.
3. Outdoor storage areas shall be fenced.
4. If existing or proposed parking spaces are eliminated due to the creation of parking lot connectors and/or common driveways for abutting lots, the property shall be credited for each lost space so that no net loss of parking spaces shall occur.
5. The Performance Standards of Section 527 shall be considered.

Section 410. Commercial District II - "C-II"

A. Purpose:

It is the intent of this District to provide suitable locations for larger scale commercial and industrial uses which require highway locations. The purpose of the large lot sizes ~~setbacks~~ and frontage requirements is to limit the number of access points along U.S. 1, to encourage the development of local streets ~~or service roads~~ which may serve several developments, and to create a less dense development pattern. The goal is to encourage an orderly and safe traffic flow along a two-way U.S. 1 and an attractive site plan enhanced by landscaping. ~~and restrictions on the locations of parking.~~

**B. Permitted Uses:**

1. Timber Harvesting
2. General Agriculture
3. ~~One Single Family Dwelling per lot of Record as of October 6, 1981.~~
4. Two Family Dwelling.
- 5 ~~4~~. Peddler on Private Property subject to the requirements of Section 526.

The following uses are subject to site review regardless of size:

- ~~6~~ ~~5~~. Commercial Sales and Service - Outdoor
- ~~7~~ ~~6~~. Warehouse and Storage Facility
- ~~8~~ ~~7~~. Construction Services
- ~~9~~ ~~8~~. Flea Market
- ~~10~~ ~~9~~. Motel/Hotel
- ~~11~~ ~~10~~. Auto Service Station
- ~~12~~ ~~11~~. Auto Repair Service Garage
- ~~13~~ ~~12~~. Retail Trade
- ~~14~~ ~~13~~. Commercial Sales and Services
- ~~15~~ ~~14~~. Business and Professional Offices
- ~~16~~ ~~15~~. Commercial Recreation - Outdoor
- ~~17~~ ~~16~~. Commercial Recreation - Indoor
- ~~18~~ ~~17~~. Public Assembly - Indoor
- ~~19~~ ~~18~~. Restaurant
- ~~20~~ ~~19~~. Restaurant - Drive-Up
- ~~21~~ ~~20~~. Restaurant - Carry-Out
- ~~22~~ ~~21~~. Public Utilities
- ~~23~~ ~~22~~. Boatyard
- ~~24~~ ~~23~~. Convenience Store with Gas Pumps
- ~~25~~ ~~24~~. Manufacturing and Processing
- ~~26~~ ~~25~~. Truck Facilities
27. Private Assembly
28. Day Care Center Facilities

**C. Space Standards**

1. Minimum lot size: 3 acres
2. Maximum building height: 35 feet
3. Maximum impervious surface to lot area: ~~50%~~ 70%
4. Minimum road frontage:
  - U.S. Route 1: 300 ~~500~~ feet
  - ~~Service Road or Minor~~ Street: 200 feet

5. Minimum setbacks:

U.S. Route 1 & So.

Freeport Rd.

front: 35 100-feet

side: 50-feet

On a lot with two side lot lines, the total combined minimum width of both side setbacks shall be 75' and the minimum side setback from one of the side lot lines shall be 25'. If a parcel has only one side lot line, the minimum side setback shall be 35'.

rear: 25 50 feet

~~Service Road or Minor~~

Street:

front: 25 50 feet

side: 25 50 feet

rear: 25 50 feet

~~6. Service Road:~~

~~Setback from U.S. 1: 30-feet~~

D. Other Standards:

1. Buffer strips as required by Article V, Section 506 shall be at least one hundred (100) feet in depth and shall consist of natural growth and landscaping.
2. Outdoor storage is prohibited in the setback from U.S. 1.
3. In the front setback, in a strip extending along the entire frontage of U.S.1, except for driveways, accessways, for a depth of 15 55 feet, landscaping is required. Parking is permitted in the remainder of the front setback. The first fifteen (15) feet of the side setbacks shall be left in a natural state or landscaped. <sup>ONLY</sup> Accessways, walkways, pedestrian and vehicle connectors between parking lots on abutting lots and common driveways for abutting lots are permitted in the side setback <sup>only.</sup>
4. ~~Outdoor storage areas shall be fenced.~~ Outdoor storage areas shall be surrounded by either a vegetative screen or fencing, depending on whether the purpose of the fencing is visual or safety.

The Planning Board shall determine the appropriateness of the screen or fencing.

~~5. Commercial access from South Freeport Road is prohibited except for uses on lots of record as of May 6, 1986.~~

5. If existing or proposed parking spaces are eliminated due to the creation of parking lot connectors and/or common driveways for abutting lots, the property shall be credited for each lost space so that no net loss of parking spaces shall occur.

~~6. Setback variances from U.S. Route 1 are prohibited. Setback variances may be granted along South Freeport Road only to allow additional development which is no closer to South Freeport Road than existing non-conforming buildings on the same lot.~~

~~7. If a service road or minor street is used, there shall be a minimum road frontage of 300 feet on U.S. 1.~~

~~8. No lot of record, existing on May 6, 1986, that has frontage on the South Freeport Road, may be combined with or accessed from any lots having frontage on U.S. Route 1 even if such lots are in common ownership.~~

6. The Performance Standards of Section 527 shall be considered.

Section 411. Commercial District III - "C-III"

D.5. The Performance Standards of Section 527 shall be considered.

Section 412. Commercial District IV - "C-IV"

E.3. The Performance Standards of Section 527 shall be considered.

## ARTICLE V PERFORMANCE STANDARDS

### Section 527 Performance Standards for Commercial Districts (C-I, C-II, C-III, C-IV)

The purpose of this section is to encourage a pattern of development along major roadways which minimizes the appearance of strip development and supports the following goals:

- create harmonious and attractive signage;
- encourage the development of architecturally well designed buildings;
- provide for a safe flow of vehicular traffic;
- encourage connectors between parcels for vehicles and pedestrians;
- encourage pedestrian activity along the corridor;
- minimize sky glow from lighting and
- create attractive settings for developments through the use of extensive plantings in the setbacks.

The following performance standards are guidelines for both the applicant and the Planning Board to use to evaluate the specific plans for a site. The guidelines are mainly general in nature to encourage creative solutions related to the unique characteristics of individual sites.

