

## **AGENDA**

Meeting of the Cumberland Town Council

Town Council Chambers

**Monday, November 26, 2007**

**7:00 p.m. – CALL TO ORDER**

### **I. APPROVAL OF MINUTES**

November 12, 2007

### **II. MANAGER'S REPORT**

### **III. PUBLIC DISCUSSION**

### **IV. LEGISLATION AND POLICY**

**07 – 155.** To authorize the Code Enforcement Officer to enter into a Consent Decree for property located at 63 Tuttle Road.

**07 – 156.** To hear a report from Regional Planning Representatives re: update on school consolidation.

**07 – 157.** To hear a report from Farmers Market re: Yuletide Market.

**07 – 158.** To consider and act on abatement request for property known as Map R02, Lot 2, located at 6 Mackworth Lane.

**07 – 159.** To hold a Public Hearing to consider and act on Sewer Amnesty Program.

**07 – 160.** To hold a Public Hearing to consider and act on Greenlaw Salvage 2007/2008 junkyard/recycler permit renewal.

**07 – 161.** To consider an act on a Resolution of Support for the Downeaster Train.

**07 – 162.** To appoint members to Doane Property Development Committee.

**07 – 163.** To set a Public Hearing date (*December 10*) to consider and act on Greely High School Swimming Pool License renewal for calendar year 2008.

**07 – 164.** To set a Public Hearing date (*December 10*) to consider and act on a Liquor License, Mobile Vending Cart License and Special Amusement Permit application for Val Halla Golf Course for the period *January 31, 2008* through *January 31, 2009*.

**07 – 165.** To set a Public Hearing date (*December 10*) re: amendments to current Shellfish Ordinance, including a decrease in license allocations for 2008.

**07 – 166.** To set a Public Hearing date (*December 10*) re: establishment of Route 100 TIF District.

## **V. NEW BUSINESS**

## **VI. ADJOURNMENT**



**MINUTES**  
**CUMBERLAND TOWN COUNCIL MEETING**  
**Cumberland Town Hall**  
**Monday, November 12, 2007**  
**7:00 p.m. – CALL TO ORDER**

**6:40 p.m. Tour of Town Clerk Vault**

Present: Chairman Porter, Councilors Storey-King, Turner, Stiles, and Moriarty.  
Excused: Councilors Copp and Perfetti.

**I. APPROVAL OF MINUTES**

October 22, 2007

Motion by Councilor Moriarty; seconded by Councilor Stiles, to approve as presented.

VOTE: UNANIMOUS PASSAGE 5-0

**II. MANAGER'S REPORT**

- Shutting down Harris Road for two days, residents will access from the Route 9 gate entrance. Road closed Monday morning through Wednesday morning. Letters will be sent to all residents this week.
- Chief Small and Brenda Stiffler are working on the flag project to mount 34 flags along Main Street. Manager requested council permission to solicit sponsorship of the flags at \$50 per flag. At present, the flags will be displayed during six or seven holidays. No flag will remain on a pole at night if the pole is not lit. First display will occur on Patriots Day. Councilor Storey-King asked about the three flags already on display. A resident placed these flags originally and the Chief replaced them again after permission was acquired. Councilor Moriarty asked about long weekends. The flags where there is not a pole light will be taken down at dusk each evening.

Motion by Councilor Stiles; seconded by Councilor Storey-King, to authorize the Manager to initiate a Town of Cumberland sponsored flag program on Main Street.

VOTE: UNANIMOUS PASSAGE 5-0

- Councilor Story-King read a letter received from Melissa Fowler, GHS Guidance Counselor, regarding Officer Dalbec. Ms. Fowler was involved in an automobile accident and Officer Dalbec stopped assist her even though he was off-duty. "He went above and beyond the call of duty...as a good Samaritan." Chairman Porter noted that the town receives kudos on a fairly regular basis regarding our officers and employees.

**III. PUBLIC DISCUSSION**

Mr. Bob King, on behalf of the Cumberland/No. Yarmouth Football Boosters, extended thanks to Chief Small and the Fire Department for their efforts with the boosters' bonfire event. He also thanked Bill Landis and his staff for the fine playing field conditions this year.

Councilor Moriarty mentioned the passing of long-term resident and former councilor, Dave Williams. "He was instrumental in establishing the Cumberland Recreation Department" in its earliest years and will be missed.

#### **IV. LEGISLATION AND POLICY**

##### **07 – 145 To hear a report from the Fire Chief and Public Works Director re: Public Works Fire Response Team.**

Fire Chief Dan Small remarked, "We have less and less people volunteering" to assist in fire calls during the day. With that in mind, he and Public Works Director Adam Ogden have worked to improve fire response efforts by utilizing existing public works staff. Eight of the eleven public works and parks department employees have engaged in a driver training program "so they can help out during their daytime hours" 7:30 a.m. to 3:00 p.m. "This has been tried in the past, and has failed;" however, the Chief is hopeful that with the management policies as presented to the council in written form, it can work. This plan is referred to as a "transition team" because the intent is for the public works team to return back to their normal duties after a call. The transition team will respond to reported building fires in the town of Cumberland only. "It's dedicated to just the Town of Cumberland" structure fires during their regular working days. The town's fire call volume has more than tripled in the last few years. By way of example, the Chief noted that the fire at the Berkovich house had only two firefighters in place during the first ten minutes. "We were scrambling" for those ten minutes. Director Ogden reiterated the voluntary nature of this program, noting that three-quarters of the department has volunteered, "because they believe in the team approach." The team members will drive fire equipment and lay hose. Each employee will be provided with necessary radio and safety equipment. "I think it's a great opportunity." Chairman Porter thanked the Chief and Director "for finding creative ways" to help with the town's budget constraints. Chief Small replied "my hats off to Adam's crew. I can't believe their commitment" to the public.

##### **07 – 146 To hold a Public Hearing to consider and act on Cumberland Salvage 2007/2008 auto junkyard/recycler permit renewal.**

The Manager explained the appropriate notifications were mailed to abutters of Cumberland Salvage and no negative feedback has been received. All licensing requirements have been met and he recommended approval. No public comments received.

Motion by Councilor Storey-King; seconded by Councilor Stiles, to approve the Automobile Junkyard/Recycler Permit for Cumberland Salvage, 40 Blackstrap Road, for the period October 2007 through October 2008.

VOTE: UNANIMOUS PASSAGE 5-0

##### **07 – 147 To hold a Public Hearing to consider and adopt the revised MMA Model General Assistance Ordinance and Appendixes A-C for the period of October 1, 2007 through October 1, 2008.**

The Manager explained the town must annually adopt its rent and food reimbursement amounts, and typically adopts those amounts recommended by the Maine Municipal Association. No public comments received.

Motion by Councilor Stiles; seconded by Councilor Moriarty, to adopt the revised MMA Model General Assistance Ordinance and Appendixes A-C for the period October 1, 2007 through October 1, 2008.

VOTE: UNANIMOUS PASSAGE 5-0

**07 – 148 To hold a Public Hearing to amend the existing Contract Zone agreement with The Chinese Gospel Church, Route 100.**

The Manager explained the Route 100 Chinese Gospel Church was given a Contract Zone by the council approximately one year ago. At that time, 50% of the building was used by the church and tax exempt. The remaining space was leased to a tenant who has now relocated. The church has decided to utilize approximately 75% of the building space and are requesting an increase in their exemption from 50% to 75%.

Councilor Moriarty queried whether the council may “revisit” the contract if a new tenant were to lease more than 25% of the building space? The Manager responded affirmatively, stating a change could be made “anytime before April 1<sup>st</sup>. Conversely, it could go the other way” as well. Councilor Stiles questioned whether the parish is growing and if there are any traffic concerns. “We do not have any traffic problems” and the growth “is too soon to call.” No public comments received.

Motion by Councilor Turner; seconded by Councilor Stiles, to amend the Contract Zone Agreement with the Chinese Gospel Church, located at 99 Gray Road, reducing the taxable property from 50% to 25%.

VOTE: UNANIMOUS PASSAGE 5-0

**07 – 149 To hold a Public Hearing to consider and act on abatement requests for property known as Map R02, Lot 2, located at 2 & 6 Mackworth Lane.**

The Manager explained the property owners have requested an abatement of taxes. The Tax Assessor sent a questionnaire last year to each homeowner in preparation for an in-house revaluation. These homeowners informed the Assessor they do not have a basement; these units are built on a slab. The Tax Assessor may not abate taxes beyond the current tax year; however, the town attorney informed the Manager it is within the town council’s purview to “make that decision” to abate prior year taxes. The abatements represent slightly over \$900 for the two years.

Mr. Donald Donovan, 2 Mackworth Lane, spoke to his abatement request stating the property assessment was established from “preliminary drawings.” Those drawings showed a full basement. The final drawings he received at his property closing showed the condominium on a slab. “I had no reason...to question what went on with the tax assessor because I got documents that claimed there is no basement in my property.” The second property owner, Mr. Bruce Shaw, 6 Mackworth Lane, suggested a similar scenario, adding that the 2/13/2003 plans for his unit showed a walk out basement. However, the building permit issued one year later indicated the foundation as a slab. “Mistakes do happen” and “we do appreciate” your efforts to approve our abatement request.

Councilor Moriarty asked about the remaining condominium unit at number 4 Mackworth Lane. The Manager replied that the issue is the same and “It will be on your next agenda.” Chairman Porter reiterated the Assessor has followed the law, but

the benefit of the questionnaire was tremendous. “We don’t do ... 100% inspections on properties” during revaluations. We’ve done statistical updates. “This is a classic case” where both parties have done what they feel is correct. “It seems like the responsible thing for us to do.” Councilor Turner added, “There’s an obvious difference between the spirit of the law and the letter of the law.” Councilor Moriarty remarked, “there is at least some ambiguity in the law...for me this is a no brainer.” Motion by Councilor Moriarty; seconded by Councilor Turner to approve the abatement requests of \$901.52 for property at Map R02, Lot 2, at 2 Mackworth Lane and the abatement request in the same amount for the property at Map R02, Lot 2, at 6 Mackworth Lane.

VOTE: UNANIMOUS PASSAGE 4-0-1 (Councilor Stiles recused, explaining he has “done business with Mr. Donovan’s son.”)

**07 – 150 To authorize Town Manager to accept and award bid for maintenance building, shelter and athletic field improvements at Twin Brook.**

The Manager stated bids for the shelter, maintenance building and a host of trail and athletic field repairs were opened October 30<sup>th</sup>. The low bidder, AH Grover, was “just under 1.1 million dollars.” The Planning Board requested the council consider an alternative façade for the maintenance building.

Councilor Moriarty explained that on September 18, 2007, the Planning Board gave major site plan approval for the entire project and there was discussion as to whether or not there should be a façade on the maintenance building. The concern is that the visible portion of the building “would not fit in harmoniously with the rest of Twin Brook.” Several members of the Planning Board favored some sort of façade but realized no design standards apply and they had no authority to make a recommendation as to what the side of that building should look like. However, their intention was clear. In contrast, the Twin Brooks Committee met last week and “unanimously decided that a façade was not necessary;” the money could be better spent in other ways such as plantings and the screening devices. “We have two council appointed boards...who have given us conflicting recommendations.” The town council also adopted Route 100 changes three weeks ago which included design standards for new development in that area prohibiting all-metal buildings. We have no comparable standards for Cumberland Center. Design standards for the Route One area are advisory rather than mandatory. “So we have to make a judgment call as to what we want this building to look like” from “the one side you will see.” The cost of a partial brick face versus shingles or wooden planking is “basically the same.” Councilor Moriarty’s personal feelings are that a brick façade would not be appropriate or particularly harmonious. “My personal preference is...we specify a facade of a shingle type material identical to that which will be on the shelter building. It could be done for a modest amount of money which is well within the budget.” Chairman Porter responded, “That’s the exact same conclusion I came to as well. If there’s a way to remediate that without spending a lot of money I certainly support that. This is a cost effective way” for us to move the storage from a trailer to a more appropriate building. Councilor Turner agreed, suggesting the Twin Brooks Committee is correct that “the cost of the wooden façade is a minimal amount to spend relative to the cost of the overall project.” He also believes the committee’s extensive work on this project should receive great consideration. “We should have a tendency to err in favor” of their suggestions. Councilor Stiles agreed with the Twin Brook Committee. “I still like the idea” of painting scenery or a mural on the side of the building. “Remember, tough

year; save the money.” Councilor Storey-King is not in favor of a wood face “just because I don’t think it’s a wise investment. If we have extra money plant more trees to hide it.” Councilor Moriarty questioned whether the low bid includes a line item for the façade. No, the façade is an additional \$6,875 cost.

Motion by Councilor Moriarty to accept the low bid from AH Grover and that we include the sum of \$6,875 for a façade on the maintenance building of the same type and materials as will appear on the shelter building. The motion failed due to a lack of a second; however, Chairman Porter noted that he would have offered a second if he was not prohibited from doing so.

Motion by Councilor Stiles; seconded by Councilor Turner, to authorize the Town Manager to accept and award a bid from AH Grover for the construction of a maintenance building and shelter and athletic field improvements at Twin Brooks for the low bid minus the 6,875.

VOTE: UNANIMOUS PASSAGE 5-0

Chairman Porter thanked the Twin Brook Committee for their valued contributions and to those who have provided their input. “What’s happening down at Twin Brooks is very exciting,” noting in particular the much needed bathroom facilities.

**07 – 151 To request recommendation from the Planning Board re: adding agricultural uses to the Route 100 VOC I, VOC II and MUZ Zones.**

The Manager explained the existing agricultural uses were not considered when reviewing the Route 100 uses. A fairly intense focus was paid to commercial uses. Agricultural uses slipped through the cracks. Agricultural uses have been “typically allowed in just about all our zones in town.” He questioned the interest of the council in requesting the Planning Board to consider adding agricultural uses as a special exception in the Route 100 Zones. Agricultural uses were not allowed in the Route 100 HCC and LB Zones. Chairman Porter requested the Manager to make certain we’re not asking to add something that is not currently available under our old zones.

Motion by Councilor Turner; seconded by Councilor Storey-King, to send to the Planning Board a recommendation to consider the addition of agricultural uses in the Route 100 VOC I, Voc II and MU Z Zones.

VOTE: UNANIMOUS PASSAGE 5-0

**07 – 152 To hear a report from the Finance Committee Chair.**

Finance Committee Chairman Stiles gave a powerpoint presentation which addressed the town’s expenses by category through September 30, 2007. General fund expenses are down from last year. A three-year comparison of general fund revenues also shows us down from prior years. Revenues are on target; however, property tax payments are slightly behind. Councilor Storey-King asked about fuel prices. We purchase our fuel through GPCOG and are locked in at the pump prices plus 2-3 cents per gallon. Chairman Porter mentioned the council workshop for Saturday, November 17<sup>th</sup> during which the FY 08/09 budget will be discussed.

**07 – 153 To hear a report from the Town Manager and to confirm November 26<sup>th</sup> public hearing date re: Sewer Amnesty Program.**

The Manager referred to his previous presentations regarding his concerns with the sewer program. The sewer system is supported entirely by the users of the system. The average user pays \$900 per year; nearly double that of five years ago. Our system is “held hostage in some regards...because we don’t own our own treatment plant.” We have capacity to expand and we’ve “been very careful with the planning.” The difficulty is with the present sewer rates. “In some regards there’s not a heck of a lot I can do” other than enforce the ready-to-serve fee. This fee is meant to reserve capacity in the system. We have identified 125 families that are not being charged this fee. They will receive a notice regarding their need to pay this fee in the next few weeks. “I strongly believe we need to try to encourage people to get connected to the sewer;” however, the Manager believes the permit fee is “a huge disincentive” and recommended suspending the fee temporarily. Further, he requested the council “lessen the connection fee” to encourage further connections. The Manager indicated he would like the council to consider in the future whether to charge the costs attributed to the pumping stations to all taxpayers rather than the sewer users exclusively, similar to hydrants. He noted information regarding this item can be found on the town’s web site.

Chairman Porter encouraged public participation at the November 26 meeting. Councilor Turner commented that the monthly ready-to-serve and the consumption fee have doubled in the last five years. Councilor Moriarty clarified that when the annual rate increases are made, both the consumption and ready-to-serve component of a single fee are increased.

Mr. Dick Maloon, Greely Road Extension, is on a septic system but has paid the ready-to-serve fee for “twenty something years.” However, the suspension of the \$2,000 connection fee would cause him to consider connecting to the sewer. “Other than that I see no point in us connecting to the sewer.” The Manager responded that he has heard the same from other homeowners as well. This connection fee was created to help pay for the maintenance of the system. A suspension of the fee will “get people back on the sewer. It will be a good thing for everybody.” The timing is right...to try to get everybody we can on the system.

**07 – 154 To hear a report from Councilor Storey-King re: School Consolidation update.**

Councilor Storey-King provided information on the school consolidation committee meetings to date. The new RSU represents a cost-control rather than a cost-savings model. The unit will provide a cohesive educational vision and a common culture throughout. There will be efficiencies of scale, elimination of redundancies and more efficient use of buildings, which will produce a more cost effective educational system.” At the September 24, 2007 meeting thirteen steps were outlined in the development of the RSU (Regional School Unit) plan. The committee met again on October 3, 2007 with Commissioner Gendron and Jim Rier and discussed a financial template. The committee also discussed cost-sharing, governance and savings. The proposed Governance Model included Yarmouth; however, Yarmouth opted out on November 1, 2007. The membership of the RSU board is based on population and will include three representatives from Falmouth, two from Cumberland and one from

North Yarmouth. A meeting was held November 6<sup>th</sup> to look at cost models and municipal impact. A public meeting will be held tomorrow evening, November 12<sup>th</sup> at Falmouth High School Auditorium, at 7 p.m. A second televised meeting will be held in Cumberland, November 27, 2007 at 6:30 p.m. in the Town Council Chambers.

The Regional Planning Committee's work to date includes:

1. Real Property
2. Personal Property
3. Debt (Bonds, Notes, Lease Purchase Agreements)
4. Legal Obligations/Contractual Commitments
5. School Finances
6. Personnel
7. Operational Policies/Procedures/Agreements
8. Pending Lawsuits & Legal Claims
9. Information Technology Systems
10. Insurance Coverage
11. Cost Sharing
12. Governance
13. Process & Communication Issues

Councilor Storey-King requested council authorization for the Town Manager to attend the RPC meetings as an ad hoc member. Councilor Storey-King explained our citizens will "get to vote on school budgets" and get direct feedback from the public as part of the new model. "We lost local control a long time ago. We need to ensure we continue to maintain local voice." Councilor Moriarty asked about pay scale disparities between the SAD and Falmouth, the revenue to SAD 51 from Chebeague Island, and timing of a budget referendum. The salary and contract differences will be looked at beginning with the next meeting. A budget validation can occur as early as January, 2008.

School Chairman, Peter Bingham, remarked, "If this goes through...it's our intent to use the balance of the Chebeague money as it was intended - to lower the tax rate." Chairman Porter applauded Councilors Storey-King, Turner, community representative Mark Fortin and the representatives of the other communities for their work to date. He is very supportive of this initiative, but described the "down side" as our loss of connection to Yarmouth if they opt out of this new unit. As we look in the future to consolidating or regionalizing services, we will now need to look to communities that are part of our school system. "I think it's a very positive thing that has gone forward."