#### A. Signage

1. Placement, materials, shape, size, colors and style of the sign(s) should complement the building and nearby properties.
2. The amount and size of the information on the sign should be consistent with the ability of the viewer to comprehend it.
3. Framing/supports should be in proportion to, and compatible with, the size of the sign and the size of the building.
4. One free standing sign per lot is preferred.
5. Lighting of interior illuminated signs should not create sky glow.
6. Dark background colors and light letter colors are preferred for interior illuminated signs.
7. Free standing signs should not be located in the side setback of lots.

8. One building sign per building side is preferred.
9. For multi tenant signage, the review process may be streamlined if, at the original time of approval, minimum and maximum sign size and placement and a design plan are established. Subsequently, each tenant may choose the lettering. When tenants change, administrative approval can be obtained unless the sign changes are more significant than the name change.
10. The establishment of integrated sign systems for multi-tenant developments is encouraged.
11. Gooseneck lights on signs are preferable to ground lights. Ground lights are discouraged.

#### B. Building Design

In addition to the criteria and standards included in Section 602.F.1.b. of the Freeport Zoning Ordinance regarding the relation of proposed buildings to the environment, the following guidelines are recommended:

1. Architectural details on the front and side edges of pitched or flat roofed buildings are encouraged.
2. Long, monotonous facade designs including, but not limited to, those characterized by the unrelieved repetition of shape or form or by the unbroken extension of line for any building, are discouraged. Wall plane projections, recesses, windows, roof elevation variations and design features such as mouldings can break up the visual expanse of a building facing Route One and I-95.
3. Efforts should be made to vary the setback of the building on a parcel from the setbacks of adjacent buildings to avoid a monotonous, visual building line along Route One. In situations where this is not possible, landscaping, parking lot design and building design are some of the site features which can be utilized to minimize the uniformity of setback line.
4. The appearance of natural exterior building materials (such as, but not limited to, wood, brick and stone) is encouraged.

#### C. Vehicular Access

1. Curb cuts on Route One should be limited, where possible, to one per lot.
2. Sharing of common driveways is encouraged, especially for access to abutting lots which are nonconforming in area and/or frontage.

3. Where possible, access from a side street is preferable to access from Route One.
4. A minimum of the first 50 feet of any driveway off Route One should be paved.
5. Driveways between parcels to connect parking lots are encouraged.

#### D. Pedestrian Access.

1. A pedestrian access connecting abutting parcels should be constructed on each parcel where development is proposed. If the adjoining parcel is developed, the access should be designed to relate to existing facilities on the abutting lot. Materials might be asphalt, stone dust or wood, as examples. If the abutting lot is not developed, the plan should contain a statement that says the access will be created when the abutting lot is developed.
2. A minimum five (5) foot width is recommended.
3. Pedestrian accesses are encouraged to provide a continuous connection between all parcels.

#### E. Lighting.

1. Light poles should be a maximum of 20 feet high measured from ground grade level to the highest point of the fixture.
2. Lighting should be directed downward to minimize or eliminate "sky glow".
3. Illumination levels on the property should be the minimum needed to provide safe conditions, as defined by the Illuminating Engineering Society of North America (IESNA).
4. Light shields should be used to minimize light from spilling onto adjoining properties, especially residential properties.

#### F. Front landscaped setback.

The purpose of the landscaped setback is to soften the appearance of structures and parking lots from the road and to screen vehicular headlight glare on and off site.

1. If drainage basins and swales are located in the setback, they should be landscaped with trees and shrubs and the edge of the basin should be graded, if possible, to create height variations (a berm effect). If landscaping and berming will eliminate the retention/detention function of the basin, the basin should be relocated outside of the setback or the size of the setback should be increased to accommodate the basin and the landscaped strip.
2. Preservation of existing mature trees and planting or preservation of masses of shrubs in the setback are encouraged.
3. Landscaping should include planting of new trees and shrubs if none presently exist.
4. Loaming and seeding may be a part of the landscaping plan but should not be the only element of the plan.
5. Fencing may be incorporated into the landscaping plan, at the interior edge of the front landscaped setback, especially to screen vehicular lights from the roadway.
6. A line of 3 1/2" caliper trees at least 10' high should be planted 30' on center within 4' of the street right-of-way.

G. Site Features.

1. In general, no more than one flagpole should be located on a parcel.
2. The height of the flagpole shall be in proportion to the height of the building. The dimensions of the flag shall be in proportion to the dimensions of the flagpole
3. Flagpoles should not be located in the front setback.



# TOWN OF FREEPORT

*Item # 255-96*

Municipal Offices  
(207) 865-4743  
FAX (207) 865-0929



**TO:** Freeport Town Council  
**FROM:** Jacki Cohen  
**SUBJECT:** AMENDMENT TO C-I & C-II  
DRAFT ZONING AMENDMENTS  
**DATE:** December 30, 1996

The word "only" in Section 409.D.2. and in Section 410.D.3. should be relocated from the end of the following sentence to the beginning of the sentence. This revision will clarify that only these features may be located in the landscaped side setback.

C-I  
Section 409.D. Other Standards.

2. In the front setback, in a strip extending along the entire frontage of Route One, except for driveways, accessways, for a depth of 15 feet, landscaping is required. Parking is permitted in the remainder of the front setback. Landscaping is also required in all side setbacks for a depth of 15 feet. Only accessways, walkways, pedestrian and vehicle connectors between parking lots on abutting lots and common driveways for abutting lots are permitted in the side landscaped setbacks only.

C-II  
Section 410.D. Other Standards.

3. In the front setback, in a strip extending along the entire frontage of U.S. 1, except for driveways, accessways, for a depth of 15 to 55 feet, landscaping is required. Parking is permitted in the remainder of the front setback. The first fifteen (15) feet of the side setbacks shall be left in a natural state or landscaped. Only accessways, walkways, pedestrian and vehicle connectors between parking lots on abutting lots and common driveways for abutting lots are permitted in the side setback only.

# TOWN OF FREEPORT

*Approved Jan. 7, 1997  
meeting #1-97; item #236-90  
P.H. - mtg #36-90 (12-17-90)*

Municipal Offices  
(207) 865-4743  
FAX (207) 865-0929



**TO:** Freeport Town Council  
**FROM:** Freeport Planning Board  
**SUBJECT:** Zoning Amendment  
**DATE:** November 8, 1996

On November 6, 1996, the Planning Board held a public hearing on a request by Joan and Scott Samuelson to rezone part of their property on Lower Flying Point Road from RP-I to RR-I. The Board voted unanimously in favor of the following motion:

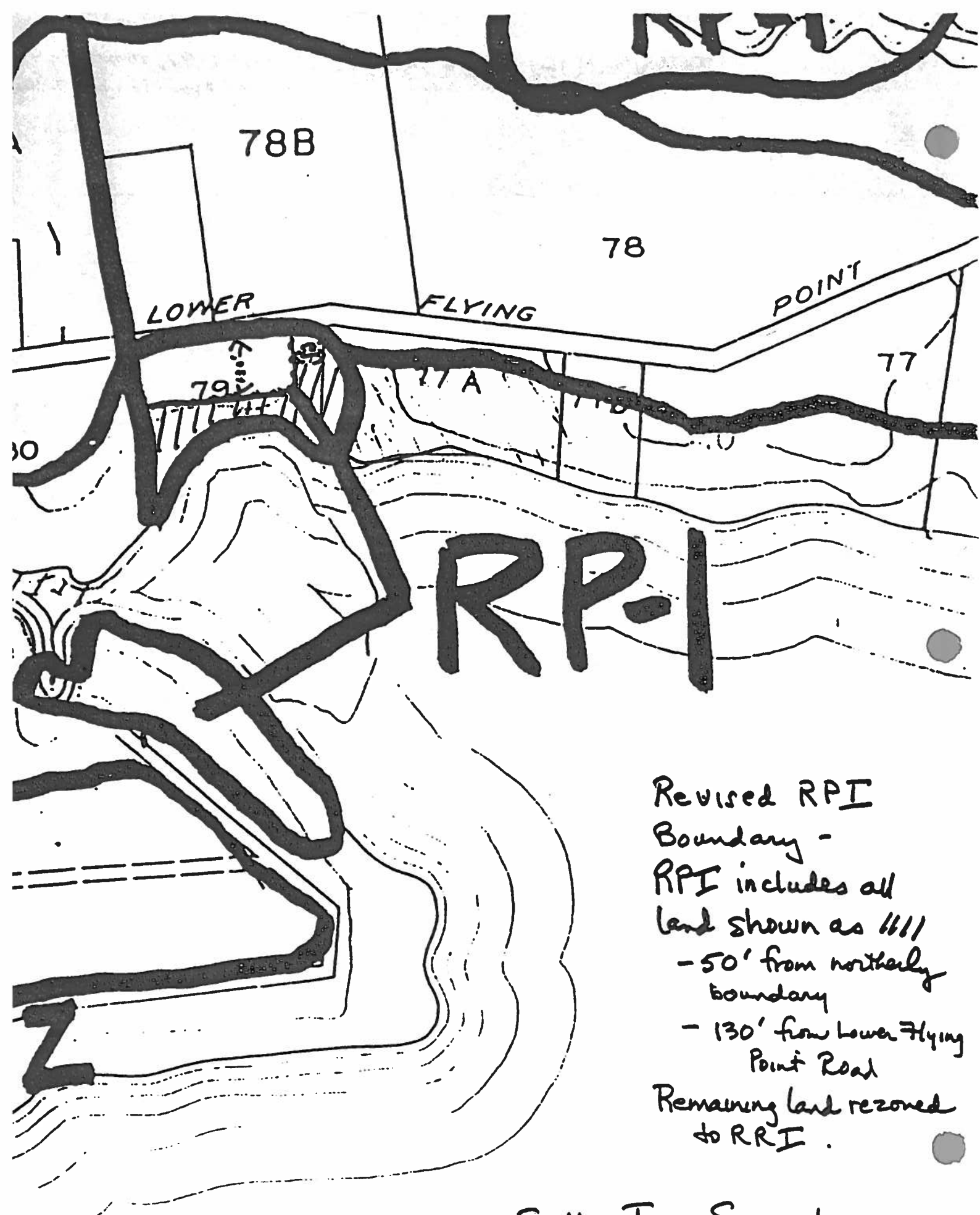
"Be it ordered to recommend to the Town Council that a section of Map 24, Lot 70 on Flying Point Road be rezoned from RP-I to RR-I for the following reasons:

The purpose of the RP-I zone is to protect the stream and the steep banks on either side. The proposed, reduced, RP-I is the only area needed to be zoned as such in order to accomplish this purpose. This proposed map amendment is consistent with the Comprehensive Plan goal #1 under "Natural Resources" which states, "Improve the identification and evaluation of resources in order to determine their relative significance and need for protection measures".

The area to be rezoned is now developed with a house, garage and barn and landscaped area. The Samuelsons wish to expand their accessory buildings and perhaps move one to a different location within this area.

The Planning Board has spent a considerable amount of time analyzing this Zoning Map amendment request. We conducted a site walk to view the location of the banks, the stream and the property boundaries. Abutters were notified of all meetings and none have voiced any objection to this amendment.

JC:jmm



Revised RPI  
Boundary -  
RPI includes all  
land shown as ////  
- 50' from northerly  
boundary  
- 130' from Lower Flying  
Point Road  
Remaining land rezoned  
to RPI .

Scott + Joan Samuelson  
Map 24, Lot 79

Approved Jan. 7, 1997  
meeting # 1-97; item # 257-96  
P.H. - mtg. # 36-96 (12-17-96)

## General Assistance Ordinance

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

Signed the \_\_\_\_\_ day of

\_\_\_\_\_, \_\_\_\_\_  
month year

by the municipal officers:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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## ARTICLE I

### Statement of Policy

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

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

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

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

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

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

## 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 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, nonelective



medical services as recommended by a physician, nonprescription drugs, telephone where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or service determined essential by the municipality. "Basic necessities" do not include security deposits for rental property, except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full. (22 M.R.S.A. § 4301.1).

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

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

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

**Deficit.** An applicant's deficit is the appropriate overall maximum level of assistance for the household as provided in Section 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.

**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 from the municipality according to the standards of eligibility set forth in this ordinance. (22 M.R.S.A. § 4301.3).

**Emergency.** Any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person. (22 M.R.S.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 income of household members not legally liable or otherwise responsible for support-

New Definition

ing the household 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, any payments received as an annuity, retirement or disability benefits, veterans' pensions, workers' compensation, unemployment benefits, benefits under any state or federal categorical assistance program, supplemental security income, social security and any other payments from governmental sources unless specifically prohibited by any law or regulation, court ordered support payments, income from pension or trust funds, and household income from any other source, including relatives or unrelated household members.