Councilor Turner commented, "It looks like it's a good chance it will work for us," suggesting if it doesn't work here, it is not likely to work elsewhere.

The legislation provides accountability from each of the cost centers. Mr. Bingham explained a "quirk in the law" was discovered recently which requires the May 2007 SAD budget meeting to consist of six warrant articles. That meeting will be followed by a budget validation election, which must be held within three business days. Beginning in 2008, there will be eleven warrant articles at the May budget meeting. In order to avoid a special election, SAD 51 will need to hold a budget meeting on the Thursday before the regular Tuesday, June 2008 election date. "We're still working on this with the finance committee." It is hoped the concerns can be resolved by the legislature. If the voters do not validate the SAD 51 budget, the school department is given legislative authority to operate on the budget submitted by the school committee "until such time a revised budget

is approved.” The Manager noted that our Town Clerk and a handful of other Maine clerks have met with Commissioner Gendron to discuss the complicated election logistics. Multiple votes will be needed over the next two years. There will be other votes related to the adoption of the plan, the election of unit board members and possible charter amendments. Because of the need for multiple votes, “We may be looking at another area to vote.”

#### **IV. NEW BUSINESS**

**Councilor Storey-King** – received several calls re: the need for a Mass Gathering Permit for the cross country meet at Twin Brook; asked about Val Halla bids and rentals; the room rental is \$500; a winter parking ban in effect 11/15 – 4/01 from 12 pm to 7 am; Thursday the GHS students celebrated Ranger Day which was also designated as Becky O’Brien Day in the state as well (a shot putter; one of the best in the world); Gerry Wiles is presenting a talk on Will Rogers, Thursday, 7:30 pm at the Historical Society, important to recognize Veterans Day today; wished everyone Happy Thanksgiving.

**Chairman Porter** – thanked the Clerk and Public Works staff for their work during the elections; requested a discussion re: plaque at West Cumberland ball field on upcoming agenda; add the Amtrak resolution to Saturday’s agenda; cross country meet was an amazing meet and parking issues, etc should be remedied through a MGP.

**Councilor Stiles** – reminder re: the senior citizens circuit breaker program prior to or on November 14.

**Councilor Moriarty** – Nominating Committee will meet Thursday re: Doane Property Development Advisory Committee.

**Town Manager** – received a Safety Grant from MMA for the police dept purchase of bullet vests and continuation of the program re: underage alcohol use concerns; and a grant for a gas meter for the fire department; reminder re: Harris Road.

#### **VI. ADJOURNMENT**

Motion by Councilor Stiles; seconded by Councilor Storey-King, to adjourn.

VOTE: UNANIMOUS PASSAGE 5-0

TIME: 9:35 p.m.

Respectfully submitted,

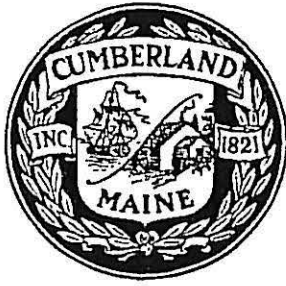
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Nadeen Daniels, Town Clerk



# ITEM 07-155

To authorize the Code Enforcement Officer to enter into a  
Consent Decree for property located at 63 Tuttle Road.



# MEMORANDUM CODE ENFORCEMENT OFFICE

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To: Town of Cumberland Council  
From: William C. Longley Jr. CEO  
Subject: Daigle Consent Agreement  
Date: 11-20-07  
CC: William Shane, Town Manager

On this date a draft consent agreement was forwarded to the Town Attorney and he asked for location for notarization to be added. I have done that and forward this to you for authorization. I will be at the meeting on November 26<sup>th</sup> to answer any questions you may have.

## CONSENT AGREEMENT

This Consent Agreement is entered into on this 26<sup>th</sup> day of November, 2007 by and between Jennifer L. Daigle, resident individual who owns property at 63 Tuttle Road, Cumberland, Maine ("Daigle") and the Town of Cumberland, a municipal corporation located in the County of Cumberland and State of Maine (the "Town").

Daigle and the Town stipulate to the following facts.

1. The Town is a municipal corporation organized under the laws of the State of Maine. William Longley is the duly authorized Code Enforcement Officer of the Town and authorized under state law to administer and enforce the Town's Zoning Ordinance.
2. In 2001, Daigle purchased title to land located at 63 Tuttle Road, Cumberland, Maine (the "Property"). The Land was conveyed based on a Legal Description ("Exhibit A" attached) recorded in the Cumberland County Registry of deeds, Book 16342, Page 206. "A" included measurements of lot lines based on historical survey information approved by the Cumberland Planning Board at abutting Cumberland Hills Subdivision. The Property is shown on the Town's Assessor Map as R02B/01.
3. In 2001, Daigle constructed a home on the Property. Jeffrey Daigle (Daigle's previous co-owner and current Agent) received required building permits. Jeffrey Daigle met with Barbara McPeters, the then current building inspector employed by the Town, to set the location of the house on the land. Measurements of the building window were made based on "A". The foundation was installed, inspected and approved as conforming by McPeters. Daigle had a Class D mortgage inspection completed for closing and that survey found the property to be in compliance with setbacks and zoning.
4. In 2007, Daigle listed the property for sale. Using updated survey information, Jeffrey Daigle found a lot line; the westerly line running from Tuttle Road along Florida Light & Power (side abutting) back to Cumberland Hills (rear abutting) inaccurate. That line, as described in "A" was reported to be 231'. The updated survey found the same line to be 214.34'. (The disparity is due to the fact that previous measurements were made to an assumed sideline of Tuttle Road. The update found the traveled way of Tuttle within the right-of-way corridor, however off center.)

5. Daigle put the property under-contract. Jeffrey Daigle reported the new distance to Buyers and Buyers' Agents. In preparing a new legal description ("Exhibit B" attached), it was found that the disparity angularly shifted the rear line of Daigle's property toward Tuttle Road. The shift resulted in an encroachment of the rear of Daigle's existing home into the 75' building setback ("Exhibit C" new surveyor's house location plan attached).
6. The Code Enforcement Officer has investigated the case and has determined that the violation does not result in any significant health, safety, or welfare problem.
7. Daigle agrees to pay the Town's attorney's fees and costs associated in the amount of \$ 500.00. Such payment shall be made payable to the town of Cumberland.
8. The existing house shall be allowed to remain and be repaired at its' current location.
9. The Town agrees to relinquish its rights to prosecute Daigle, her successors in real property interest, assigns and heirs, for any alleged violation arising from the setback issue and location of the foundation.
10. This Consent Agreement shall be binding upon Daigle, here successors in real property interest, assigns and heirs and it shall be duly recorded by Daigle in the Cumberland County Registry of Deeds within 30 days with a copy of the recorded instrument to be provided to the Cumberland CEO.
11. At a meeting of the Town Council on November 26, 2007 the Town approved this resolution of the alleged zoning violation based upon the terms and conditions set forth in this Agreement and authorize the CEO to sign this Consent Agreement on behalf of the Town.

In Witness Whereof, the undersigned have executed this Agreement on the date appearing beside their names below,

Date: November \_\_\_\_\_, 2007

\_\_\_\_\_  
Jennifer L. Daigle

Town of Cumberland

Date: November \_\_\_\_\_, 2007

\_\_\_\_\_  
William Longley, its duly  
Authorized Codes Officer.

## EXHIBIT A

A certain lot or parcel of land, situated in the Town of Cumberland, County of Cumberland and State of Maine, bounded and described as follows:

Commencing at an iron pipe driven in the ground at the westerly corner of land formerly of the Town of Cumberland, on which the Tuttle Road school was formerly situated, and on the northeasterly side of the Tuttle Road, and extending thence from said pipe in a straight line and in a general northeasterly direction along the northwesterly line of said land formerly of the Town of Cumberland one hundred twenty-three feet, more or less, to an iron pipe driven in the ground, being the northerly corner of said land formerly of the Town of Cumberland; thence continuing on an elongated line, and in the same direction, a distance of one hundred eight feet, more or less, to an iron pipe driven in the ground; thence in a general northwesterly direction and parallel with said Tuttle Road, to an iron pipe driven in the ground on the boundary line of the land formerly of Frank M. Brown and Grace C. Brown and land now or formerly of Benjamin F. Doughty; thence in a general southwesterly direction along the southeasterly line of said land, now or formerly of Benjamin F. Doughty two hundred thirty-one feet, more or less, to an iron pipe driven in the ground on the boundary line of the land formerly of said Browns and said Tuttle Road; thence in a general southeasterly direction along the northeasterly line of said Tuttle Road to an iron pipe driven in the ground, which is the point of commencement.

Being the same premises conveyed to the Grantors herein by warranty deed from Jennie Gertrude Steele dated December 21, 1986 and recorded in the Cumberland County Registry of Deeds in Book 7558, Page 13.

RECEIVED  
RECORDED REGISTRY OF DEEDS

2001 MAY 25 PM 3:44

CUMBERLAND COUNTY

*John B O'Brien*



FIRST AMERICAN TITLE INSURANCE COMPANY

## EXHIBIT A

File Number: WILLIAMS 07-0157

Commitment Number: WILLIAMS 07-0157

The land referred to in this Commitment is described as follows:

A certain lot or parcel of land, with the buildings thereon, situated in the Town of Cumberland, County of Cumberland and State of Maine, bounded and described as follows:

COMMENCING at an iron pipe driven in the ground at the westerly corner of land formerly of the Town of Cumberland, on which Tuttle Road school was formerly situated, and on the northeasterly side of the Tuttle Road, and extending thence from said pipe in a straight line and in a generally northeasterly direction along the northwesterly line of said land formerly of the Town of Cumberland one hundred twenty-three feet, more or less, to an iron pipe driven in the ground, being the northeasterly corner of said land formerly of the Town of Cumberland;

THENCE continuing on an elongated line, and in the same direction, a distance of one hundred eight feet, more or less, to an iron pipe driven in the ground;

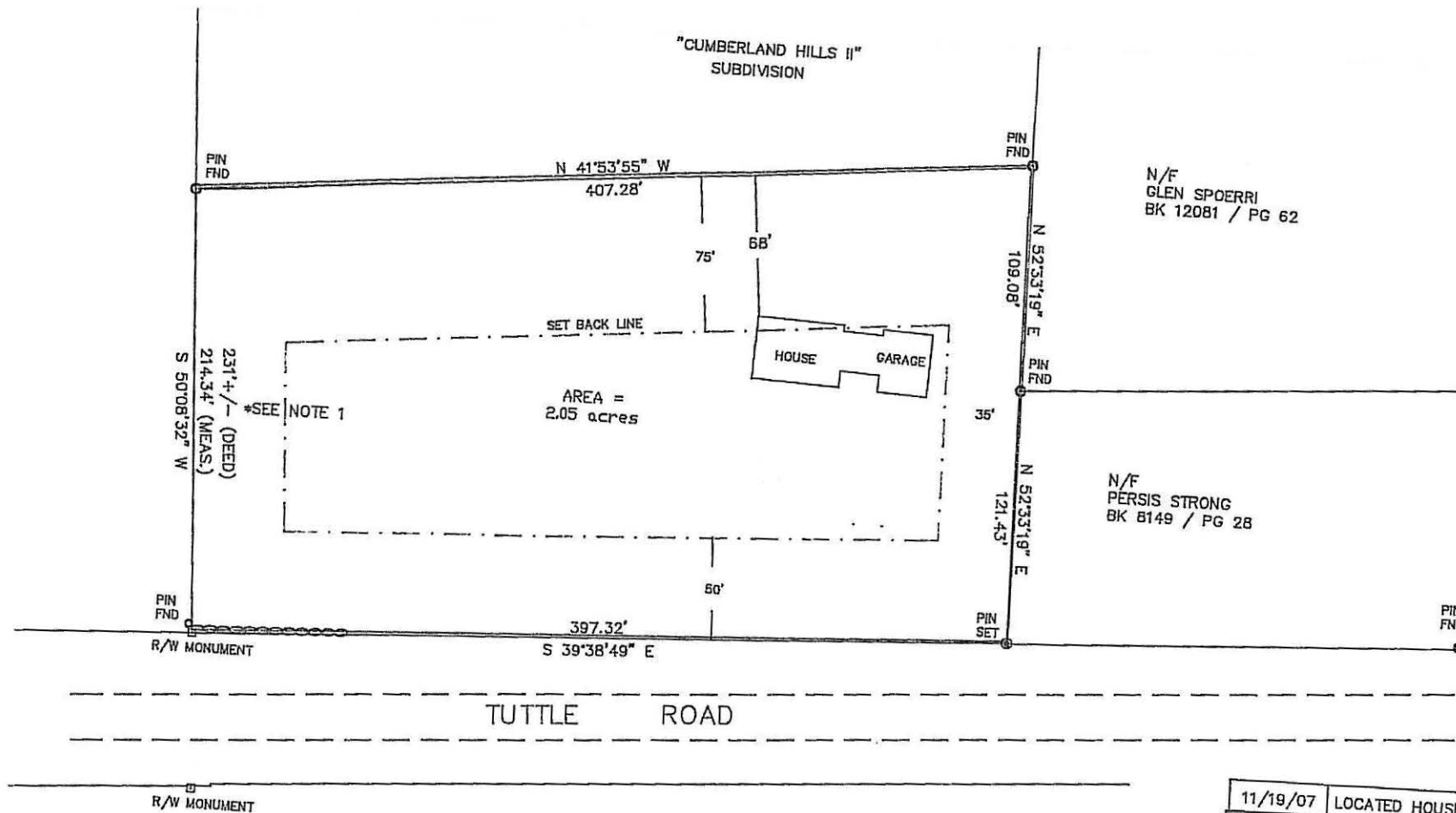
THENCE in a general northwesterly direction and parallel with said Tuttle Road, to an iron pipe driven in the ground on the boundary line of the land formerly of Frank M. Brown and Grace C. Brown and land now or formerly of Benjamin F. Doughty;

THENCE in a general southwesterly direction along the southeasterly line of said land, now or formerly of Benjamin F. Doughty two hundred fourteen feet, more or less, to an iron pipe driven in the ground on the boundary line of the land formerly of said Brown and said Tuttle Road;

THENCE in a general southeasterly direction along the northeasterly line of said Tuttle Road to an iron pipe driven in the ground, which is the point of commencement.

For source of title reference may be had to a deed from Jeffrey A. Daigle to Jennifer L. Daigle dated July 19, 2006 and recorded in the Cumberland County Registry of Deeds in Book 24248 at Page 18.

\* NEW DESCRIPTION 11/07



N/F  
GLEN SPOERRI  
BK 12081 / PG 62

N/F  
PERSIS STRONG  
BK 8149 / PG 28

TUTTLE ROAD

### NOTES

1. THE DISPARITY BETWEEN THESE DISTANCES MAY BE DUE TO THE FACT THAT THE DEED DISTANCE IS BASED ON MEASUREMENTS MADE TO AN ASSUMED SIDE LINE MADE PRIOR TO THE COUNTY RE-DEFINITION OF TUTTLE ROAD. NOTE THAT THE TRAVELED WAY IS NOT IN THE CENTER OF THE RIGHT OF WAY AT THIS PROPERTY LINE.
2. THE PROPERTY IS LOCATED IN THE RR-2 ZONE AND THE BUILDING SET BACKS ARE:

11/19/07	LOCATED HOUSE & ADDED SETBACK LINES
<p>PLAN OF LAND ON TUTTLE ROAD IN CUMBERLAND, MAINE</p>	
<p>FOR: JEFFREY DAIGLE GREATER PORTLAND REALTY 400 ALLEN AVENUE PORTLAND, MAINE</p>	

CES

OF "CUMBERLAND HILLS II"  
: 145 / PAGE 20 IN THE

CO. RIGHT OF WAY MAP,  
AN STEAM PLANT.



# ITEM 07-156

To hear a report from Regional Planning Representatives  
re: update on school consolidation.

No materials for  
this item

# ITEM

## 07-157

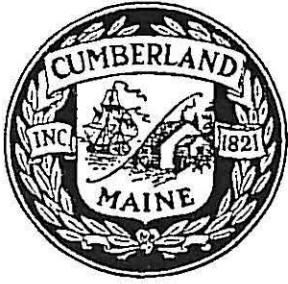
To hear a report from Farmers Market re: Yuletide Market.

No materials for  
this item

# ITEM 07-158

To consider and act on abatement request for property known as Map R02, Lot 2, located at 6 Mackworth Lane.





# M E M O R A N D U M

TOWN OF CUMBERLAND, MAINE

290 TUTTLE ROAD

CUMBERLAND, MAINE 04021

TEL: 207-829-2204 FAX: 829-2224

---

**To:** William R. Shane, Town Manager  
**From:** William Healey, Town Assessor *WH*  
**Date:** November 19, 2007  
**Re:** Rockwood Condominium

This memo pertains to a condominium owned by Gracia H. Largay in the Rockwood Condominium Project. Inaccurate information received from the developer resulted in this unit being assessed for a basement which it did not have. The over-assessment was detected during the 2007 Revaluation Update and corrected prior to the printing of the tax bill for the Fiscal 2008 Tax Year. When Mrs. Largay received her bill in August it reflected a new lower assessment and after discussing it with her neighbors, the Donovan's and Shaw's, she has decided to seek Council abatements for the Fiscal 2006 and 2007 Tax Years.

While I strive to have the most accurate assessing information possible, with over 3,800 parcels to assess, it is inevitable that inaccuracies occur. That is why State law places the responsibility of knowing what they are being assessed for on the property owner. Had Mrs. Largay reviewed her assessment annually, this correction could have been made much sooner. Also, as we've discussed previously, I firmly believe that the inaccurate assessing information resulted in over-valuation of this property for the 2006 and 2007 Fiscal Tax Years. My understanding of the law, substantiated by the Maine Bureau of Revenue Services, is that the Council does not have the authority to grant abatement to correct an error in valuation. However, I understand the Town Attorney has a different opinion and indicates that the Council does have the authority to grant these abatements.

Finally as you requested, I have calculated the adjustment in valuation and resulting over-tax for the 2006 and 2007 Fiscal Tax Years. Removing the basement from the assessment of this condominium reduces its assessment by \$22,400. The resulting tax is \$421.12 for Fiscal 2007 and \$434.56 for Fiscal 2006.

SOME Rockwood  
UNITS

Carla Nixon

From: Scott Decker [sdecker@sytdesign.com]

Sent: Thursday, February 13, 2003 2:46 PM

To: Carla Nixon

Subject: Rockwood Senoir Housing

old FY 2002

~~314~~ ~~YORK~~ ~~314~~ ~~YORK~~

Carla,

The following will summarize the change from the approved subdivision plan:

~~33~~ ~~YORK~~  
~~YORK~~

#### Phase II

The quadriplex units 33-36 & 37-40 have been separated to create 4 duplex units

The garages for units 28,29,35,36& 37 have been widened an additional 6 feet to accommodate 2 cars

The grading behind units 28,37,38& 39 has been altered to allow for daylight basements

#### Phase III

The quadriplex units 3-6, 13-16& 17-20 have been separated to create 6 duplex units and unit # 10 has been eliminated to create a triplex for units 7,8,& 9

The garages for units 5,6,7,8,9,21,22,& 23 have been widened an additional 6 feet to accommodate 2 cars

The grading behind units 1,2,3,4,5,6,17,18,19,20,21,22& 23 has been altered to allow for daylight basements

Let me know if you have any questions.