The following items shall not be considered as income or assets which 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)

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

**Lump sum payment.** "Lump sum payment" means a one-time or typically nonrecurring sum of money issued to an applicant or recipient after an initial application. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a nonliquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. The term "conversion of a non-liquid resource to a liquid resource" refers, in general, to a settlement of an insurance claim filed as a result of damaged or destroyed property. (22 M.R.S.A. § 4301.8-A).

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

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

**Misconduct.** "Misconduct" means conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violations or disregard of standards of behavior which the employer has a right to expect of his employee, or in carelessness or negligence of such degree

New Definition

or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his or her employer. (26 M.R.S.A. § 1043(23)).

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

**Municipality of responsibility.** The municipality which is liable for the support of an eligible person at the time of application. (22 M.R.S.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.

**Resident.** A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (see section 4.10). (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 which 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/AFDC programs, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for which the applicant

does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). Available resources also include the services, commodities or facilities made available by private organizations when 1) the applicant voluntarily agrees to utilize such services, 2) the municipality has established a contractual relationship with the private organization to provide services or commodities when requested, 3) the municipality is able to secure the services or commodities needed by an applicant from the private organization for any consideration acceptable to both the organization and the municipality, or 4) the service is available and offered at no cost to the applicant and deemed necessary by a physician, psychologist or other professional retraining or rehabilitation specialist. Charities may be considered private organizations which are available resources only if the charity places no unreasonable requirements on the applicant which are violative of the applicant's fundamental rights. *Fjeld v. Lewiston*, Andro. Sup. Ct. CV 87-4; *Bolduc v. Lewiston*, Andro. Sup. Ct. CV 87-248).

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

**Unmet Need.** An applicant's unmet need is the household's 30-day need as established by Section 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 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 disqualification when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

New Definition

New Definition

New Definition

## 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, *Janak v. D.H.S.*, Aroostook Cty #CV-89-116).

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

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

Any representative of a financial institution (except national banks) or any employer of a general assistance applicant who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully makes a false representation of a material fact to the administrator is committing a Class E crime (22 M.R.S.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 for each applicant or recipient. Each case record will include at least the household's applications, budget sheets, information concerning the types and amounts of assistance provided, narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's mathematical eligibility (i.e., deficit or unmet need, whichever is less), written decisions, and any requests for fair hearings and the fair hearing authority decisions. Workfare participation will also be recorded, as will any cash repayments to the municipality. The record may also include any narrative writings documenting the need for general assistance, the results of home visits, collateral information, referrals, changes in status, the reason(s) for the release of confidential information, adjustments in aid, and suspension or termination of eligibility. Case records will not include information or material that is irrelevant to an applicant's or recipient's application or the administrator's decisions.

## 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)). 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.

**Application via telephone.** When a person has an emergency but is unable to apply in person due to illness, disability, lack of child care, lack of transportation or other good cause, and he/she cannot send an authorized representative, the administrator will accept an application by telephone. The telephone application process will include the administrator receiving written verification by mail or visiting the applicant's home with his/her permission (22 M.R.S.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 Department of Human Services' toll free telephone numbers for reporting alleged violations or complaints. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator. In an emergency, however, the administrator will be available to accept applications for assistance whenever necessary (22 M.R.S.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 information:

- a) applicant's name, address, date of birth, Social Security number, and phone number;
- b) names, date(s) of birth, and Social Security number(s) of other household members for whom the applicant is seeking assistance;
- c) total number of individuals in the building or apartment where the applicant is residing;
- d) employment and employability information;
- e) all household income, resources, assets, and property;
- f) household expenses;
- g) types of assistance being requested;
- h) penalty for false representation;
- i) applicant's permission to verify information;
- j) signature of applicant and date.

#### **Section 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 reimbursement obligations.

**Application requirements.** The administrator will help the applicant fill out the application form as described in the preceding section. The admin-

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 the applicant of the eligibility requirements of the program, including

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

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

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

**Reimbursement/Recovery.** The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for the applicant's support (spouses, parents of persons under the age of 25, see Article VII, Recovery of Expenses). 22 M.R.S.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 information and verifiable documentation concerning his or her income, resources, assets, household employment, how the applicant has spent his or her income, the names and addresses of any relatives legally liable for the applicant's support, and any change in this information from a previous application that would affect his or her eligibility (22 M.R.S.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/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 Department of Human Services if he/she believes the municipality has acted illegally. (22 M.R.S.A. § 4321).

#### Section 4.7 Withdrawal of an application

An application is considered withdrawn if:

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

#### Section 4.8 Temporary refusal to accept application

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

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

b) when a third person applies for assistance on behalf of the applicant. That person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S.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 will be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency. 22 M.R.S.A. § 4308.

**Disqualification.** A person who is currently disqualified from receiving



General Assistance due to a violation of sections 5.5, 5.6, 5.7, or 6.4 of this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. § 4308.2(A)). Dependents of a disqualified person may be eligible for assistance. For the purposes of this section, "dependents" are defined as: 1) a dependent minor child; 2) an elderly, ill or disabled person; or 3) a person whose presence is required to provide care for any child under the age of 6 years or any ill or disabled member of the household (22 M.R.S.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 as though the household is comprised of the dependents only, except that all household income will be considered available to them.

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

a) after interviewing the applicant the administrator has determined that the applicant will probably be eligible for assistance after a verification of information is completed; and

b) the applicant submits documentation when possible, to verify his/her need.

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

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

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

Limitation on emergency assistance. Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace that money. Applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

a) The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.

b) The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his or her basic necessities for the applicable time period, including evidence of all income and resources received over that period of time.

c) The administrator shall calculate all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic

necessities 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 first time applicants; that is, persons who have never before applied for general assistance.

g) Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

#### 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/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. 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 (see above) if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging. [Note: municipalities which illegally deny housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for up to 6 months and may be subject to other penalties. (22 M.R.S.A. 4307.4).]

**Disputes.** When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility the administrator will notify the Department of Human Services in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his/her eligibility and, if eligible, will grant assistance until the Department has concluded which

municipality is responsible for providing assistance. If another municipality was responsible, the Department will recover the amount due from the other municipality. (22 M.R.S.A. §§ 4307.5, 4307.6).

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## ARTICLE V

### Eligibility factors

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

#### Section 5.1 Initial application

**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. § 4316-A(1-A), see section 5.5)). 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 pro-rated 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)). Also, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income or a resource; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs. (42 U.S.C. § 8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under *Types of Income* at section 6.6 of this ordinance.

Applicants or recipients must apply for other program benefits within 7 days after being advised in writing to do so by the general assistance administrator. Persons who, without just cause, make no good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. § 4317).