Scott

~~314~~ ~~YORK~~  
~~314~~ ~~YORK~~  
~~314~~ ~~YORK~~

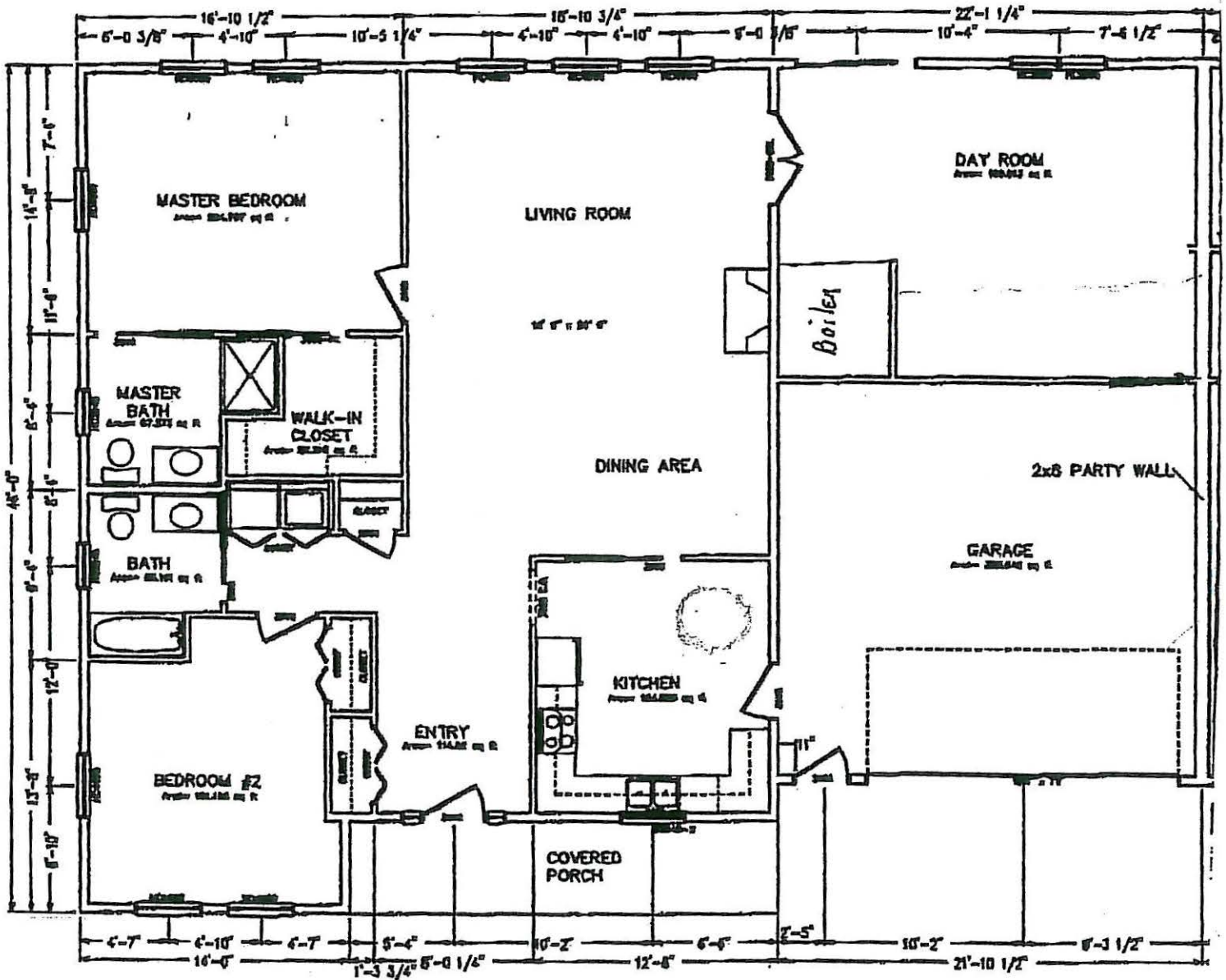
~~314~~ ~~YORK~~

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~~314~~ ~~YORK~~

1

# Slab 2 car garage (Right)





# Condominium AGENT SYNOPSIS



MLS#: 677169 Status: Current  
 (#23), 23 ROCKWOOD CONDOS Cumberland, ME 04110

Kickout: No  
 List Price: \$ 287,310  
 Original Price: \$ 286,385  
 List Date: 03/01/04

Directions: US Rte 1 to Thomas Drive to Rockwood at Cumberland Development.

Neigh'd/Assoc:

Assoc. Fee /Mo: \$170

## General/Land Information

Style: Cottage, Ranch  
 #Rooms: 6 #Bedrooms: 2 #Baths: F = 2 3/4 = 0 1/2 = 0  
 Foundation Sz +/-: GLAAG+/-: 1,750 Year Built+/-: 2004  
 Color: Gray Lot Size (Acr)+/-: 0.000 Road Frontage+/-: 0  
 Surveyed: Unknown Seasonal: No Zone: RESIDENTIAL  
 Flood Zone: Unkn Water Body:  
 WtrFrt: No Amt Wtr Frntge+/-: WF Shared+/-: WF Owned+/-:  
 Type: Condo #Units: 66

## Interior Information

	KT	DN	LR	FR	MBR	2BR	3BR	4BR	5BR	OT
Level:	1	1	1		1	1				1

Size:  
 Cathedral Cell: Yes Skylight: No Fireplace: 1 Wood Stove: No Wood Stove HU: No  
 Appliances: Dishwasher, Disposal, Microwave, Range-Electric, Refrigerator

## Remarks

Cumberland Foreside development of several units consisting of 66 Unit subdivision on 35 beautiful wooded acres. Enjoy 1 story living with Kitchen with granite counters and hardwood or tile floor, Master Bedroom w/walk-in closet.

## Property Features - NOTE: Check Detail Reports for complete list of Features.

Site: Level	Construction: Wood Frame
Driveway: Paved	Basement Info: Slab
Parking: Garage	Foundation Mtrls: Poured Concrete
Location: Abuts Conservation, Near Shopping	Exterior: Vinyl Siding
Uses: Residential	Roof: Shingle
Restrictions: Other Restrictions	Heat System: Radiant
Rec. Water:	Heat Fuel: Oil
Roads: Association, Paved Private	Water Heater: Off Heating System
Transportation: Major Road Access	Cooling: No Cooling Equipment: Cable
Electric: 220 Volts	Floors: Other Flooring
Gas: Bottled	Veh. Storage: Garage, Attached, 2 Cars
Sewer: Public	Amenities:
Water: Public	Access. Amenities:

## Tax/Deed/Community Information

Book/Page/Partial: 0/0/No Map/Block/Lot: 0/0 Tax Amount/Yr: \$ 0 / (03-04)  
 Tax Reduction: No School:

## Off Market Information

DOM: 217

## Listing Contact Information

List Office: RE/MAX By the Bay, 1150	Office: 207-773-2345
List Agent: David M Banks DMB 002090	Agent: 207-553-7302
Email: dbanks@homesinmaine.com	Cell:
Show Intr: Call Listing Broker	SAF/BAF/TBF: 0.00% / / 3.00% // 0.000%
	Virtual Tour:

Internal Rmks: Requirement is that at least one resident living there is 55 years or older.

Information Printed by: Mary Honan 001721

Printed: 10/04/04



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## NEW ON-PREMISES LICENSES: HEARINGS NOW OPTIONAL

For many years, State law required a local public hearing for any new on-premises liquor license and any relocation of an existing on-premises license (see 28-A M.R.S.A. § 653(1)). But with little notice, the law has changed.

Section 653(1) now says the municipal officers (selectmen or councilors) "may" hold a hearing for new or relocated on-premises licenses. In other words, hearings are now *optional* for new and relocation licenses. This change makes the procedures for these licenses consistent with the procedures for renewal licenses, for which public hearings have long been optional. Where a new or relocation license is uncontroversial, local officials now have the discretion to approve it without the necessity and expense (payable by the applicant) of holding a public hearing.

The change was made by PL 2003, c. 213, § 1, effective Sept. 13, 2003. (By R.P.F.)

## WO NEW POVERTY ABATEMENT CASES

The Maine Supreme Court has issued two new important poverty abatement decisions.

In *Sager v. Town of Bowdoinham*, 2004 ME 40, the issue was not *whether* property tax rebates under the Maine Residents Property Tax ("Circuit Breaker") Program can be considered in poverty abatement cases but *how*. The statute that created the circuit breaker expressly states that tax rebates under the program "may be considered for purposes of determining eligibility for [poverty abatements]" (36 M.R.S.A. § 6216). But it does not say precisely how this calculation is to be made.

The opinions printed in this Legal section are written with the intent to provide general guidance as to the treatment of issues or problems similar to those stated in the opinion. The reader is cautioned not to rely on the information contained therein as the sole basis for handling individual affairs but he/she should obtain further counsel and information in solving his own specific problems.

In *Sager*, both the Selectmen and, on appeal, the County Commissioners abated all but the amount of the taxpayer's rebate, which they first deducted directly from taxes owed. The taxpayer argued that this was not what the statute meant and that the rebate can only be counted as income, not as a direct set-off against taxes owed. The Law Court, however, disagreed, noting that the poverty abatement statute (36 M.R.S.A. § 841(2)) grants authorities "considerable discretion" and that they had not abused their discretion by applying a *per se* rule requiring a set-off in all cases.

The lesson from *Sager* is that while State circuit breaker rebates *may* be set off directly against taxes owed under appropriate circumstances, this should not automatically be the rule in every case — each application must be evaluated on its own facts.

In *Hustus v. Town of Medway*, 2004 ME 41, the issue was whether a poverty abatement is available for taxes associated with *nonresidential* property. The taxpayer owned a mobile home to which was physically attached a building from which she operated a used clothing store. The property was assessed as a whole, but only a partial abatement was granted on the theory that the poverty abatement statute (36 M.R.S.A. § 841(2)) did not include taxes on commercial property. On appeal, though, the Law Court held that

nothing in the text of the law or its legislative history supported the Town's argument that only residential property is eligible for a poverty abatement.

Although the retail store in *Hustus* was physically attached to the residence, nothing in the Court's decision suggests that the result would have been any different had the two uses been separate. It is worth noting, however, that eligibility for a poverty abatement is still dependent on the applicant's proving poverty.

For a full discussion of poverty abatements, including how to determine eligibility, see MMA Legal Services' "Information Packet" on the subject, available free of charge to members on MMA's web site at [www.memun.org](http://www.memun.org). (By R.P.F.)

## OVERESTIMATE OF ACREAGE IS ERROR IN VALUATION WITH ONE-YEAR ABATEMENT LIMIT

**Question:** We have a taxpayer who has been assessed since 1974 for more acreage than he actually owns. He wants an abatement for the full 30 years. We think we are limited to the three-year abatement for illegalities, errors or irregularities in assessment. Who is correct?

**Answer:** Neither one of you. Tax abatements of this variety are strictly governed by 36 M.R.S.A. § 841(1),

## Municipal Calendar

**MAY** — Municipal officers shall meet as the "licensing board" to license innkeepers and tavernkeepers during the month of May (30-A MRSA §3812)

**MAY 1** — Licenses for bowling alleys, pool rooms, shooting galleries, etc., issued during the previous 12 months expire (8 MRSA §2).

**ON OR BEFORE MAY 7** — Town clerks who are agents of the Commissioner of Inland Fisheries and Wildlife shall forward to the Commissioner funds collected and a monthly report of all hunting and fishing licenses issued during the previous calendar month.

**ON OR BEFORE MAY 15** — Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, 11 State House Station, Augusta, ME 04333 (22 MRSA §4311).

**MAY 31** — (Last Monday in May) Memorial Day observed. A legal holiday (4 MRSA §1051); a school holiday (20-A MRSA §4802). Municipal officers shall direct the decoration of veterans' graves. (30-A MRSA §2901).



which authorizes an abatement for up to three years back from the date of commitment for any "illegality, error or irregularity in assessment." An assessment for more acreage than the taxpayer actually owns is *not* an illegality, error or irregularity in assessment, however.

According to Maine's courts, an overestimate of acreage, or any misclassification of property resulting in an assessment that is too high, is an error in *valuation*. An illegality, error or irregularity in *assessment*, such as assessing property that is tax-exempt or a clerical mistake that results in overtaxation, is different. This difference is important because, according to 36 M.R.S.A. § 841(1), errors in valuation can only be abated back one year from the commitment.

For more on tax abatements and the reasons for these distinctions, see "Tax Abatement Time Limits," *Maine Townsman*, February 1999. (By R.P.F.)

## TREASURERS' WARRANTS (II)

Eight years ago the Legislature amended the laws governing disbursement of municipal funds to provide more flexibility in the approval of treasurers' warrants (see "New Disbursement Warrant Law," *Maine Townsman*, April 1996). Some recent inquiries to MMA's Legal Services suggest that the law may not be as well understood as it should be, however, so here's a recap:

A warrant authorizing the disbursement is absolutely essential in order for a treasurer to pay or disburse any municipal funds – without it, the disbursement is unauthorized and illegal (see 30-A M.R.S.A. § 5603(2)) and a criminal offense (see 30-A M.R.S.A. § 5604).

There are four options for approving treasurers' disbursement warrants:


**Approval of municipal payroll by written policy.** The municipal officers (selectmen or councilors) may adopt a written policy to permit the disbursement of employees' wages and benefits when a warrant has been signed by one or more designated municipal officers. The policy must be filed with the municipal clerk and treasurer and renewed annually by vote of the municipal officers. For a sample such policy, see Appendix 7a to MMA's *Tax Collectors & Treasurers Manual*.

**Approval of municipal school costs by written policy.** The municipal officers may adopt a written policy to permit the disbursement of municipal education costs when a warrant has been signed by the school superintendent and approved by a majority of the school board or by a finance committee appointed or duly elected by the school board. The policy must be filed with the municipal clerk and treasurer and renewed annually by vote of the municipal officers. For a sample such policy, see Appendix 7b to MMA's *Tax Collectors & Treasurers Manual*.

**Approval as otherwise provided by**

**charter or ordinance.** A municipality may, by charter or ordinance, provide for approval of disbursement warrants by means other than as provided by statute, such as by a majority of the municipal officers individually and separately reviewing and signing the warrant (as has been the historical practice in many municipalities). Such a charter or ordinance provision may be adopted only by the municipal legislative body (town meeting or town or city council). For a sample such ordinance, see the April 1996 *Townsman* Legal Note or Appendix 7c to MMA's *Tax Collectors & Treasurers Manual*.

**Approval by municipal officers at a public meeting.** A majority of the municipal officers may affirmatively vote to approve and sign a disbursement warrant at a public meeting of the board. This is the "default" method of approving disbursement warrants as envisioned by State law and requires no special ordinance or policy.

All MMA manuals and *Townsman* Legal Notes are available free of charge to members on MMA's web site at [www.memun.org](http://www.memun.org). (By R.P.F.) 

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statutory option of either giving actual notice or recording a certificate.

The press also said of the case, "The Supreme Court decided that even occasional road maintenance prevents the town from later claiming it can abandon the road out of convenience." Again, not so. The Court did reject the Town's claim of abandonment, but not because of isolated acts of maintenance, which the law (23 M.R.S.A. § 3028) states do not rebut the claim. Instead, the Court found that until 1977 the Town had in fact kept the road passable during the summer months and had graded the road several times a year. The Town had therefore not satisfied the requisite statutory 30-year period of abandonment.

Contrary to the reportage, this case does not change the law of local road discontinuance or abandonment one iota. (By R.P.F.)

### TAX ABATEMENT TIME LIMITS

The Maine Supreme Court has clarified the difference between tax abatements for overvaluation and abatements based on "illegality, error or irregularity in assessment." This distinction is important because while the latter may be granted anytime within three years from commitment, overvaluation abatements may be granted only within one year from commitment, and taxpayers must apply within 185 days from commitment (see 36 M.R.S.A. § 841(1)).

In *Goldstein v. Town of Georgetown*,

1998 ME 261, the taxpayer sought an abatement for 1994 through 1997 on grounds that his property was assessed as shorefront when, in fact, it was separated from the water by a small strip of land. The Court agreed that this mistake entitled the taxpayer to an abatement but said that a misclassification of property resulting in an assessment that is too high, such as here, is a classic error in valuation, limiting the abatement to one year. An illegality, error or irregularity in assessment, such as assessing property that is tax-exempt or a

clerical mistake that results in overtaxation, is a very different legal event, it said.

The Court justified the strict one-year rule for overvaluation abatements by observing that overworked assessors inevitably make some mistakes in valuation and that taxpayers are usually in the best position to identify them. Thus, the taxpayer has the burden of promptly reporting a valuation error so that municipal financial commitments are not unduly disrupted by stale claims for abatement. (By R.P.F.)

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Graftel, Inc. 2502 N. Clark, Chicago, IL 60614

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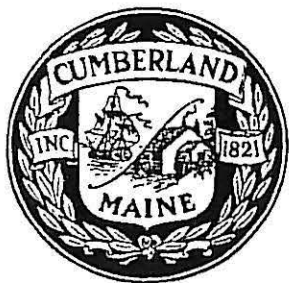
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# ITEM 07-159

To hold a Public Hearing to consider and act on Sewer  
Amnesty Program.



# MEMORANDUM

TOWN OF CUMBERLAND, MAINE  
290 TUTTLE ROAD  
CUMBERLAND, MAINE 04021  
TEL: 207-829-2205 FAX: 829-2224

**To:** Town Council  
**From:** William R. Shane, Town Manager (pt)  
**Date:** November 21, 2007  
**Re:** Sewer Amnesty Program

---

I am recommending the Town Council consider a reduction in the sewer connection permit fee of 75% to 100% from the present rates.

Year	Sewer Area	Present Fee	Reduce Present fee by			
			25%	50%	75%	100%
1992	Farwell/Main Street	\$4,000	\$3,000	\$2,160	\$1,000	\$0
1994	Bea/Karole	\$4,200	\$3,150	\$2,268	\$1,050	\$0
1996	Pinewood Drive	\$4,452	\$3,339	\$2,404	\$1,113	\$0
1998	Crestwood Road	\$4,925	\$3,694	\$2,660	\$1,231	\$0
1999	Pine Ridge Road	\$7,427	\$5,570	\$4,011	\$1,857	\$0
1999	Tuttle Road	\$5,829	\$4,372	\$3,148	\$1,457	\$0
2000	US Route One	\$2,750	\$2,063	\$1,485	\$688	\$0
2000	US Route One- Rockwood	\$2,000	\$1,500	\$1,080	\$500	\$0

I also recommending that all Sewer Connection Fees be increased to \$4,000 and all fees in sewer extension areas listed above be increased by 50% effective January 1, 2010.

I am also recommending that the Town Council consider a future funding of the maintenance of the sewer pumping stations during its budget deliberation process.

# **Cumberland Sewer System Overview**

by  
**William R. Shane**  
**Town Manager**  
**October 8, 2007**

## **BACKGROUND**

The Cumberland sewer system was originally designed to mitigate the increasing number of failing septic systems located along the Foreside and in Cumberland Center.