#### Section 5.3 Personal property

a) **Liquid assets.** No person owning assets easily convertible into cash, including but not limited to, bank deposits, stocks, bonds, certificates of

deposit and other marketable security, will be eligible for general assistance unless and until he or she uses these assets to meet his/her basic needs, and thereby exhausts them.

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

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

c) **Automobile ownership.** Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment, medical care, rehabilitation or training facilities, or if it is essential to the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than \$5000 may be required, with written, 30-day notice, to make a good faith effort to trade that automobile in to a reputable automobile dealer for an automobile with a market value of less than \$5000. Any income received by the applicant by virtue of such a trade down must be used for his/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 expenses any car payment for which the applicant is responsible. General assistance for travel-related needs shall be computed in accordance with section 6.8(f)(6 and 7) *Travel/work related 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 be considered as a tangible asset when an applicant has received assistance for 4 weeks or more after an application for assistance.

e) **Transfer of property.** Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will issue. There will be a presumption that the applicant transferred his/her assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of an arms-length transaction.

#### **Section 5.4 Ownership of real estate**

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

- a) dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or
- b) obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to 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 (22 M.R.S.A. § 4320, see also section 6.8).

### 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 will be required to accept any suitable job offer or opportunity for rehabilitative services, except as provided below (see *Exemptions*). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

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

**Verification.** Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers. For the duration of any repeat applicant's period of unemployment or partial employment, the administrator will establish the number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements. The 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.

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

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

**Disqualification for job quit or discharge for misconduct.** No applicant, whether an initial or repeat applicant, who has quit his or her full-time or part-time job without just cause or who has been discharged from employment for misconduct will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment (22 M.R.S.A. §§ 4301.8, 4316-A (1-A)).

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**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;

g) any reason found to be good cause by the Maine Department of Labor, or any other verifiable reason which 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 as though the household is composed of the dependents only, except that all household income will be considered as available to them.

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

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

operated under the control of the Department of Human Services or Department of Labor.

### Section 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.

**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. (Note: The federal minimum wage is \$4.75/hour as of October 1, 1996, and shall be increased to \$5.15/hour on September 1, 1997.)

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 operated under the control of the Department of Human Services or the Department of Labor.

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

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

If the administrator requires a doctor's statement to verify an applicant's illness or disability, the municipality will pay for the doctor's evaluation if the

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applicant has no means to pay for the exam, however in such a case the administrator will choose the doctor. The administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. § 4316.5).

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) In addition to any disqualification penalty that may apply, the consequences of refusing to perform or completely failing to perform the workfare assignment, without just cause, or performing the entire workfare assignment below the average standards that job without just cause, will be the termination of the entire general assistance grant. Notice of the grant termination will be provided the workfare participant in accordance with section 6.9 of this ordinance.

5) If some of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In



addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with section 6.9 of this ordinance.

6) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just cause reasons shall be reassigned.

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

**Disqualification.** Any person who willfully fails to perform or willfully performs below average standards the work assigned by the municipality, without just cause, will be ineligible for assistance for 120 days. (22 M.R.S.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 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 Sec. 5.5, *Dependents*).

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause, failed to perform, the disqualified recipient will be given an opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible. If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency, but the provision of such emergency assistance will not bar the administrator from subsequently enforcing the 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

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

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

Any recipient who intentionally causes damage to property or harms other employees by his/her actions and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

**Reports.** The administrator will itemize the assistance that has been

provided to persons who work for the municipality in reports to the Department of Human Services (22 M.R.S.A. § 4316-A.2).

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### Section 5.7 Use of resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource which may reduce his/her need for general assistance (see definition of Resources). 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 Department of Human Services determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or

6) the Department of Human Services determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility. (22 M.R.S.A. § 4309.4).

Any person under the age of 25 who is applying independently from his/her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his/her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his/her parents are financially capable of repaying the municipality. (22 M.R.S.A. § 4319). With regard to any such application, the municipality may seek verification of the applicant's need for general assistance by contacting his/her parents. If the applicant's parents declare a willingness to provide the applicant with his/her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his/her parents for basic needs, the administrator may find the applicant to be in no need for general assistance for the reason that his/her needs are being provided by a legally liable relative.

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

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

## NOTES:

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).

New Language

### Section 5.8 Period of Disqualification

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

**Work requirement.** People 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). Recipients who do not comply with the work requirement associated with their grant of assistance and are disqualified before the period covered by the grant of assistance expires shall be disqualified for 120 days following the end of the period covered by the assistance grant. People who do not comply with a work requirement and are disqualified after the period covered by the grant of assistance expires will be disqualified for 120 days from the date of the written notice of disqualification. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of disqualification.

**Fraud.** People who commit fraud are disqualified from receiving assistance for a period of 120 days. (see section 6.4, Fraud). 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. If a disqualification for fraud is issued before the expiration of a grant of assistance, the period of disqualification 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 disqualification.

## ARTICLE VI

### Determination of Eligibility

#### Section 6.1 Recognition of dignity and rights

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

#### Section 6.2 Determination; redetermination

The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance.

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

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

### Section 6.3 Verification

**Applicant's responsibility.** Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her need, income, use of income, expenses, and any changes in information previously reported on the application. The administrator will require documentation of the applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities that are reasonably obtainable. The recipient is responsible for notifying the administrator of any changes in his/her household or income that may affect his/her eligibility.

When determining an applicant's eligibility, the administrator will seek all necessary information first from the applicant. Information needed from other sources, with the exception of public records, will be gathered only with the knowledge and consent of the applicant (22 M.R.S.A. § 4309.1-B).

**Decision.** If an applicant does not have the necessary information at the time of application, the administrator will give the applicant the opportunity to provide the information prior to the expiration of the 24 hour period within which the administrator must act on the application. Except when assistance is conditionally granted pursuant to this municipality's workfare-first policy (see section 5.6), if all the necessary information has been provided and the applicant is eligible, assistance will be granted. If the applicant does not provide the required information needed within the 24 hour period, and the administrator cannot determine the applicant's eligibility, the applicant will be denied assistance for that reason (22 M.R.S.A. § 4309.1-B).

**Denial of assistance.** The administrator will not grant assistance to any applicant who refuses to supply necessary information and documentation concerning his/her needs, income and other resources, or who refuses to grant permission for the administrator to contact other persons to verify the information. If the administrator has attempted to verify the information but is unable to determine if the applicant is eligible because the applicant has refused to provide or allow the administrator to verify the necessary information, the applicant will be denied assistance until the necessary verification has been accomplished (22 M.R.S.A. § 4309.1-B).

**Right to verify.** It is the administrator's responsibility to determine and verify the eligibility of each applicant. The administrator may seek and verify information from all appropriate sources including, but not limited to: the Department of Human Services and any other department of the state having information that has a bearing on an applicant's eligibility, financial institutions, employers, landlords, physicians, and legally liable relatives. The administrator will request the applicant's written consent authorizing the administrator to receive the necessary information (22 M.R.S.A. § 4314).

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

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

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

**Period of ineligibility.** When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making himself or herself eligible for general assistance, the administrator shall notify that applicant in writing that he or she has been disqualified from receiving assistance for 120 days. For the purpose of this section, a material misrepresentation is a false statement about an eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted. The notification of disqualification issued by the administrator shall inform the applicant of his/her right to appeal the administrator's decision to the fair hearing authority 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 disqualification, whichever is later.

**Right to a fair hearing.** Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority in accordance with Article VII of this ordinance. No recipient shall have his/her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the fair hearing authority may appeal that decision to the Superior Court pursuant to Rule 80-B 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.

**Dependents.** In no event will the disqualification of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S.A. § 4309.3). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that the entire household income will be considered available to them.

#### Section 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 any application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis. For reasons of administrative efficiency, however, the administrator may elect to disburse that applicant's assistance for shorter periods of time, such as weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a 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 (see section 4.9, 22 M.R.S.A. § 4308.2).

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 listed in section 6.8 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 must document his/her use of income to the administrator. This documentation can take the form of cancelled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Any repeat applicant may be required to verify that such an expenditure of income was for basic necessities.

Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and food up to the ordinance maximums; telephone costs at the base rate if the household needs a telephone for medical reasons, the cost of nonelective medical services as

recommended by a physician which are not otherwise covered by medical entitlement or insurance; the reasonable cost of essential clothing and non-prescription drugs, and the costs of any other commodity or service determined essential by the administrator.

Cable television, cigarettes/alcohol, gifts purchased, costs of trips or vacations, court fines paid, repayments of unsecured loans, credit card debt, costs associated with pet care, etc., are not considered basic necessities and will not be included in the budget computation.

The municipality reserves the right to apply specific use-of-income requirements to any applicant, other than an initial applicant, who fails to use his/her income for basic necessities or fails to reasonably document his/her use of income (22 M.R.S.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/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.
- 4) If the applicant does not spend his/her income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.

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

## NOTES:

**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). To calculate weekly income and expenses, the administrator will divide the applicants' monthly income and expenses by 4.3.

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

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

**NOTE:** Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will not be considered available income and will be deducted (22 M.R.S.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/EPIC benefit has sufficiently credited their account or otherwise obviated an actual fuel-related cost over the prospective 30-day period. The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or EPIC as if that applicant paid for his/her total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance



with his/her utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

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

d) **Income from other sources.** Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.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/her income and his/her pro-rata share of actual household expenses.

h) **Lump sum income.** A lump sum payment as defined in this ordinance and received by a household prior to the date of application for general assistance will be considered as income available to the household, with the exception of any required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the purpose for which the lump sum payment was made) and any amount of the lump sum payment which the applicant can document was spent on basic necessities, as described below.

In the case where a lump sum payment was received by a household at any time prior to the date of application for general assistance, the administrator will assess the need for prorating an applicant's eligibility for general assistance according to the following criteria (22 M.R.S.A. § 4301.7).

- 1) Identify the date the lump sum payment was received;
- 2) subtract from the lump sum payment all required payments;
- 3) subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities provided by general assistance in reasonable conformance with the specific maximum levels of assistance, per month, provided in this ordinance; any reasonable payment of funeral or burial expenses for a family member; any

reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities (22 M.R.S.A. § 4301.7).

4) Add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance.

5) divide the sum created by subsection (4) by the aggregate maximum monthly allocation of general assistance available to the household pursuant to 22 M.R.S.A. §4305.3-B (Appendix A).

The dividend remaining after following the above guidelines represents the number of months from the receipt of the lump sum payment during which an income level equivalent to the maximum monthly allocation of general assistance for the household will be deemed available to that household. No proration of lump sum income can extend longer than 12 months from the date of application. Applicants who have been declared ineligible for reasons of lump sum proration will not be eligible for emergency general assistance during the period of proration.

#### **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 this section, an applicant's eligibility for general assistance will be first determined by subtracting his/her income from the overall maximum level of assistance designated immediately below for the applicable household size (22 M.R.S.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.

No. in Household	Weekly	Monthly
1	\$113	\$452
2	129	516
3	180	683
4	223	891
5	253	1,011
6	272	1,086
Additional persons		\$75.00

**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

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addition, as a general rule the municipality will not provide a benefit toward a basic need by paying a bill that is issued to a person not living with the applicant's household or that has otherwise been incurred by a person who has not been found eligible to receive assistance. Temporary exceptions to this general rule may be made by the administrator in the following circumstances: (1) a recent, unplanned separation has occurred in the household resulting in the sustained or permanent absence of a former household member in whose name the bill was customarily issued; (2) the applicant and members of the applicant's household were or will be the sole recipients of the commodities or services covered by any bill to be paid or partially paid with general assistance; and (3) the applicant will make a good faith effort to direct the vendor to issue future bills in the name of the applicant or other responsible person residing in the household.

a) Food. The administrator will provide food assistance to eligible persons up to the allowed maximum amounts designated by the U.S.D.A. *Thrifty Food Plan* for the appropriate household size. For this purpose, the municipality hereby incorporates by reference the U.S.D.A. *Thrifty Food Plan*, as distributed by the Maine Department of Human Services on or about October of each year. In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S.A. § 4301.7(A); 7 U.S.C. §2017(b)). The municipality will authorize vouchers to be used solely for approved food products.

The maximum amounts allowed for food are:

No. in Household	Weekly	Monthly
1	\$ 27.90	\$ 120
2	51.20	220
3	73.30	315
4	93.00	400
5	110.50	475
6	132.60	570
7	146.50	630
8	167.40	720

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

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

**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 private homes.** When applicants are living in private homes or sharing dwelling units with other people who are not requesting general assistance, the amount allowed as the applicant's shelter expense will be the applicant's prorata 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 Human Services, Division of Health Engineering, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

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

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

These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide. If after reviewing the above criteria the administrator determines that: (1) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size; (2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or reamortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and (3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property, then the administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance.