Sewer lines were carefully planed where soil conditions could not adequately treat subsurface wastewater disposal system. A review of the sewer system map will show how pockets of type "A" soils (gravel/sand) were skipped when planning the sewer system.

In 1981, the Town purchased 30% of the Falmouth treatment plant capacity to handle the sewer system. The capacity equals 468,000 gallons per day of wastewater. The Town also purchased capacity in the force mains, pump stations, and interceptor lines to ensure that the wastewater flow from Cumberland would not exceed the Falmouth infrastructure capacity.

## **PROBLEMS ALONG THE WAY**

The Town had approximately 40% of unused sewer capacity in the late 1990's. Most developers were aware that the system was limited and began purchasing "sewer units" for \$2,000 each to keep for speculative development. The units were sold without a "ready to serve" component, and as the system was built-out and new maintenance demands and costs were incurred, the existing users paid the burden of the new costs, not the "unit holders". In 2003, the Town Council changed the sewer ordinance to require all permit holders to immediately begin paying "ready to serve" fees. The "ready to serve" fees insured the permit holder of a future place in the system. During the 1990's and early 2000's, very few sewer increases were imposed. Monies collected from "future sewer units" would be used to offset any deficits in the operating fund. In 2003, the surplus funds were gone and the system was barely paying for itself. Monies had not been budgeted for capital repairs and system maintenance began to suffer as the system aged in the early 2000's.

## HITTING THE WALL

In 2003, MDEP announced that Falmouth would be forced to upgrade its treatment plant at a cost of 7 – 8 million dollars, 30% of this cost is the responsibility of Cumberland. The resulting bond increased Cumberland's annual costs by 66% in a 2-year period. The "easy" math for comparison purposes is estimating 1,000 equivalent users and dividing into the annual costs.

**For example:**

$$2004 \text{ costs: } \$545,564 / 1,000 = \$545/\text{year}$$

$$2008 \text{ costs: } \$806,777 / 1,000 = \$807/\text{year}$$

Cumberland's system is nearly built-out and will now affect the users of the system in an adverse and directly proportional way. \$1,000 of cost increase equals \$1 of sewer bill increase. With a 4% annual increase in costs expected (\$32,000/year) the average sewer user could expect to see a \$32/year increase for the foreseeable future.

### **Calculating a Monthly Sewer Bill:**

	2003	2004	2005	2006	2007	2008
Base	\$22.58	\$23.00	\$24.00	\$25.00	\$26.50	\$28.00
Consumption	\$1.63	\$2.50	\$3.30	\$4.20	\$4.50	\$4.80

A sewer bill is comprised of 2 components the *base bill* + *the consumption*. Everyone pays the "Base" cost. For Calendar year 2007 the **base cost equals \$26.50**. The consumption fees are how many 100HCF units a customer uses in one month. The average for Cumberland is 6.5. The Average Cumberland user would pay for consumption

6.5 units x \$4.50 or **\$29.25 per month.**

Total Bill for Average User:  $\$26.50 + 29.25 = \$55.75$  per month

My family average nearly 14 units per month (no sub-meter lots of flower gardens)

$$\$26.50 + (\$4.50 \times 14 = \$63) = \$89.50 \text{ per month}$$

As consumption decreases, base fees must increase to offset shortfall in revenues.



## **PROPOSED SHORT TERM PLAN**

- Enforce mandatory “ready to serve” fees.
- Offer “Amnesty Plans” for all current unconnected users to hook into system. This may result in \$30,000 to \$100,000 of additional revenues. It is now estimated 100 +/- homes are not paying “ready to serve” fees. -
- Re-check all sewer user accounts to ensure proper number of units are being billed to each owner, including Town and Schools.

## **LONG TERM PLAN**

Consider funding some of the system costs through the tax base. For example, pump station costs and system maintenance will grow to 250,000 +/- in total. If the system expense were paid (\$160,000), each user would see a \$160 annual savings. It could easily be argued that the environmental benefits from the system can be compared to the public safety benefits of fire hydrants. Hydrants are paid for by the Town at a cost of \$52,000 annually and growing with the expansion into West Cumberland. All taxpayers are paying for this resource, regardless if they are served by public water.

The alternative option would be to place the entire system under the Town similar to Yarmouth, but the financial impacts and equity would need to be fully evaluated. Because of the trade-off and new programs that would need to be added (free septic tank pumping and subsidized septic system replacement), I believe that most taxpayers would be negatively impacted under a change of funding.

## **CONCLUSION**

The Town Council needs to take no action related to the “ready to serve” fees; staff will aggressively enforce the ordinance. The Council will need to adopt the connection amnesty or reduced fee program, which should go simultaneously with the “ready to serve” fee implementation.

The long-term viability of the sewer system should be discussed during budget deliberation, and evaluated annually.

### **The 3-step Approach**






- 1) Enforcement of “ready to serve” fees
- 2) Implementation of amnesty program
- 3) Evaluating environmental value of system maintenance contribution.

This approach will curb the escalation of costs and sustain the present viability of our sewer infrastructure.

## ***Existing and Potential Sewer Hook Ups Town of Cumberland, ME***



## Sewer Hook Up

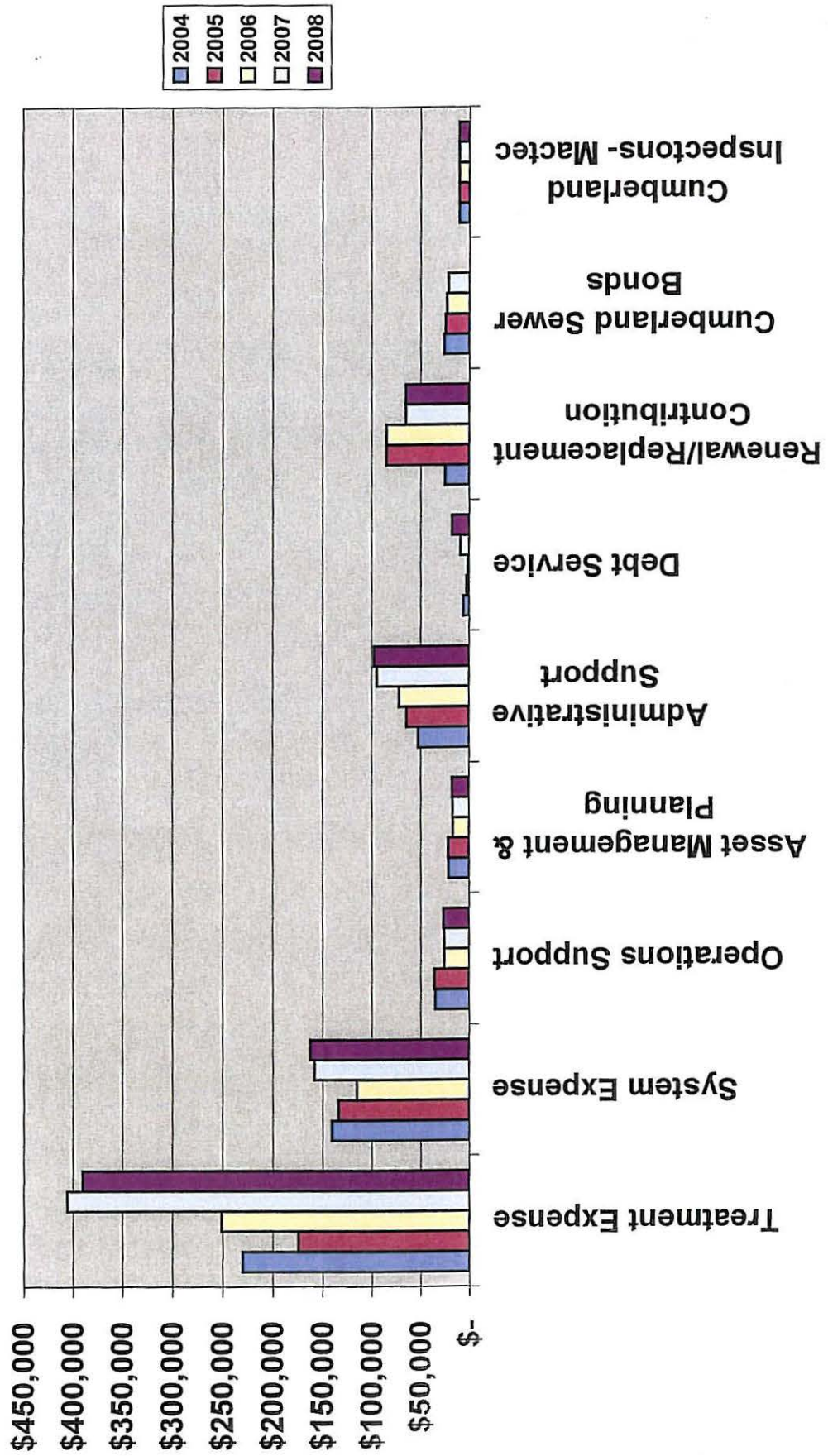
-  Single Sewer Unit  
 2 - 10 Sewer Units  
 10-20 Sewer Units  
 20 - 74 Sewer Units  
 Potential New Sewer Units (105)



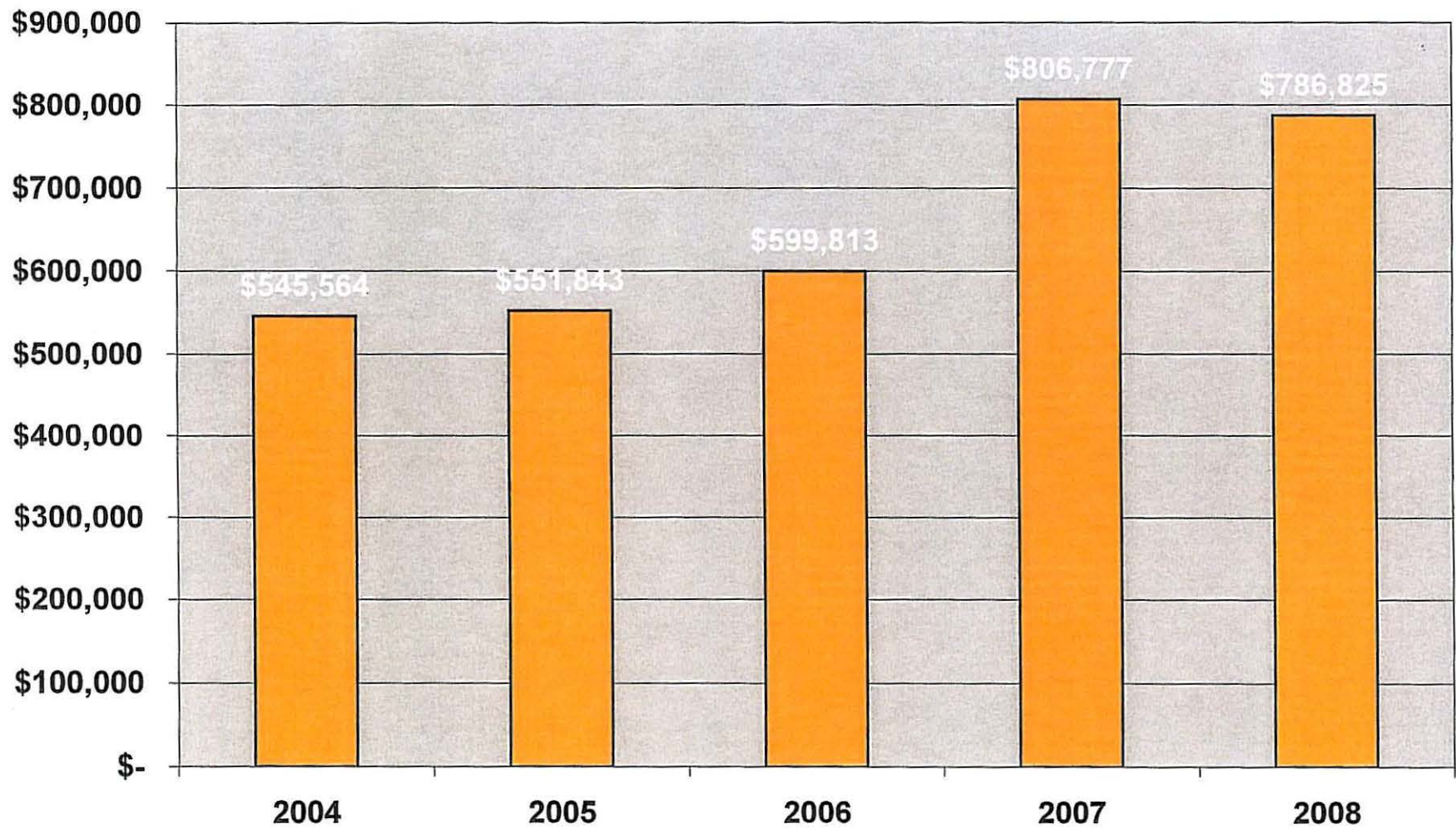
A horizontal number line with tick marks at 0, 1,500, 3,000, 4,500, and 6,000. The word "Feet" is written below the line.



# Sewer System Costs 2004- 2008 by Budget Category

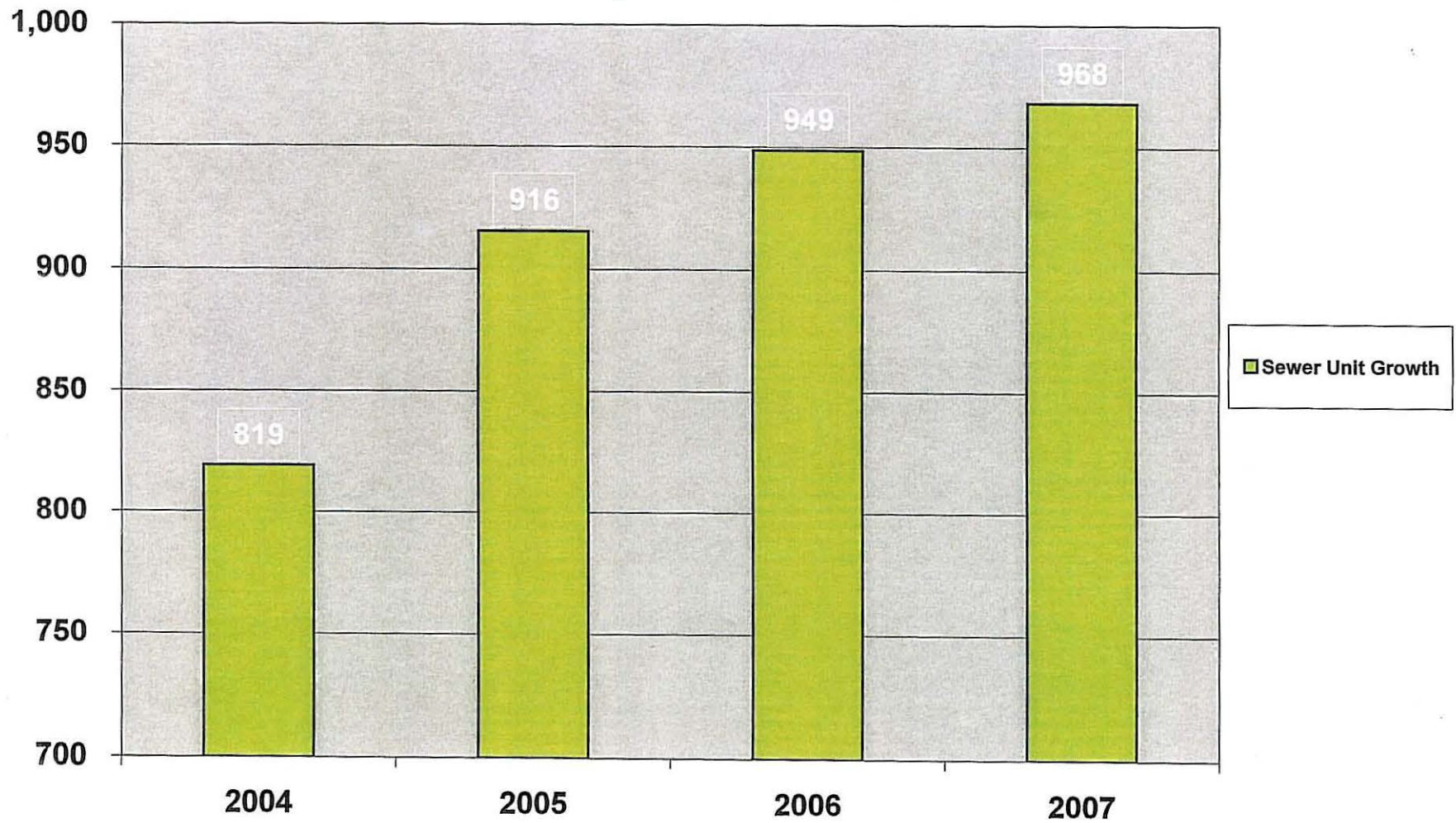


## Total Annual Operating Costs

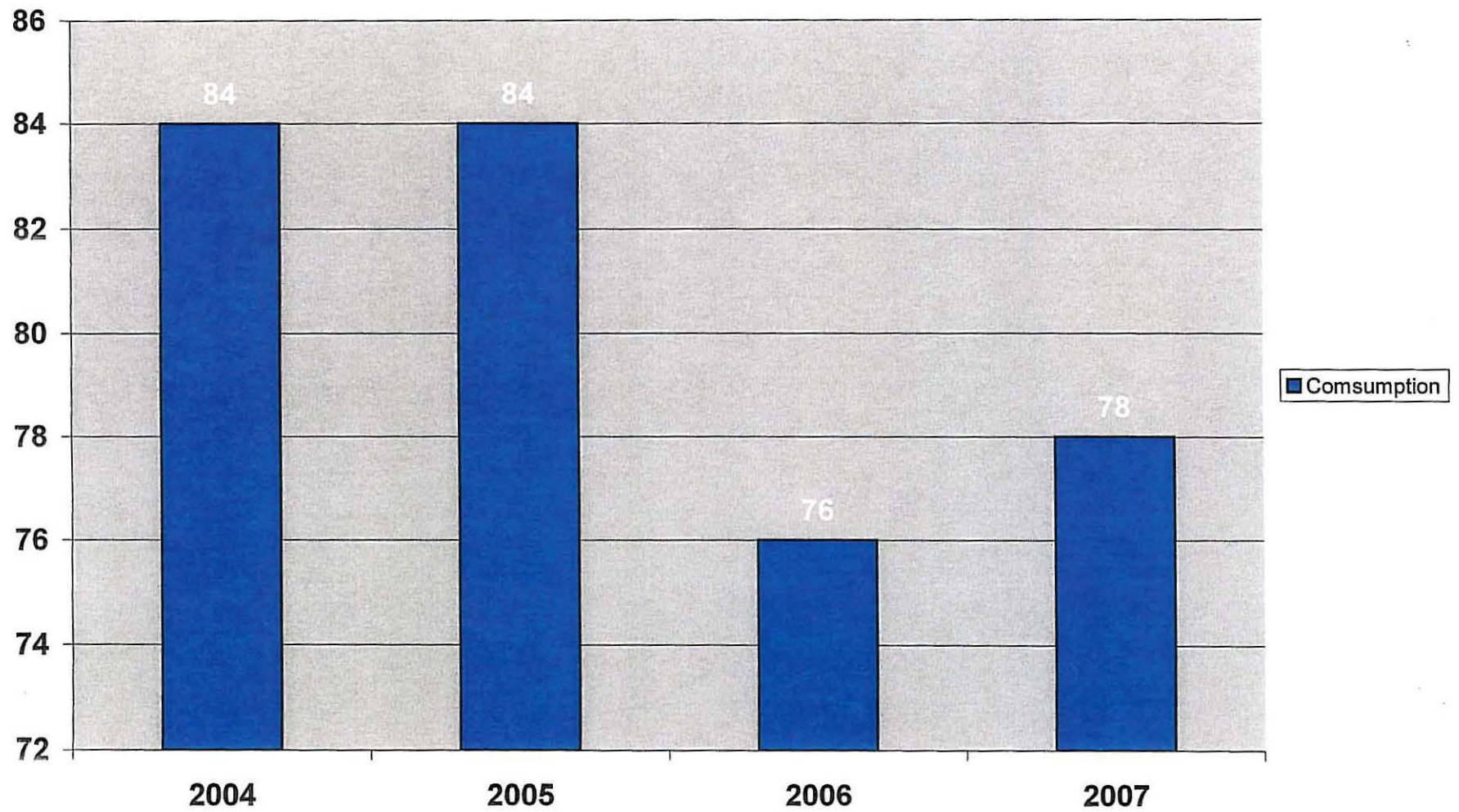




## Sewer Unit Growth # of Equivalent Users

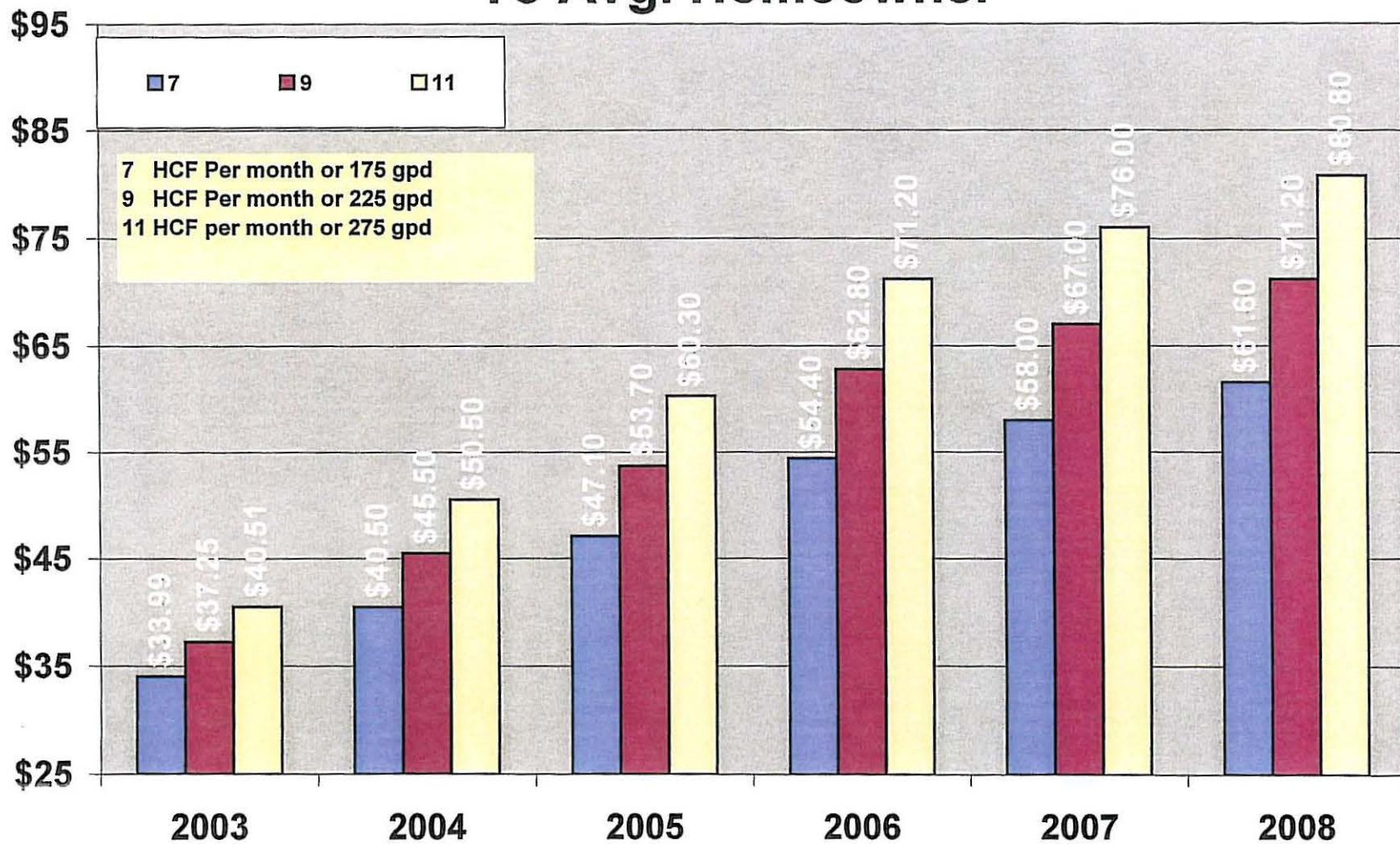


Annual Consumption 1 unit = 100 cf of water or 748 gallons  
Avg usage in Cumberland 175 gallons per day  
(decrease of 75 gallons per day since 2004)

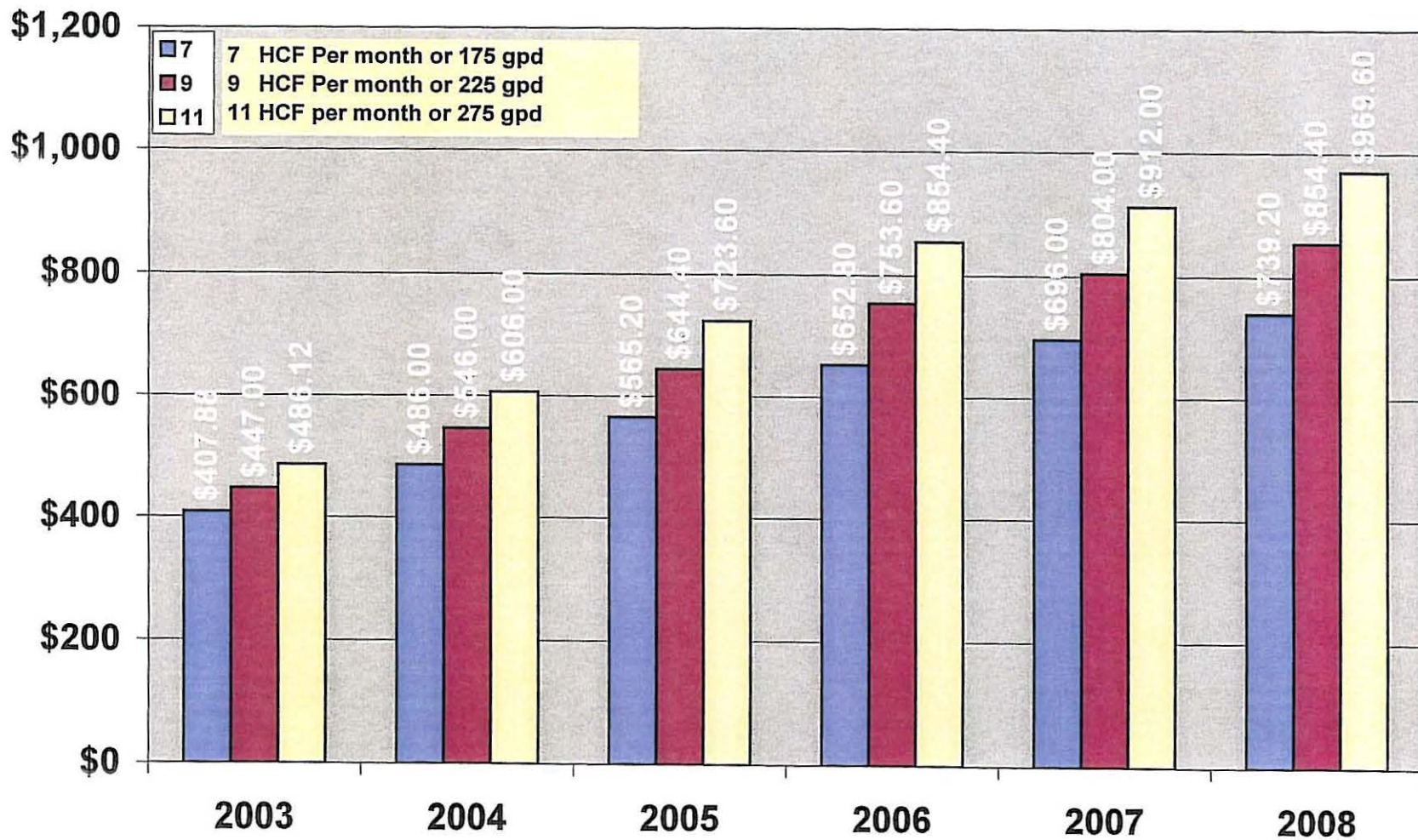




## Monthly Sewer Costs To Avg. Homeowner



## Annual Sewer Costs To Homeowner

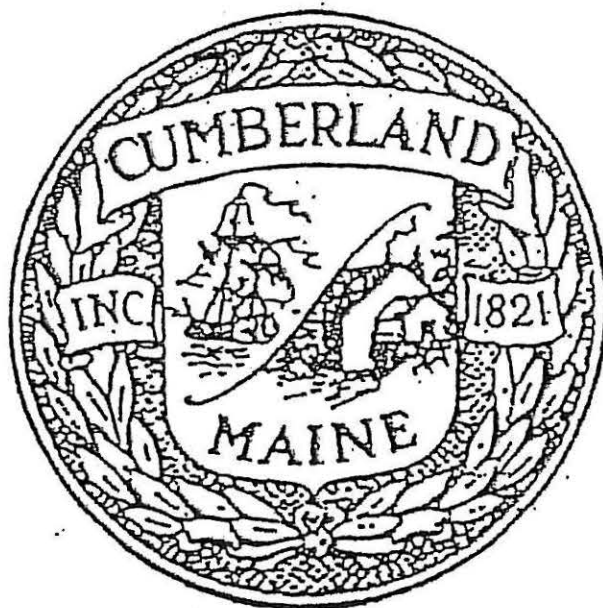




	2003	2004	2005	2006	2007	2008
Base	\$22.58	\$23.00	\$24.00	\$25.00	\$26.50	\$28.00
Consumption	\$1.63	\$2.50	\$3.30	\$4.20	\$4.50	\$4.80

	2003	2004	2005	2006	2007	2008
7	\$33.99	\$40.50	\$47.10	\$54.40	\$58.00	\$61.60
9	\$37.25	\$45.50	\$53.70	\$62.80	\$67.00	\$71.20
11	\$40.51	\$50.50	\$60.30	\$71.20	\$76.00	\$80.80

	2003	2004	2005	2006	2007	2008
7	\$407.88	\$486.00	\$565.20	\$652.80	\$696.00	\$739.20
9	\$447.00	\$546.00	\$644.40	\$753.60	\$804.00	\$854.40
11	\$486.12	\$606.00	\$723.60	\$854.40	\$912.00	\$969.60



TOWN OF CUMBERLAND  
SEWER USE ORDINANCE

TOWN OF CUMBERLAND  
SEWER USE ORDINANCE

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## **TOWN OF CUMBERLAND**

### **SEWER USE ORDINANCE**

An ordinance regulating the use of public and private sewers and drains, private wastewater disposal, the installation and connection of building sewers, and the discharge of waters and wastes in the public sewer system, and providing penalties for violations thereof; in the Town of Cumberland, County of Cumberland, State of Maine.

Be it ordained and enacted by the Council of the Town of Cumberland, State of Maine as follows:

#### **ARTICLE I.      PURPOSE**

It shall be the purpose of this ordinance to reduce, to the extent practicable, existing pollution and to prevent further pollution caused by the inadequate wastewater disposal, and to accomplish the necessary local legislation to meet the requirements of the Portland Regional Wastewater Plan established by the Portland Water District, the State of Maine and the Federal Government. All this is in furtherance of the health, welfare, comfort and convenience of the inhabitants of the Town of Cumberland.

Whereas the Portland Water District has been designated as the regional agency responsible for Wastewater Treatment, none of the provisions of this ordinance shall be construed to repeal or otherwise interfere with the rights, duties, and/or powers granted to the Portland Water District pursuant to Chapter 433 of the private and special laws of the State of Maine of 1907, as amended.

#### **ARTICLE II.      SCOPE**

Hereafter any person owning a building or structure within the Town of Cumberland which is the source of sewage and/or industrial wastes or who proposes to erect such building or structure shall conform to the requirements of the State Plumbing Code, this ordinance and any regulations thereunder. Outside consulting fees shall be charged in accordance with Section 608 of the zoning ordinance (Amended, effective 3-25-87).

ARTICLE III. DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- Sec. 1 "Abutter" shall be defined as a parcel of land whose boundary closest to the sewer line, if extended across the street right of way, would cross the public sewer.
- Sec. 2 "Biochemical oxygen demand (BOD)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter.
- Sec. 3 "Board of Sewer Appeals" shall mean that board appointed according to provision of Article XI.
- Sec. 4 "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning eight (8) feet (2.5 meters) outside the inner face of the building wall.
- Sec. 5 "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.
- Sec. 6 "Combined sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.
- Sec. 7 "Easement" shall mean an acquired legal right for specific use of land owned by others.
- Sec. 8 "Floatable oil" is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.
- Sec. 9 "Force main" shall mean a pressurized section of sewer that conveys the discharge from a pump station to a higher level destination which may be a treatment plant or a manhole in the gravity portion of the sewerage system.
- Sec. 10 "Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

- Sec. 11 "Industrial wastes" shall mean the wastewater from industrial process, trade or business as distinct from sanitary wastes.
- Sec. 12 "Natural outlet" shall mean any outlet, including storm sewers into a watercourse, pond, ditch, lake or other body of surface or groundwater.
- Sec. 13 "May" is permissive (see "shall", Sec. 23)
- Sec. 14 "person" shall mean any individual, firm, association, society, corporation or group.
- Sec. 15 "pH" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen-ions, in grams, per liter of solution: neutral water, for example, as a pH value of 7 and a hydrogen-ion concentration of  $10^{-7}$ .
- Sec. 16 "Plumbing Inspector" shall mean the plumbing inspector of the Town of Cumberland, as defined by Title 30, Section 3222, of the State Plumbing Code.
- Sec. 17 "Properly shredded garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the slow conditions normally prevailing in public sewers, with no particles greater than 1/2 inch (1.27 centimeters) in any dimension.
- Sec. 18 "Public sewer" shall mean a common sewer controlled by a governmental agency or public utility.
- Sec. 19 "Sanitary sewer" shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, institutions and other buildings, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- Sec. 20 "Sanitary wastes" shall mean the liquid wastes and liquid borne wastes discharged from the sanitary conveniences such as toilets, washrooms, urinals, sinks, showers, drinking fountains, home laundry rooms and kitchens and be essentially free of industrial wastes or toxic materials.
- Sec. 21 "Sewage" is the spent water of a community. The preferred term is "wastewater," Sec. 31.
- Sec. 22 "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.

- Sec. 23 "Shall" is mandatory (see "may", Sec. 13).
- Sec. 24 "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes or more than five (5) times the average twenty-four hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of wastewater treatment works.
- Sec. 25 "Storm drain" (Sometimes termed "Storm sewer") shall mean a drain or sewer for conveying water, groundwater, sub-surface water, or unpolluted water from any source.
- Sec. 26 "Superintendent" shall mean the official directly in charge of the Cumberland sewer system as designated by the Town Council, or the superintendent's authorized deputy, agent or representative.
- Sec. 27 "Suspended solids" shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtrating as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.
- Sec. 28 "Unpolluted water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- Sec. 29 "Town" shall mean the Town of Cumberland, Maine.
- Sec. 30 "Town Council" shall mean the duly elected Town Council of the Town of Cumberland.
- Sec. 31 "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, institutions and any other buildings, together with any groundwater, surface water, and stormwater that may be present.
- Sec. 32 "Wastewater facilities" shall mean the structures, equipment and processes required to collect, carry away, and treat sanitary and industrial wastes and dispose of the effluent.
- Sec. 33 "Wastewater treatment works" shall mean an arrangement of devices and structures for treating wastewater,



industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."

- Sec. 34 "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

ARTICLE IV. USE OF PUBLIC SEWERS REQUIRED

- Sec. 1 It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Town of Cumberland or in any area under the jurisdiction of said Town, any human or animal excrement, garbage or objectionable waste. The term "unsanitary manner" shall not include seasonal spreading of animal excrement or other fertilizer in farming or animal husbandry operations.
- Sec. 2 It shall be unlawful to discharge to any natural outlet within the Town of Cumberland, or any area under the jurisdiction of said Town, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.
- Sec. 3 Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- Sec. 4 The owner of any house, building or other structure used for human occupancy, employment, recreation or other purposes requiring the disposal of wastewater, abutting and situated within 200 feet of any sanitary sewer, excluding any force main leading to a wastewater treatment plant, shall at the owner's own expense connect its wastewater facilities directly with the proper public sanitary sewer in accordance with the provisions of this ordinance within 90 days after the date of notice by the superintendent to do so. The 200-foot measurement shall be made by a straight line from the end of any stub provided by the Town, otherwise from any gravity portion of the public sewer, to a point on the building other than the foundation for any garage or other attached accessory building unless it contains a toilet or sink, or contains other facilities regularly generating sewage.

If the owner can provide to the satisfaction of the superintendent that a suitable private wastewater



disposal is currently in use, the owner shall be exempt from connecting to the public sewer, but shall be assessed a readiness to serve fee equal to the minimum charge as established if a connection were made.

ARTICLE V. PRIVATE WASTEWATER DISPOSAL

- Sec. 1 The owner of any house, building or other structure who is not required to connect its wastewater facilities to a public sanitary sewer in accordance with the provisions of Article IV, Section 4 hereof, shall connect the building sewer to a private wastewater disposal system complying with the provisions of this Article and the State of Maine Subsurface Wastewater Disposal Rules, Chapter 241.
- Sec. 2 Before commencement of construction of a private wastewater disposal system the owner(s) shall first obtain a written permit signed by the licensed plumbing inspector. The application for such permit shall be made on a form furnished by the Division of Health Engineering, Maine Department of Human Services, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the plumbing inspector. A permit and inspection fee shall be paid to the plumbing inspector at the time the application is filed.
- Sec. 3 A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the licensed plumbing inspector. The licensed plumbing inspector shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the licensed plumbing inspector when the work is ready for final inspection, and before any underground portions are covered. The final inspection shall be made by the end of the second succeeding business day after the date of actual receipt of notice by the licensed plumbing inspector, or the installation shall be considered approved unless the inspector gives notice of a delay in the inspection within the two days, in which case the inspector shall schedule inspection within 48 hours of said notice.
- Sec. 4 The type, capacities, location and layout of a private wastewater disposal system shall comply with the State of Maine Subsurface Disposal Rules, Chapter 241 and the Building Code of the Town.