If a mortgage payment is necessary, the administrator will pay the actual amount due, up to 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/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

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realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he/she is responsible for finding alternative housing within his/her ability to pay and will be obligated to make all reasonable efforts to secure such housing.

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

If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment it must file a notice of the lien with the county registry of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage payment and all subsequent mortgage payments made on behalf of the same eligible person, plus interest and costs. Not less than 10 days prior to filing the lien in the registry, the municipal officers must send notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien on the property is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment or the imposition of interest. This notice must include the same information that appeared on the original intent-to-file notice sent to the recipient.

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

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

a) the property tax in question is for the applicant's place of residence;  
b) there is a tax lien on the property which is due to mature within 60 days of the date of application;

c) as a matter of municipal policy or practice, or on the basis of information obtained from the applicant's mortgagee, if any, it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and

d) the applicant, with sufficient notice, applies for property tax relief through the Maine Resident Property Tax Program, when available.

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

a locally developed fair market rental survey, a record of that survey will be submitted to the Department of Human Services, General Assistance Unit, and the maximum levels of housing assistance will be incorporated into this ordinance pursuant to the ordinance adoption and amendment procedures and at 22 M.R.S.A. § 4305.

## NOTES:

The maximum amounts allowed for housing are:

No. of Bedrooms	Unheated		Heated	
	Weekly	Monthly	Weekly	Monthly
0	\$ 67	\$289	\$ 75	\$323
1	87	372	97	418
2	114	490	129	554
3	143	614	162	695
4	155	668	179	768

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

### Electricity Maximums for Households Without Electric Hot Water.

The maximum amounts allowed for utilities for lights, cooking, and other electric uses, excluding electric hot water are:

No. in Household	Weekly	Monthly
1	\$14.00	\$ 60.00
2	15.70	67.50
3	17.45	75.00
4	19.20	82.50
5	21.00	90.00
6	22.70	97.50

Additional members, add \$7.50/month

Electricity Maximums for Households that use Electrically Heated Hot Water. The maximum amount allowed for electric utilities for dwelling units that have electrically heated hot water shall be \$70 per month for the first member of the household, with an additional \$10 per month for each additional household member.

No. in Household	Weekly	Monthly
1	\$16.30	\$ 70.00
2	18.60	80.00
3	21.00	90.00

This Ordinance separates maximum allowable rates for households that have electrically heated hot water and those that do not.

4	23.30	100.00
5	25.60	110.00
6	27.90	120.00

## NOTES:

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

In accordance with the following conditions, the administrator may allow as a budgetable expense the amount of an applicant's summer-loaded special payment arrangement (SPA) or budget payment arrangement (BPA), as calculated by the electric utility and entered into by the applicant, even when the arranged payment amount exceeds the above maximums or actual usage:

- 1) The SPA or BPA, when annualized, does not exceed the above monthly maximums, when annualized, for non-electrically heated dwelling units.
- 2) The SPA or BPA, when annualized, does not exceed the above monthly maximums and the fuel assistance maximums, when annualized, for electrically heated dwelling units.
- 3) The administrator determines, in consultation with the utility, that the payment arrangement does not include in any part the installment payment of past debt unless the municipality guaranteed to the utility the allowance of such an arrangement as a condition of averting a disconnection.

Pursuant to the use-of-income requirements in section 6.6 of this ordinance, whenever the administrator budgets for SPA's or BPA's under this section, the recipient will be required to pay the SPA or BPA him or herself to the extent of the income capacity of the household.

**Non-electric Utilities.** The allowed amount for water and sewer utility service will be budgeted at the actual 30-day cost for those services.

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

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in section 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.

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

month	gallons	month	gallons
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon.



When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

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

No. In Household	Weekly Amount	Monthly Amount
1-2	\$ 8.20	\$35.00
3-4	9.30	40.00
5-6	10.50	45.00
7-8	11.60	50.00

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

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with 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:

No. of Children	Weekly	Monthly
1	\$10.50	\$ 45
2	15.10	65
3	20.90	90
4	25.60	110

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 will 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/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.

These maximums were increased \$5/mo. from the previous Ordinance.



## NOTES:

Establishes municipality's intent to pay for medical services at Medicaid rate.

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

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

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

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

Before the 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/her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources.

6) Work-related expenses. In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include transportation at the actual costs not to exceed \$.28 per mile, child care costs, work clothes and supplies. The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.

7) Travel expenses. In determining need, necessary travel which is not

Paid at Medicaid rate.

work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. The rate at which such necessary travel will be budgeted is \$.28/mile, and this rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.

**8) Burials, Cremations.** Under the circumstances and in accordance with the procedures and limitations described below, the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons.

**Funeral Director must give timely notice:** In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of the next business day following the funeral director's receipt of the body, whichever is earlier (22 M.R.S.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 created 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 created by the administrator on behalf of the deceased.

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

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

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

**Consideration of the financial responsibility of family members.** Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable

## NOTES:

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 prorata 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 prorata shares less the share of any legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

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

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

**Burial expenses.** The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. The maximum amount of general assistance granted for the purpose of burial is \$1,125, with additional payments, where there is an actual cost, for: (1) the wholesale cost of a cement liner if the cemetery by-laws require one; (2) the opening and closing of the grave site; and (3) a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally-owned cemetery or in a cemetery under municipal control, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not

Proration approach is new in this Ordinance. Previously, if a legally liable relative refused to provide the requested information, the municipality would not pay any portion of the burial expenses.

New Language

New Allowance

The maximum amount for a burial has been increased from \$1,000 (1993) to \$1,125 (1996) to reflect an approximate 2.8% year inflationary increase from '93 to '96.

to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to: removal of the body from a local residence or institution; a secured death certificate or obituary; embalming; a minimum casket; a reasonable cost for necessary transportation; and other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

**Cremation expenses.** In the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator will issue general assistance for cremation services. The maximum amount of assistance granted for a cremation shall be \$785, with additional payments, where there is an actual cost, for a cremation lot in the least expensive section of the cemetery, a reasonable cost for a burial urn not to exceed \$50, and transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

**9) Capital improvements.** The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when: 1) the failure to do so would place the applicant(s) in emergency circumstances; 2) there are no other resources available to effect the capital repair; and 3) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation. In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.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), above.