- Sec. 5      The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town.
- Sec. 6      No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Town Health Officer.
- Sec. 7      The contents from private wastewater disposal systems shall not be discharged to the public sewer system.

**ARTICLE VI.      BUILDING SEWERS AND CONNECTIONS**

- Sec. 1      No person(s) shall commence construction of building sewers, uncover, or make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent which permit shall be valid for six (6) months.
- Any person proposing a new discharge of industrial waste into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Superintendent at least forty-five (45) days prior to the proposed change or connection, and shall comply with the Maine Revised Statutes Annotated, Title 38, Chapter 3, Subchapter I, Sec. 361.
- Sec. 2      There shall be two (2) classes of sewer permits: (a) for service to establishments producing sanitary wastes; and (b) for service to establishments producing industrial wastes. In either case, the owner(s), or his agent, shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee in such amounts as shall from time to time be established by the Town Council shall be paid to the Town at the time the application for a permit is filed. Any violation of Section 1 shall require the applicant to pay a double permit and inspection fee.
- Sec. 3      All costs and expenses incidental to the installation, connection, repair and maintenance of the building sewer from the wall of the building to the point of entrance to the public sewer shall be borne by the owner(s). The owner(s) shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of the building sewer.

If a public sewer connection is not presently available, the Town or its agents will install the tee connection to the public sewer at the applicant's expense.

- Sec. 4 A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no building sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building sewer may be extended to the rear building by arrangement of the owners and the whole considered as one building sewer, but the Town does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
- Sec. 5 Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this ordinance.
- Sec. 6 The building sewer shall meet one of the following specifications: 1) Ringtite PVC Sewer SDR 35 - ASTM-D-3034 12 1/2 foot or 20 foot lengths, rubber ring lock-in, maximum allowable deflection 7 1/2 percent, 2) Ringtite PVC Water Pipe Class 160, SDR-26, 20 foot lengths ASTM-D-2241, rubber ring in belled groove, maximum allowable deflection 7 1/2 percent, 3) ABS sewer pipe ASTM D2751 sewer grade, 4) Extra heavy cast iron soil pipe shall conform to American Society for Testing and Materials specification (ASTM) A74 and American Standard Association specification (ASA) 40.1, or 5) Ductile iron push or joint sewer pipe of Class 50.

The diameter of the building sewer shall not be less than four (4) inches nor shall the slope of the pipe beginning 8 feet outside any building be less than one-quarter (1/4) inch per foot, unless approved by the superintendent.

The depth of building sewers shall be sufficient to afford protection from frost. Any part of building sewer lines installed with less than three (3) feet ground cover shall be insulated as approved by the superintendent.

The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. The ends of building sewers which are not connected to the building drain of the structure for any reason, shall be sealed against infiltration by a suitable stopper, plug, or other approved means. The

building sewer shall be laid on a firm bed and back-filled by hand with sand, gravel or clean fill with no stones larger than 1 1/2". The hand fill shall be placed around the pipe and over it to a depth of at least 6" over the pipe. The remainder of the trench may be backfilled by machine. Backfill up to 6" over the pipe shall be hand tamped.

All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the superintendent. Pipe laying and backfill shall be performed in accordance with Sections 3 through 6 of ASTM Specification C12, except that no backfill shall be placed until the work has been inspected and except that trench width measured at the top of the installed pipe shall not exceed thirty-six (36) inches.

All joints and connections shall be made gas tight and water tight. The transition joint between pipes of different materials shall be made with adaptors and joint materials approved by the superintendent.

Premolded gasket joints shall be used and shall be neoprene compression type gaskets which provides a positive double seal in the assembled joint. The gasket shall be a premolded, one piece unit designed for joining the pipe material used. The assembled joint shall be sealed by compression of the gasket between the exterior surface of the spigot and the interior surface of the hub. The joint shall be assembled following the manufacturer's recommendation using acceptable lubricant and special pipe coupling tools designed for that purpose. Lubricant shall be a blend, flax base, non-toxic material, and shall not chemically attack the gasket material.

Lead and oakum joints and solvent weld joints are allowed as an alternate, but only when installed by licensed master plumbers.

Building sewer cleanouts shall be installed at intervals not to exceed 110' in straight lines and at all 90 degree turns. The cleanouts shall be installed vertically to within 6" of the surface. A stainless steel strap shall be installed around the cleanout.

Any replacing or relocating of building drain pipes inside the building shall require a separate permit to be taken out by either a master plumber or the owner.



Sec. 7 Whenever practical, the building sewer pipes shall be brought to the building drain at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

A septic tank in good condition as defined by the superintendent may be used for a pumping tank. The

outlet to the disposal area shall be disconnected and plugged.

The sewage pump shall be capable of pumping solids and shall have at least a 2" discharge line. If a grinder pump is installed, a 1 1/2" discharge line is permitted. Tanks shall be equipped with an alarm system wired to the building.

Sec. 8 No person(s) shall make a connection of roof downspouts, floor drains, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

Sec. 9 The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the superintendent. If the trench is backfilled before being authorized by the superintendent, the superintendent shall require it to be re-excavated for inspection. The superintendent shall make all inspections without undue delay.

Sec. 10 Upon completion of the connection of the building sewer to the public sewer, the old septic tank shall be pumped out and filled with soil, or removed.

Sec. 11 All excavations for building sewer installation or maintenance shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

Sec. 12 No connection of a building sewer shall be made directly to a force main.

ARTICLE VII. SEWER EXTENSIONS

- Sec. 1 Any person who subdivides land within the Town, of which any part either is located within 500 feet of a public sanitary sewer, or is so located that it can be connected to such public sanitary sewer without undue hardship, as determined by the Planning Board, shall, if such subdivision has not been finally approved before the effective date of this ordinance, at the subdivider's own expense construct for dedication to the Town a sanitary sewer extension to serve all structures within such subdivision which will require the disposal of sewage. Such sanitary sewer shall be designed by a registered engineer, its design shall be approved by the Town and its design, construction and acceptance shall be in accordance with the provisions of Article VII, Sections 3, 4, and 5.
- Sec. 2 Any one or more property owners, builders or developers may propose the extension of any sanitary sewer within the Town by presenting to the Town Council a petition signed by the owners of at least two-thirds of the buildings and properties which would be required to connect to such sewer or be assessed a readiness to serve charge under the provisions of Article IV, Sec. 4. If the Council does not elect that the Town construct such an extension, it may permit the petitioners to construct the same for dedication to the Town upon a determination that such extension is consistent with Town plans for public sewers, is properly located and sized, and may lawfully be so constructed. Such sanitary sewer shall be designed by a registered engineer, its design and acceptance shall be in accordance with the provisions of Article VII, Sec. 3, 4 and 5. Any sewer extension shall be of adequate size and depth to permit further extensions of sewer service.
- Sec. 3 The Town Council may, on its own initiative, determine to extend the public sewer down an unsewered public way within the Town if it determines that such an extension would be in the best interest of the health and welfare of the abutting property owners along said way. When such extensions are made by Council Order, the cost of the construction of the actual extension will be borne by the Town. However, all abutting land owners who are discharging septic waste shall be required to connect to said sewer at such times as their existing septic system fails or when any new or replacement system is proposed for existing dwellings or as part of the development of vacant land adjoining said sewer extension. The Town Council shall, by Order, establish an access charge

equal to a reasonable reimbursement to the Town for its cost in extending said sewer. Said Order shall be specific to each new sewer extension and shall be attached to this ordinance as a schedule of charges. No readiness to serve charge shall be made on said municipal sewer extensions. No other costs shall be assessed against the property owners except said access charge, permit fees and installation costs, when the property becomes served by the sewer directly and thereafter property owners shall pay all normal charges assessed to users within this ordinance. Any such sewer extensions approved by the Town Council shall comply with the design standards adopted by the Town for all

other sewer extensions and may be constructed of adequate size and depth to permit further extensions therefrom.

Sec. 4 Any person constructing a sanitary sewer extension in accordance with Article VII, Sec. 1 and 2, shall pay for the entire installation, including all expenses incidental thereto including design review by the Town Engineer; the expense of design review by the Town Engineer shall be calculated on the basis of the number of hours spent by the Town Engineer in review of the design times the hourly rate of \$40.00, and all expenses shall be paid to the Town prior to construction of the sanitary sewer extension. Each building sewer must be installed and inspected as required by Article IV and all connections shall be made as required under Article IV; permit and inspection fees shall be paid for each building sewer connection to the sanitary sewer extension in accordance with Article VI. The installation of the sewer extension must be subject to periodic inspection by the superintendent and the expenses for this inspection shall be paid for by the owner, builder or developer. The superintendent's decision shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass the testing required in the sewer design specification as adopted by the Town before it is to be used. The cost of sewer extension thus made shall be absorbed by the developers or the property owners, including all building sewers.

The Town may require the developer to pay the cost of inspector services as may be required by the Town, up to and including a full time inspector.

Outside review fee: The applicant shall be required to pay outside consulting fees under Section 608 of the Zoning Ordinance, as may be amended.

- Sec. 5 Sewer and pump station design shall be in accordance with the sewer design specifications adopted by the Town. Pump station telemetry shall be in accordance with the requirements of the Portland Water District. The Portland Water District shall approve, prior to installation, all necessary instrumentation for all pump stations. All pump stations with an installed design capacity greater than 150 gallons per minute shall be designed and constructed by the Portland Water District, with the developer or the property owners requiring the pump station paying all of its costs.
- Sec. 6 The town engineer shall approve any sanitary sewer extension constructed under Article VII, Sec. 1 and 2, and he shall be given a complete plan and profile thereof as constructed, before acceptance thereof, and before final acceptance of the subdivision street in which it is located, by the Town. Any person constructing a sanitary sewer extension in accordance with Article VII, Sec. 1 and 2, shall pay prior to Town acceptance of the sanitary sewer extension, all expenses incidental to the Town Engineer's review and approval of the constructed sanitary sewer extension, which expense shall include but shall not be limited to the cost of the Town Engineer's review and approval, which cost shall be calculated on the basis of the number of hours spent by the Town Engineer on said review and approval times the hourly rate of \$40.00. All sewer extension, including pump stations, constructed at the property owner's, builder's or developer's expense, after final approval and acceptance by the Superintendent, shall become the property of the Town and shall thereafter be maintained by the Town within a time period of 6 months if accepted. Said sewers or pump stations, after their acceptance by the Town, shall be guaranteed by the property owner, builder or developer against defects in materials or workmanship for twelve (12) months. The guarantee shall be in the form of a maintenance guarantee bond in an amount not less than 10 percent of the engineer's estimate of the cost of the sewer extension or pump station.
- Sec. 7 No building or developer shall be issued a building permit for a new building or structure requiring sanitary facilities within the Town, unless a suitable and approved method of sewage disposal is proposed and approved by the Town.



ARTICLE VIII. USE OF THE PUBLIC SEWERS

- Sec. 1 No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sanitary sewer. Combined sewers are expressly prohibited.
- Sec. 2 Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to be a natural outlet approved by the superintendent and other regulatory agencies. Industrial cooling water or unpolluted process waters may be discharged, on approval of the superintendent, to a storm sewer, or natural outlet and the discharge shall comply with Maine Revised Statutes Annotated Title 30, Chapter 3, Section 413.
- Sec. 3 No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
- (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
  - (b) Any waters containing toxic or poisonous solids, liquids, or gasses.
  - (c) Any waters or wastes having a pH lower than 6.0 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.
  - (d) Solid or viscous substances in quantities of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- Sec. 4 The following described substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewer's wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The superintendent may set limitations lower than the

limitations established in the regulations below if, in the superintendent's opinion, such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the superintendent will give consideration to such factors as the quality of subject waste in relations to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the superintendent are as follows:

(a) Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).

(b) Wastewater containing more than 25 milligrams per liter of petroleum oil, non biodegradable cutting oils, or product of mineral oil origin.

(c) Wastewater from industrial plants containing floatable oils, fat or grease.

(d) Any garbage that has not been properly shredded (see Article III, Section 17). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers. The installation and operation of any garbage grinder in a non-residential establishment shall be subject to the review and approval of the superintendent.

(e) Any waters or wastes containing a toxic or poisonous substance, a high chlorine demand or suspended solids in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters or the effluent of Falmouth's wastewater treatment plant. Such toxic substances shall be limited to the average concentrations listed hereinafter in the sewage as it arrives at the treatment plant and at no time shall the hourly concentration at the wastewater treatment plant exceed three times average concentration.

Limits of Toxic Substances in Sewage  
at the Falmouth Treatment Plant

Iron, as FE .....	1.0	ppm
Chromium, as CR (hexavalent).....	0.5	ppm
Copper, as Cu .....	1.0	ppm
Phenol.....	10.0	ppm
Cyanide, as CN .....	0.05	ppm
Cadmium, as Cd .....	0.01	ppm
Zinc, as ZN .....	0.5	ppm
Nickel.....	0.75	ppm

If concentrations listed above are exceeded at the Falmouth Wastewater Treatment Plant, individual establishments will be subject to control by the Superintendent in volume and concentration of wastes discharged as follows:

	<u>Maximum for</u> <u>any One Day</u>	<u>Monthly Average</u> <u>Shall Not Exceed</u>
Metal	milligram/liter	milligram/liter
Cadmium	0.11	.07
Chromium Total	2.77	1.71
Copper	3.38	2.07
Lead	0.69	0.43
Nickel	3.98	2.38
Silver	0.43	0.24
Zinc	2.61	1.48
Cyanide	1.20	0.65

and any waters or wastewater containing arsenic or fluorides are prohibited from discharge to the sanitary sewer system.

(f) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the superintendent.

(g) Any radioactive wastes or isotopes of such half-life or concentrations as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.

(h) Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.

(i) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such a degree that the wastewater

treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over the discharge to the receiving waters.

(j) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release noxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

(k) Sanitary wastewater which exceeds the following limits:

<u>Constituent</u>	<u>Limit</u>
BOD	300 ppm
Suspended Solids	350 ppm
Chlorine Demand	15 ppm

Sec. 5 If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4 of this Article, and which in the judgment of the Superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (a) Reject the wastes,
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers,
- (c) Require control over the quantities and rates of discharge and/or
- (d) Require payment to cover added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 10 of this Article.

When considering the above alternatives, the Superintendent shall give consideration to the economic impact of each alternative on the discharger. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent.

Sec. 6 Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable oil in excessive amounts, as specified in Section 4(c), or any flammable wastes,

sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured materials and shall maintain records of the dates, the means of disposal which are subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by owner(s) personnel must be performed by currently licensed disposal firms.

- Sec. 7      Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.
- Sec. 8      When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Superintendent. The structure shall be maintained by the owner so as to be safe and accessible at all times.
- Sec. 9      The Superintendent may require a user of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:
- (a) Wastewater discharge peak rate and volume over a specified time period;
  - (b) Chemical analysis of wastewaters;
  - (c) Information on raw materials, processes, and products affecting wastewater volume and quality;
  - (d) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control;
  - (e) A plot plan of the sewers of the user's property showing sewer and pretreatment facility location;
  - (f) Details of wastewater pretreatment facilities; and
  - (g) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
- Sec. 10     All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in



accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Superintendent.

- (a) All industries discharging industrial waste into a public sewer shall perform such monitoring of their discharges as the Superintendent and/or other duly authorized employees of the town may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the superintendent. Such records shall be made available upon request by the Superintendent to other agencies having jurisdiction over discharges to the receiving waters.

- Sec. 11 No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment.

ARTICLE IX.

- Sec. 1 No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct.
- Sec. 2 A contractor must present a certificate of insurance showing minimum liability coverage of \$250,000/500,000 for bodily injury and a \$100,000 limit for property damage including collapse underground and completed operations coverage with the Town listed as an additional insured before a permit will be issued for construction of building sewers or sewer extensions. Sewer extensions may require higher coverage if so recommended by the engineer.

ARTICLE X. POWERS AND AUTHORITY OF INSPECTORS

- Sec. 1 The Superintendent and other duly authorized employees or agents of the Town, bearing proper credentials and identification, shall be permitted to enter all

properties for the purpose of inspection, observation, measurement, sampling, and testing pertinent to discharge to the public sewer system in accordance with the provisions of this ordinance but only at reasonable times and upon reasonable notice.

- Sec. 2      The Superintendent or other duly authorized employees or agents are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. Any information so obtained and considered as proprietary shall be deemed as confidential and shall be held so by the Superintendent and Town.
- Sec. 3      While performing the necessary work on private properties referred to in Article X, Sections 1 and 2 above, the Superintendent or duly authorized employees or agents of the Town shall observe all safety rules applicable to the premises established by the owner, and the owner shall be held harmless for injury or death to the Town employees, and the Town shall indemnify the owner against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions.
- Sec. 4      The Superintendent and other duly authorized employees or agents of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**ARTICLE XI.      BOARD OF SEWER APPEALS**

- Sec. 1      Creation and Appointment. The establishment of a Board of Sewer Appeals is hereby authorized. The members of the Board shall be appointed by the Town Council. They shall be residents of the Town and shall serve without compensation. In accordance with the laws of the State of Maine, the following provisions shall apply:
- (a)      The Board shall consist of five members. A quorum shall consist of three members.

- (b) The term of office of members shall be three years except that the initial appointment of members shall be one for one, two for two, and two for three years.
- (c) No municipal officer shall be a member of the Board of Sewer Appeals.
- (d) The Town Council may remove a member of the Board of Sewer Appeals. Unexcused absence of any member from three consecutive meetings of the board shall be considered cause for such removal.
- (e) When there is a permanent vacancy, whether caused by death, resignation, removal or loss of eligibility, the Town Council may appoint a person to serve for the unexpired term.
- (f) The Board of Sewer Appeals shall elect a chairman and a secretary from its own membership annually.

Sec. 2     Jurisdiction. The Board of Sewer Appeals shall have the following powers and duties to be exercised only upon written appeal by a party aggrieved by a decision of the Superintendent, Town Engineer, the Health Officer, and/or the Plumbing Inspector insofar as such decision arises from requirements of this ordinance.

- (a) To determine whether the decisions of said officers are in conformity with the provisions of this ordinance, and to interpret the meaning of this ordinance in cases of uncertainty.
- (b) To grant variances from the terms of this ordinance where there is no substantial departure from the intent of the ordinance and/or, where necessary, to avoid undue hardship. A projected expenditure of an amount exceeding 15 percent of the assessed value of the buildings on the land to be served by the public sewer shall be considered as a prima facie evidence of undue hardship.

Sec. 3     Hearings. The Board of Sewer Appeals shall annually determine a regular monthly meeting date. All appeals or other matters to come before the Board, requiring a notice as prescribed herein, shall be filed with the Town Clerk at least fifteen days prior to said next monthly meeting day who shall cause to be advertised in a newspaper of general circulation in the Town of Cumberland a notice of such appeal identifying the property involved, the nature of the appeal and stating the time and place of a public hearing of such appeal which shall not be earlier than ten (10) days after the date of such publications.

The Board of Sewer Appeals shall not continue hearings on an appeal to a future date except for good cause.

Written notice of the decision of the Board shall be sent to the appellant and to the officer concerned, forthwith. Failure of the Board to issue such a notice within 30 days of the date of the hearing shall constitute a denial of said appeal.

Sec. 4     Appeal Procedure.

- (a) Any person and any municipal department aggrieved by the decision of the Superintendent, the Town Health Officer and/or the Plumbing Inspector, which decision arises from provisions of this ordinance, may appeal such decision to the Board of Sewer Appeals.
- (b) Within 30 days of the date of the decisions of the Superintendent, Health Officer, and/or Plumbing Inspector, the appeal shall be entered at the office of the Town Clerk upon forms to be approved by the Board of Appeals. The appellant shall set forth in said form the grounds of the appeal and shall refer to the specific provisions of the Sewerage Ordinance involved. Following the receipt of any appeal, the Town Clerk shall notify forthwith the officer concerned and the Chairman of the Board of Sewer Appeals. The appellant shall pay to the Town Treasurer a fee as set by the Town Council.
- (c) An aggrieved party may appeal from the decision of the Board of Sewer Appeals to the Superior Court as provided by the laws of the State of Maine.

Sec. 5     Successive Appeals. After a decision has been made by the board of Sewer Appeals, a new appeal of similar import shall not be entertained by the Board until one year shall have elapsed from the date of said decision, except that the Board may entertain a new appeal if the Chairman believes that, owing to a mistake of law or misunderstanding of fact, an injustice was done, or if he believes that a change has taken place in some essential aspect of the appeal.

ARTICLE XII.     SEWER SERVICE CHARGES

Sec. 1     Sewer service charges totaling 100 percent of the revenues needed for retiring debt services, capital expenditures, operation and maintenance of the public sewerage works shall be collected from all users of the public sewer system and those required to pay a readiness to serve charge as defined in Article 4, Section 4.



Sec. 2 Sewer Service Charge rates, including readiness to serve charges, shall be determined by the Town Council. This charge will be billed on a monthly or quarterly basis throughout each calendar year.

Sec. 3 The Sewer Service Charge to any user shall be based on the amount of water estimated or measured as shown on the records of the Portland Water District, provided to the sewer user during the previous billing period; provided, however, that where water is obtained from a source or sources other than the Portland Water District, whether or not Portland Water District also supplies water, the computation shall include the amount of water obtained from all such other sources, unless the user establishes to the satisfaction of the Superintendent that the water from such other sources is not entering the sewer system. The Superintendent may require additional metering, either of water sources or of the sewer outflow, to be installed and maintained at the owner's expense where, in the Superintendent's opinion, such metering is required to accurately measure the volume of wastewater entering the sewer system.

Any person who feels that recorded water records are not a reliable index of the discharge volume may install an additional water meter of a type approved by the Superintendent to measure the volume of water which can be shown not to enter the sewerage system. The person installing such a meter shall immediately notify the Superintendent of such installation and shall be responsible to the Superintendent for reporting meter readings not less often than every three months. Such person shall be credited with the volume charges for the volume shown by such meter, which meter shall be accessible for reading by the Town or its agents at all reasonable times.

Sec. 4 There shall be a readiness to serve charge equal to the minimum sewer service charge for those properties that can be served as defined in Art. IV, Sec. 4, but that have not connected to the public sewer system. The payment of such charge in no way affects the obligation of the owner of such property to connect to the public sewer system in conformance with the Ordinance. These funds can be used only for payment of fixed costs that are not related to flow.

Sec. 5 Each sewer user shall pay a minimum sewer service charge for fixed costs not related to flow regardless of actual water usage.





TOWN OF CUMBERLAND, MAINE  
290 TUTTLE ROAD  
CUMBERLAND, MAINE 04021  
TEL: 207-829-2205 FAX: 829-2224

## **Sewer Use Ordinance - Draft Updates**

**December 22, 2003**

**Changes Summarized**

ART VII

Sec. 2 Any one or more property owners, builders or developers may propose the extension of any sanitary sewer within the Town by presenting to the Town Council a petition signed by the owners of at least two-thirds of the buildings and properties which would be required to connect to such sewer or be assessed a readiness to serve charge under the provisions of Article IV, Sec. 4 and/or Article IV, Section 5. If the Council does not elect that the Town construct such an extension, it may permit the petitioners to construct the same for dedication to the Town upon a determination that such extension is consistent with Town plans for public sewers, is properly located and sized, and may lawfully be so constructed. Such sanitary sewer shall be designed by a registered engineer, its design and acceptance shall be in accordance with the provisions of Article VII, Sec. 3, 4 and 5. Any sewer extension shall be of adequate size and depth to permit further extensions of sewer service.

Sec. 3 The Town Council may, on its own initiative, determine to extend the public sewer down an unsewered public way within the Town if it determines that such an extension would be in the best interest of the health and welfare of the abutting property owners along said way. When such extensions are made by Council Order, the cost of the construction of the actual extension will be borne by the Town. However, all abutting land owners who are discharging septic waste shall be required to connect to said sewer at such times as their existing septic system fails or when any new or replacement system is proposed for existing dwellings or as part of the development of vacant land adjoining said sewer extension. The Town Council shall, by Order, establish an access charge

equal to a reasonable reimbursement to the Town for its cost in extending said sewer. Said Order shall be specific to each new sewer extension and shall be attached to this ordinance as a schedule of charges. No readiness to serve charge shall be made on said municipal sewer extensions constructed prior to October 31, 1999. A readiness to serve fee shall be made on all said municipal sewer extensions constructed after October 31, 1999. ~~No~~ The only other costs shall to be assessed against the to all property owners except said served by a municipal sewer extension shall be the determined access charge, permit fees and installation costs, when the property becomes served by the sewer directly, and thereafter property owners shall pay all normal charges assessed to users within this ordinance. Any such sewer extensions approved by the Town Council shall comply with the design standards adopted by the Town for all

" See page 12 "

ART. III

Sec. 23 "Sewer Permit" shall mean a written permit obtained from the Town for disposal of sewage from a commercial or residential unit through appropriate building drains to the public sewer and finally to the Town's wastewater facilities.

Sec. 24 "Sewer User Unit" shall mean the measure of flow equal to that generated by the average single family household, which is 310 gallons per day.

Sec. 25 "Shall" is mandatory (see "may", Sec. 13).

Sec. 26 "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes or more than five (5) times the average twenty-four hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of wastewater treatment works.

Sec. 27 "Storm drain" (Sometimes termed "Storm sewer") shall mean a drain or sewer for conveying water, groundwater, sub-surface water, or unpolluted water from any source.

Sec. 28 "Superintendent" shall mean the official directly in charge of the Cumberland sewer system as designated by the Town Council, or the superintendent's authorized deputy, agent or representative.

Sec. 29 "Suspended solids" shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtrating as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.

Sec. 30 "Unpolluted water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

Sec. 31 "Town" shall mean the Town of Cumberland, Maine.

Sec. 32 "Town Council" shall mean the duly elected Town Council of the Town of Cumberland.

" See page 4 "



PR7 IV  
wastewater treatment plant, shall at the owner's own expense connect its wastewater facilities directly with the proper public sanitary sewer in accordance with the provisions of this ordinance within 90 days after the date of notice by the superintendent to do so. The 200-foot measurement shall be made by a straight line from the end of any stub provided by the Town, otherwise from any gravity portion of the public sewer, to a point on the building other than the foundation for any garage or other attached accessory building unless it contains a toilet or sink, or contains other facilities regularly generating sewage.

If the owner can provide to the satisfaction of the superintendent that a suitable private wastewater

disposal is currently in use, the owner shall be exempt from connecting to the public sewer, but shall be assessed a readiness to serve fee equal to the minimum charge as established if a connection were made.

Sec. 5 All owners of sewer user units shall be subject to a readiness to serve fee equal to the minimum charge as established as if a connection had actually been made to a single family residence, whether such connection has actually been made or not, times the number of sewer user units owned, subject to the exceptions stated in Article VII, Section 3.

ARTICLE V. PRIVATE WASTEWATER DISPOSAL

Sec. 1 The owner of any house, building or other structure who is not required to connect its wastewater facilities to a public sanitary sewer in accordance with the provisions of Article IV, Section 4 hereof, shall connect the building sewer to a private wastewater disposal system complying with the provisions of this Article and the State of Maine Subsurface Wastewater Disposal Rules, Chapter 241.

Sec. 2 Before commencement of construction of a private wastewater disposal system the owner(s) shall first obtain a written permit signed by the licensed plumbing inspector. The application for such permit shall be made on a form furnished by the Division of Health Engineering, Maine Department of Human Services, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the plumbing inspector. A permit and inspection fee shall be paid to the plumbing inspector at the time the application is filed.

" See page 6 "



within 30 days of the date of the hearing shall constitute a denial of said appeal.

Sec. 4 Appeal Procedure.

- (a) Any person and any municipal department aggrieved by the decision of the Superintendent, the Town Health Officer and/or the Plumbing Inspector, which decision arises from provisions of this ordinance, may appeal such decision to the Board of Sewer Appeals.
- (b) Within 30 days of the date of the decisions of the Superintendent, Health Officer, and/or Plumbing Inspector, the appeal shall be entered at the office of the Town Clerk upon forms to be approved by the Board of Appeals. The appellant shall set forth in said form the grounds of the appeal and shall refer to the specific provisions of the Sewerage Ordinance involved. Following the receipt of any appeal, the Town Clerk shall notify forthwith the officer concerned and the Chairman of the Board of Sewer Appeals. The appellant shall pay to the Town Treasurer a fee as set by the Town Council.
- (c) An aggrieved party may appeal from the decision of the Board of Sewer Appeals to the Superior Court as provided by the laws of the State of Maine.

Sec. 5 Successive Appeals. After a decision has been made by the board of Sewer Appeals, a new appeal of similar import shall not be entertained by the Board until one year shall have elapsed from the date of said decision, except that the Board may entertain a new appeal if the Chairman believes that, owing to a mistake of law or misunderstanding of fact, an injustice was done, or if he believes that a change has taken place in some essential aspect of the appeal.

ARTICLE XII. SEWER SERVICE CHARGES

Sec. 1 Sewer service charges totaling 100 percent of the revenues needed for retiring debt services, capital expenditures, operation and maintenance of the public sewerage works shall be collected from all users of the public sewer system and those required to pay a readiness to serve charge as defined in Article 4, Section 4 and/or Article IV, Section 5. |

Sec. 2 Sewer Service Charge rates, including readiness to serve charges, shall be determined by the Town

Council. This charge will be billed on a monthly or quarterly basis throughout each calendar year.

- Sec. 3 The Sewer Service Charge to any user shall be based on the amount of water estimated or measured as shown on the records of the Portland Water District, provided to the sewer user during the previous billing period; provided, however, that where water is obtained from a source or sources other than the Portland Water District, whether or not Portland Water District also supplies water, the computation shall include the amount of water obtained from all such other sources, unless the user establishes to the satisfaction of the Superintendent that the water from such other sources is not entering the sewer system. The Superintendent may require additional metering, either of water sources or of the sewer outflow, to be installed and maintained at the owner's expense where, in the Superintendent's opinion, such metering is required to accurately measure the volume of wastewater entering the sewer system.

Any person who feels that recorded water records are not a reliable index of the discharge volume may install an additional water meter of a type approved by the Superintendent to measure the volume of water which can be shown not to enter the sewerage system. The person installing such a meter shall immediately notify the Superintendent of such installation and shall be responsible to the Superintendent for reporting meter readings not less often than every three months. Such person shall be credited with the volume charges for the volume shown by such meter, which meter shall be accessible for reading by the Town or its agents at all reasonable times.

- Sec. 4 There shall be a readiness to serve charge equal to the minimum sewer service charge for those properties that can be served as defined in Art. IV, Section 4 and Article IV, Section 5, but that have not connected to the public sewer system. The payment of such charge in no way affects the obligation of the owner of such property to connect to the public sewer system in conformance with the Ordinance. These funds can be used only for payment of fixed costs that are not related to flow.

- Sec. 5 Each owner of sewer user units shall pay a minimum sewer service charge for fixed costs, not related to flow, for each sewer user unit owned regardless of actual water usage, whether the unit is in use or not, subject to the exceptions stated in Article VII, Section 3.

(See Page 23)

# ITEM 07-160

To hold a Public Hearing to consider and act on Greenlaw  
Salvage 2007/2008 junkyard/recycler permit renewal.

**GREENLAW SALVAGE**  
**1 longwoods RD**  
**Cumberland, Maine 04021**  
**(207)632-1296**

**DATE 11-01-07**

**In regards to the Town of Cumberland October 2007 council meeting.**

**After reviewing the letter sent to me on 09-27-07 from William C. Longly, I did appear with the town manager on or about 10-15-07 to go over the items needed to be provided to him for my renewal of my permit to operate. One of the items in question was my tax returns I explained to him that he had already seen my tax returns for the past three years, he agreed. He then asked me to bring him my receipts showing my income for 2007 during this meeting I was also requested to bring other information about my scrap business.**

**There was to my knowledge no exact time frame set up to bring any information. knowing the information was needed to be presented prior to the October 2007 meeting.**

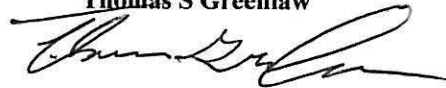
**As in title 30-A MRSA 3754-A SECTION 1-A-1 screening must be sufficient to screen from ordinary View. I believe I have more than met this requirement.**

**As in title 30-A MRSA 3755-A SECTION 3-H-2 all fluids are kept in a 55 gallon drum kept under cover. when a drum is full, the drum is removed and taken to Diesel Power Plus to be burned in an approved waste oil burner. I currently have approximately 20 gallons of waste oil on hand at this time. The last time a drum of oil was shipped to Diesel Power Plus was on approximately September 2006. Showing that I do not generate a large amount of waste oil.**

**Pertaining to mercury switches I have not received any new vehicles for approximately a year. To my knowledge there is no mercury switches in my scrape yard therefore I can not generate A mercury switch log.**

**Because scrape vehicles are almost non existing at this time and other scrape metals are slow in coming, it has given me an opportunity to process the old, and improve the way I process all scrape. An example would be installing cement or asphalt pads in which to process, and store scrape upon .**

**Thomas S Greenlaw**







JOHN ELIAS BALDACCII

GOVERNOR

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

DAVID P. LITTELL

COMMISSIONER

**\*Letter of Warning\***

November 9, 2007

Thomas Greenlaw  
1 Longwoods Road  
Cumberland, ME 04021

Dear Mr. Greenlaw:

This letter is a follow up to my visit to your property with Cumberland Code Enforcement Officer William Longley on October 11, 2007. The purpose of my visit was to determine whether you were in violation of the Department's Solid Waste Rules or the applicable State statutes. You currently operate a junkyard or auto salvage business at 1 Longwoods Road.

In addition to the scrap metal, vehicles, tires, and old appliances, I noted a substantial amount of demolition debris including wood, old windows, etc. During our discussion you indicated that the wood demo debris had been brought from other locations to your property with the intention of burning it in a wood stove. Some of the non-wood demo debris appears to have been on your property for a considerable period of time.

As I indicated during our conversation, the importation of demolition debris to your property from other locations for the purpose of burning or disposal is prohibited. The Department's rules contain exemptions for the disposal of demolition debris or the burning of painted or unpainted wood from construction or demolition debris, but these apply only to material generated at that specific location. The importation of debris from other locations is viewed as operating an unlicensed solid waste disposal facility, which is a violation of 38 M.R.S.A. §1306.1, which states that, *"It is unlawful for any person to establish, construct, alter, or operate any waste facility without a permit issued by the Department."*

If you continue to bring in these materials for burning or disposal, it is likely that the Department will initiate enforcement action that may include monetary penalties. Provided that you immediately cease the importation of construction and demolition debris and the burning of demolition wood that did not originate at your property, the Department does not expect to pursue enforcement action at this time.

Although I do not directly regulate most junkyard or auto salvage yard activities, you did ask for my opinion of your junkyard operation. For your reference as well as the Town of Cumberland, I offer the following comments:

1. Organization. Materials on your property are poorly organized. Not only does this make it difficult to move around, but the lack of organization increases the likelihood

**AUGUSTA**

17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826  
RAY BLDG., HOSPITAL ST.

**BANGOR**

106 HOGAN ROAD  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 931-4584

**PORTLAND**

312 CANCO ROAD  
PORTLAND, MAINE 04101  
(207) 822-6100 FAX: (207) 822-6103

**PRESQUE ISLE**

1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769-2094  
(207) 764-0477 FAX: (207) 760-1143

of fluid spills. I would assume that it also makes it more difficult to put together loads of similar material for recycling.

2. Oil and Fluid Handling. I observed numerous, unlabeled containers of waste oil or other fluids scattered throughout the property. A few of these were in extremely poor condition, and some were observed to be actively leaking. There were also several oil stained soil areas. Oil spills to the ground should be reported immediately to the Department, and oil stained soils should be cleaned up and properly disposed of as soon as possible. The Department's Response Services Division can offer guidance on cleanup if needed.

During our discussion you indicated that you thought you had been visited by a Department representative in the past, and that this person had indicated that because your property is located on a bedrock outcrop the threat to groundwater from oil spills was minimal. Since you were unable to remember who this person was, I have not been able to find out who spoke to you or in what context, but it should be noted that oil spills to the ground, regardless of underlying geology, are absolutely unacceptable and must be reported to the Department.

3. Tires. The Department's rules allow for the storage of up to 1,000 tires at businesses that routinely remove tires from vehicles. Although you appeared to have fewer than 1,000 tires on site at the time of my visit, the pile was mixed with other debris and in a location that was both close to wooded areas and not easily accessible to emergency vehicles. Given the crowded nature of your property, I strongly recommend that you remove and properly dispose of all scrap tires. Two possible outlets are JP Routhier in MA and BDS Waste Disposal, Inc. ("BDS") in Norridgewock. It is my understanding that you have hauled tires to BDS in the past. BDS is a properly licensed disposal facility, but it is illegal for you to transport your own scrap tires without a non hazardous waste transporter license. You must either have them hauled by a licensed transporter or you must obtain a license before you haul them yourself.

If you have any questions about the contents of this letter or regarding the Department's Solid Waste rules, please contact me at 822-6344, by email at [eric.p.hamlin@maine.gov](mailto:eric.p.hamlin@maine.gov), or by mail at the Department's Portland address.

Sincerely,



Eric P. Hamlin  
Bureau of Remediation and Waste Management  
Division of Solid Waste Management

PC with enclosures: William Longley, Cumberland Code Enforcement

# Town of Cumberland Maine

## APPLICATION FOR AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT

### MUNICIPAL OFFICE USE ONLY

~~Tentative~~ Date of Hearing 11-20-07

Application Received 11-02-07

Time of Hearing 7:00 PM Permit No. \_\_\_\_\_

Place of Hearing Council Chambers Fee Paid \$ \_\_\_\_\_

Notifications sent by certified mail Date 10-29-07

To the City/Town of Cumberland County of Cumberland Maine

I/We THOMAS Greenlaw hereby make application (in quadruplicate) for a permit to establish, operate, maintain an Automobile Graveyard, Automobile Recycling Business and/or Junkyard at the following described location and in accordance with the provisions of Title 30-A, Sections 3751 to 3760, Chapter 183.

### Answer all questions in full.

1. Give location of Automobile Graveyard and/or Junkyard

Longwoods Rd.

2. Is this application made by or for a company, partnership, corporation, individual?

3. Is this property leased? NO Property owned by \_\_\_\_\_

Address: \_\_\_\_\_

4. How is "yard" screened? - Fence? (Type) Wood Height 10 Ft.  
Trees? (Type) Assorted Embankment?     Gully?     Hill?      
Other?