#### **Section 6.9 Notice of decision**

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

In order to ensure that applicants understand their rights, it is the responsibility of the general assistance administrator to explain the applicants' right to a fair hearing 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 Department of Human Services if they believe the municipality has violated the law. The decision will state the method for notifying the department.

**Disbursement of general assistance.** Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash. (22 M.R.S.A. § 4305.6).

#### **NOTES:**

The maximum level for cremation has been increased from \$700 to \$785.

## **ARTICLE VII**

### **The Fair Hearing**

**NOTES:**

#### **Section 7.1 Right to a fair hearing**

Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his/her authorized representative has the right to request a fair hearing (22 M.R.S.A. § 4322). The right to review a decision 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 [*Carson v. Oakland*, 42 A.2d 170 (Me. 1982); *Thibodeau v. Lewiston, Andro. Sup. Ct. CV# 78-388*].

#### **Section 7.2 Method of obtaining a fair hearing**

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

**Written request.** To obtain a fair hearing, the claimant, or his/her authorized representative, must make a written request within 5 working days of receiving the administrator's decision to 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 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;
- c) present witnesses on his or her own behalf.

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

#### **Section 7.3 The fair hearing authority**

The municipal officers will appoint a fair hearing authority that will review decisions of the general assistance administrator when requested by any claimant or the claimant's authorized representative. The authority 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 hearing authority, 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 fair hearing authority must:

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

#### Section 7.4 Fair hearing procedure

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

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

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

#### Section 7.5 The fair hearing decision

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

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



d) the decision and the reasons for it.

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

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

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

**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 Department of Human Services that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.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.

NOTES:

Amendment to process of  
filing a Workers' Comp  
ensation Lump Sum Payment  
Lien.

New Language

§4319). In addition, grandchildren, children, siblings, parents and grandparents are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility. (22 M.R.S.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.

**NOTES:**



Approved Jan. 7, 1997  
meeting # 1-97; item # 258-96  
P.H. - mtg # 36-96 (12-17-96)

Adopted  
**PROPOSED**

## AMENDMENTS TO THE VEHICLE TOWING ORDINANCE

### (CHAPTER 49)

#### SECTION VII - Rates for Services

From 7:00A.M. TO 7:00P.M.	\$35.00	<u>\$40.00</u>
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From 7:00P.M. to 7:00A.M.	\$50.00	<u>\$55.00</u>
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#### Storage Fee

~~\$10.00 per day after the first 24 hours~~

Outdoor Storage: \$15.00 per day, beginning 24 hours after the vehicle is towed.

Indoor Storage: \$20.00 per day, beginning 24 hours after the vehicle is towed.

Wrecker operators may charge an additional \$15.00 for vehicles picked up during non-business hours. Business hours shall be defined as Monday through Friday 8:00A.M. to 5:00P.M.

MINIMAL CALL OUT: In the event that an operator has been requested for service and upon arrival the situation has changed and services are no longer required, a minimum fee of \$10.00 must be assessed for daytime and \$15.00 for nighttime calls. Fees to be paid by the vehicle owner / operator.

#### SECTION V - Regulations

(b) ~~Licenseses shall permit the Chief of Police to conduct one regular and two random inspections of each towing vehicle during the term of the license;~~

All vehicles licensed under this ordinance must comply with the inspection requirement of Title 29A, Section 1753, M.R.S.A.

TO: Dale Olmstead, Town Manager

FROM: Police Chief Schofield 

DATE: October 11, 1996

RE: AMENDMENTS TO THE VEHICLE TOWING ORDINANCE

On Thursday, October 10, 1996 the Parking & Traffic Committee discussed the proposed amendments to the Vehicle Towing Ordinance that I had presented to you on August 29, 1996. The committee unanimously supports the following amendments and additions to the ordinance (Chapter 49):

#### AMEND

##### Section VII - Rate for services

FROM: 7:00 am - 7:00 pm : \$35.00 TO: \$40.00

FROM: 7:00 pm - 7:00 am: \$50.00 TO: \$55.00

##### AMEND - Vehicle Storage

FROM: \$10.00 per day for both outdoor & indoor storage, after 24 hours.

TO: Outdoor Storage: \$15.00 per day, beginning 24 hours after the vehicle is towed.

Indoor Storage: \$20.00 per day, beginning 24 hours after the vehicle is towed.

##### NEW SECTION TO RATES FOR SERVICES

Wrecker operators may charge an additional \$15.00 for vehicles picked up during non-business hours. Business hours shall be defined as Monday through Friday 8:00 am to 5:00 pm.

## **NEW SECTION TO RATES FOR SERVICES**

**MINIMAL CALL OUT:** In the event that an operator has been requested for service and upon arrival the situation has changed and services are no longer required, a minimum fee of \$10.00 mat be assesses for daytime and \$15.00 for nightttime calls. Fees to be paid by the vehicle owner / operator.

**AMEND:** Section V - Sub-section b - Regulations

**Change the wording as follows:**

**All vehicles licensed under this ordinance must comply with the inspection requirement of Title 29A, Section 1753, M.R.S.A.**

Approved Jan. 7, 1997

Mtg. # 1-97; Item # 260-

PH. mtg. # 36-94/12/7/94

*Adopted*  
**PROPOSED**

**AMENDMENTS TO THE WINSLOW PARK ORDINANCE**

**CHAPTER 34**

**Rates For Harb Cottage**

	<u>Resident</u>	<u>Non-Resident</u>
<b>Weekly Rates: (Include Utilities)</b>		
Pre / Post Season (June & September)	\$ 600 <u>700</u>	\$ 700 <u>800</u>
July 1 to Labor Day	\$ 800 <u>900</u>	\$ 1,000
<u>Except July 20 to August 10, 1997</u>	<u>1,000</u>	<u>1,100</u>

# Winslow Memorial Park

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The following reflects the request for Fees for the Harb Cottage for the 1997 season:

Resident 1996 - Pre/Post Season: \$600

Resident 1996 - In Season: \$800

\*\*New Category\*\*

Resident 1997 - Pre/Post Season: \$700

Resident 1997 - In Season: \$900

Resident 1997 - High Season: \$1000  
(July 20 - August 10, 1997)

Non-Resident 1996 - Pre/Post Season: \$700

Non-Resident 1996 - In Season: \$1000

\*\*New Category\*\*

Non-Resident 1997 - Pre/Post Season: \$800

Non-Resident 1997 - In Season: \$1000

Non-Resident 1997 - High Season: \$1100  
(July 20 - August 10, 1997)