5. How far is edge of "yard" from center of highway? 100 Feet.

6. Can Junk be seen from any part of highway? Yes     No ✓

7. Were Junkyard Law, Requirements and Fees explained to you? Yes ✓ No

8. Is any portion of this "yard" on public property? Yes \_\_\_ No ☒

9. Is "yard" within 300 feet of a public park, public playground, public bathing beach, school, church or cemetery? Yes \_\_\_ No ☒

10. When was "yard" established? 1950 By whom? James Villacci

11. When was the last permit issued? 2006 To whom? Thomas Greenwood

The undersigned certifies that the above information is true and correct to the best of his/her knowledge and that he/she is the owner or agent of the property or the he/she has been duly authorized by the owner to make this application and the receive the permit under the law.

Signed by:

Thomas Greenwood

For: \_\_\_\_\_

Name of Company, Corporation,  
Partnership, Individual

Address 1 Longwoods Rd Cumberland Me. 04021

Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_ Zone \_\_\_\_\_

1 copy of Application to City/Town

1 copy of Application to Applicant

1 copy of Application to Department of Transportation, Augusta

1 copy of Application to Bureau of Motor Vehicles



Make complete sketch of "yard". Show footage of all sides and location in relationship to adjacent properties. Show distance (in feet) from edge of "yard" to center of highway. Fill in Route number or Local Road Name, Name of nearest City/Town in each direction, distance from nearest intersection, bridge or other known reference point.

SITE PLAN

Circle Correct Direction: N S E W

Name:

Address:

LONGWOODS RD RT. 9

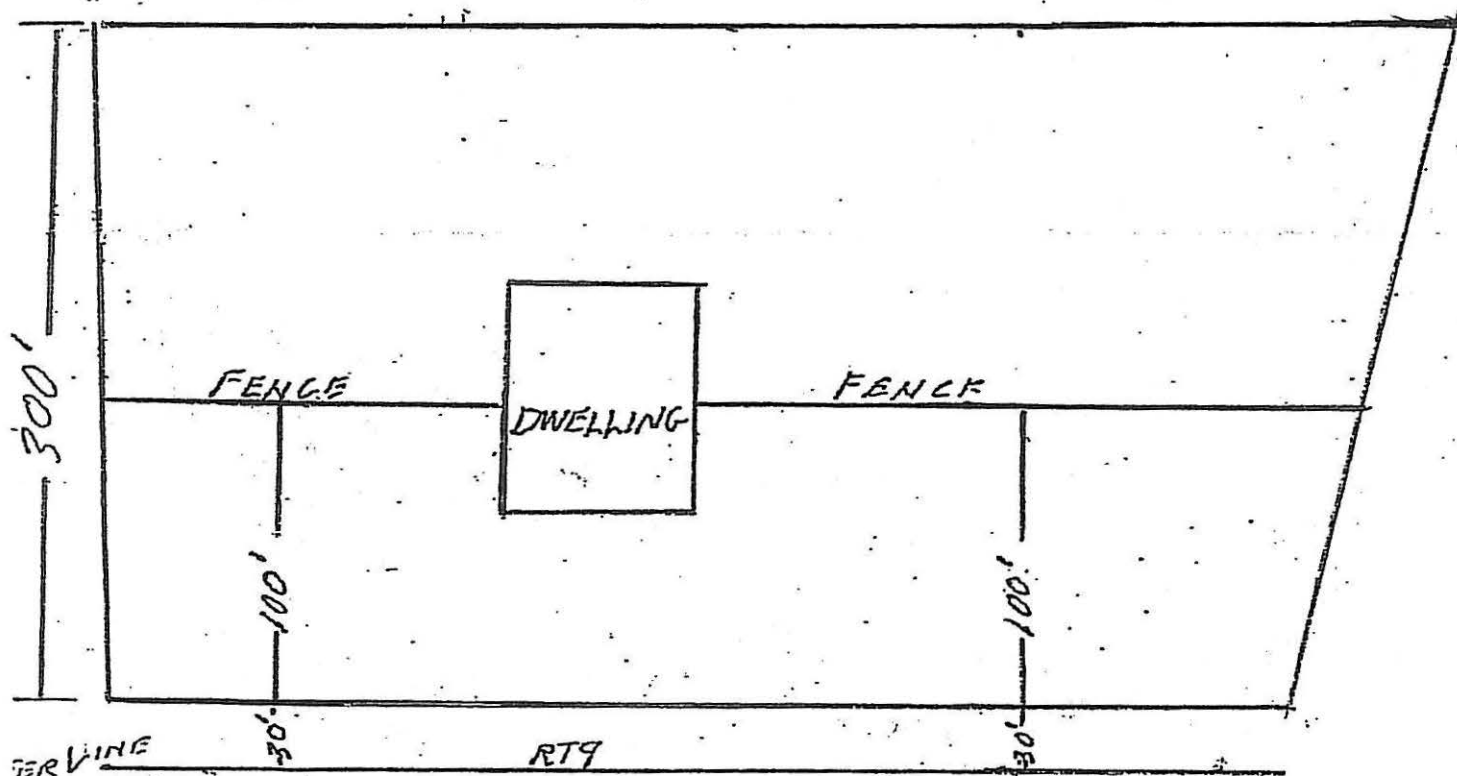
Road Name

or

Route No.

CUMB To

To FAL.



7006 3450 0002 5789 7199

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Certified Fee	\$2.65
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ 3.62



Sent To  
 Mr. Wendell Morawitz  
 Street, Apt. No.,  
 or PO Box No. 3 Longwoods RD  
 City, State, ZIP+4  
 Cumberland Maine 04021

PS Form 3800, August 2006

See Reverse for Instructions

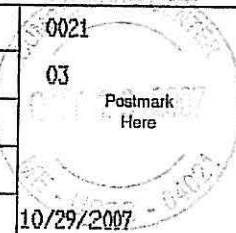
7006 3450 0002 5789 7182

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CUMBERLAND CENTER ME 04021

Postage	\$ 0.97
Certified Fee	\$2.65
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ 3.62



Sent To  
 Mr. Mark Ramsley  
 Street, Apt. No.,  
 or PO Box No. 318 Morris RD  
 City, State, ZIP+4  
 Cumberland Maine 04021

PS Form 3800, August 2006

See Reverse for Instructions

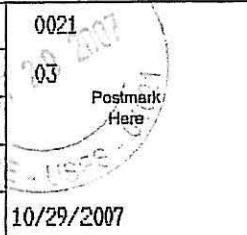
7006 3450 0002 5789 7205

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CUMBERLAND CENTER ME 04021

Postage	\$ 0.97
Certified Fee	\$2.65
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ 3.62



Sent To  
 Mr. Scott Grant  
 Street, Apt. No.,  
 or PO Box No. 319 Harris RD  
 City, State, ZIP+4  
 Cumberland Maine 04021

PS Form 3800, August 2006

See Reverse for Instructions

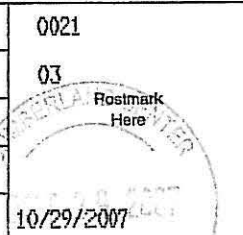
7006 3450 0002 5789 7212

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**CERTIFIED MAIL™ RECEIPT**  
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For delivery information visit our website at [www.usps.com](http://www.usps.com)

CUMBERLAND CENTER ME 04021

Postage	\$ 0.97
Certified Fee	\$2.65
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ 3.62



Sent To  
 Bonita + Robert Boneshi  
 Street, Apt. No.,  
 or PO Box No. 34 LONGWOODS RD  
 City, State, ZIP+4  
 CUMBERLAND MAINE 04021

PS Form 3800, August 2006

See Reverse for Instructions



# TOWN OF CUMBERLAND, MAINE

290 Tuttle Road

Cumberland Center, Maine 04021-9321

Telephone (207) 829-5559 • Fax (207) 829-2214

---

September 14, 2007

**COPY**

Mr. Thomas Greenlaw  
1 Longwoods Road  
Cumberland, ME 04021

Dear Mr. Greenlaw:

Enclosed please find the application for your 2007 Junkyard Permit. Please complete the application and return it to me, along with a check for \$50.00, no later than October 1, 2007 so that your application may be considered by the Town Council prior to your license expiration October 30, 2007.

The Town Council will hold a public hearing on your application at its September 24, 2007 meeting. Thank you for your prompt attention.

Sincerely,

Nadeen Daniels  
Town Clerk

/enclosure+

**William Longley**

**From:** Hamlin, Eric P [Eric.P.Hamlin@maine.gov]  
**Sent:** Tuesday, November 13, 2007 10:41 AM  
**To:** William Longley  
**Subject:** Greenlaw letter

Sent his on Friday. I'll get a paper copy in the mail to you today with photos.

I opted for a Letter of Warning rather than a Notice of Violation for a couple of reasons. One is that I don't think he had any idea that he was in violation of our rules and it seemed relatively minor. The other is that the LOW format is much more flexible, which made it a lot easier to include some informal commentary on his operation in general. Please feel free to contact me if you have any questions.

Eric P. Hamlin  
Maine Department of Environmental Protection  
Bureau of Remediation and Waste Management  
Division of Solid Waste Management  
Phone: 207-822-6344  
Fax: 207-822-6303

11/13/2007



RECEIVING AUG 5 1985

JENSEN BAIRD GARDNER & HENRY

ATTORNEYS AT LAW

477 CONGRESS STREET  
PORTLAND, MAINE 04101

(207) 775-7271

RAYMOND E. JENSEN  
KENNETH BAIRD  
H. DONALD GARDNER  
HERTON G. HENRY  
WALTER E. WEBBER  
DONALD A. KOPP  
KENNETH M. COLE III  
NICHOLAS S. NADZO  
FRANK H. FRYE  
DAVID J. JONES  
EILEEN M. L. EPSTEIN  
JOHN H. MONTGOMERY  
MICHAEL A. NELSON  
RALPH W. AUSTIN  
F. BRUCE SLEEPER  
DRIAN C. SHAW  
LESLIE E. LOWRY III  
KEITH R. JACOUES  
JOHN R. MICHAUD

August 2, 1985

KENNEBUNK OFFICE

ROUTE 35, LOWER VILLAGE  
KENNEBUNK, MAINE

MAILING ADDRESS:

R.R.1, BOX 96

KENNEBUNKPORT, MAINE 04046

(207) 967-5491

Mr. Robert Benson  
Town Manager  
Town Office  
4 Blanchard Road  
Cumberland, ME 04021

Re: Town of Cumberland v. Thomas Greenlaw

Dear Bob:

Enclosed is a copy of the Order signed by Judge Bradford in the Greenlaw matter which incorporates the terms we had discussed.

In effect, the Order requires Greenlaw to do all that is necessary to comply with state requirements for junkyards and to apply for a new junkyard permit within five weeks. If he fails to do so, the Court will immediately shut him down. As we discussed, I believe that this result is the best we could hope to obtain.

Judge Bradford made it clear that he was not about to enter an order shutting Mr. Greenlaw down without giving him an opportunity to comply with the state requirements and to re-apply for a junkyard permit. This Order provides for that but includes a strict time constraint of five weeks.

Further, even if Judge Bradford were to order that Greenlaw be shut down immediately, that order would be appealable and would be stayed pending any such appeal. The time for the appeal could take six months or longer during which Greenlaw would continue to operate. Moreover, there would be nothing to prevent him during that period from bringing his junkyard into compliance with state requirements and applying for a new permit anyway.

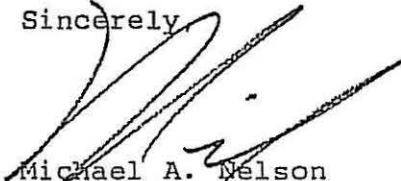
JENSEN BAIRD GARDNER & HENRY

Mr. Robert Benson  
August 2, 1985  
Page two

This Order shortens that period to five weeks and automatically shuts down the junkyard (without the chance for appeal) if it is not brought into compliance within that period.

If you or the Council have any questions or comments, please do not hesitate to contact Ken or me. Best wishes.

Sincerely,



Michael A. Nelson

MAN/jk  
Enclosure

cc: Mr. Robert B. Littlefield  
Kenneth M. Cole III, Esquire

STATE OF MAINE  
CUMBERLAND, ss.

STATE OF MAINE  
CUMBERLAND, ss. CLERK'S OFFICE  
SUPERIOR COURT

SUPERIOR COURT  
Civil Action  
Docket No. CV-85-382

AUG 2 1985

TOWN OF CUMBERLAND,  
Plaintiff  
v.  
THOMAS GREENLAW,  
Defendant

RECEIVED

ORDER

This matter having come before the Court on Plaintiff's complaint for an injunction prohibiting Defendant from operating or maintaining a junkyard and/or automobile graveyard on property situated at 1 Longwoods Road in the Town of Cumberland, County of Cumberland, State of Maine, without a valid permit issued by the Town of Cumberland pursuant to 30 M.R.S.A. §2452, and it appearing that Defendant, Thomas Greenlaw, is operating or maintaining a junkyard and/or automobile graveyard without a valid permit in violation of 30 M.R.S.A. §2452, and the parties having agreed to the entry of this Order it is hereby ORDERED as follows:

1. Effective five weeks from the entry of this Order, Defendant, Thomas Greenlaw, his agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order are prohibited from operating or maintaining a junkyard and/or automobile graveyard at 1 Longwoods Road in the Town of Cumberland, County of Cumberland, State of Maine, provided that if, within

five weeks from the entry of this Order, Thomas Greenlaw completes each and every one of the following items (a) through (f), then this Order shall be vacated and this case dismissed without prejudice:

- (a) All junkyard and/or automobile graveyard activity at 1 Longwoods Road in the Town of Cumberland shall be placed behind the existing screening fence which is approximately one hundred feet from the road.
- (b) All junk and equipment used in connection with the junkyard and/or automobile graveyard operation at 1 Longwoods Road shall be placed behind the existing screening fence which is approximately one hundred feet from the road.
- (c) The existing screening fence shall be altered or replaced by a screening fence which acts as a screen for the junkyard and/or automobile graveyard constructed in accordance with the fencing requirements of the Department of Transportation Chapter 202 Regulations for Screening Junkyards including ¶.04 which reads as follows:

.04 Fences--

Fences shall be so located and of sufficient height to completely screen the junkyard from ordinary view from any highway within the prescribed distances. Although the minimum height of any fence is stated to be six feet, it must be emphasized that height must be sufficient to accomplish the complete screening from ordinary view. All fences shall be well constructed and maintained. Only sound undamaged material, uniform in appearance, and erected in a workmanlike manner will be acceptable.

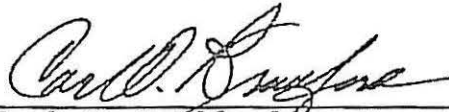
- (d) A screening fence constructed in accordance with fencing requirements of the Department of Transportation Chapter 202 Regulations for Screening Junkyards shall be placed from the rear northeast corner of the dwelling to the northeast property line.
- (e) All automotive junk located on any abutter's property which is or ever has been a part of this operation shall be removed and placed within the confines of the property of Thomas Greenlaw.



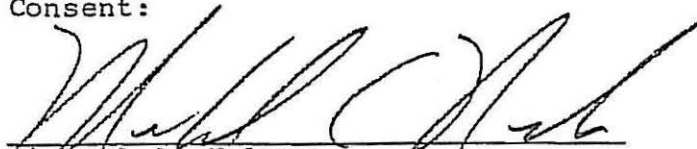
- (f) Submission of a completed application for the operation of a junkyard or automobile graveyard to the Town Council together with all required fees.

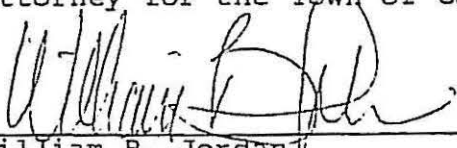
2. If Thomas Greenlaw does not complete each and every one of the items set forth in Paragraph 1(a) through (f) above within five weeks of the entry of this Order, then this case shall be specially assigned to the undersigned Justice of the Superior Court who, upon receipt of an affidavit executed under oath by the Code Enforcement Officer of the Town of Cumberland that Thomas Greenlaw has not completed each and every item under Paragraph 1(a) through 1(f) above, shall enter a preliminary injunction immediately prohibiting Thomas Greenlaw from operating or maintaining a junkyard and/or automobile graveyard at 1 Longwoods Road in the Town of Cumberland.

Dated: *AUGUST 1, 1985*

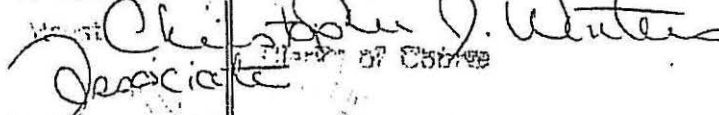
  
\_\_\_\_\_  
Carl O. Bradford  
Superior Court Justice

Consent:

  
\_\_\_\_\_  
Michael A. Nelson  
Attorney for the Town of Cumberland

  
\_\_\_\_\_  
William B. Jordan  
Attorney for Thomas Greenlaw

A TRUE COPY

  
\_\_\_\_\_  
Christopher J. Winters  
Associate

JENSEN BAIRD GARDNER & HENRY

ATTORNEYS AT LAW  
477 CONGRESS STREET  
PORTLAND, MAINE 04101  
(207) 775-7271  
TELESCOPIER (207) 775-7035

M. DONALD GARDNER  
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WALTER E. WEBBER  
DONALD A. KOPP  
KENNETH M. COLE III  
NICHOLAS S. MADZO  
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MICHAEL A. NELSON  
RALPH W. AUSTIN  
RONALD A. EPSTEIN  
WILLIAM H. DALE

F. BRUCE SLEEPER  
BRIAN C. SHAW  
DEBORAH M. MANN  
LESLIE E. LOWRY III  
KEITH R. JACQUES  
JOHN R. MICHAUD  
PATRICIA M. McDONOUGH  
MICHAEL J. QUINLAN  
ELIZABETH T. HIGH  
JAMES N. KATSIAFICAS  
PETER D. LAFOND  
DAVID E. BAUER  
GWENDOLYN H. LYFORD

RAYMOND E. JENSEN  
OF COUNSEL

KENNETH BAIRD  
(1914-1987)

KENNEBUNK OFFICE  
302 LAFAYETTE CENTER  
KENNEBUNK, MAINE 04043  
(207) 985-3352

April 8, 1988

Mr. Robert B. Benson  
Town Manager  
Town of Cumberland  
12 Drowne Road  
Cumberland, Maine 04021

Re: Greenlaw v. Town of Cumberland, Cum. Cty. Sup. Ct.  
Docket No. CV-88-80

Dear Bob:

Enclosed please find a copy of the docket entry that has been signed by the Superior Court to settle this matter. It is now appropriate for the Town Council to issue an automobile graveyard and junkyard permit for the remainder of calendar year 1988 with the sole restrictions that:

1. No more than four unregistered and/or uninspected vehicles shall remain outside of the screened automobile graveyard invisible from Longwoods Road at any one time; and
2. None of the vehicles referred to in restriction 1 shall remain unregistered and/or uninspected and outside of the screened automobile graveyard for more than sixty (60) consecutive days.

Thank you for your attention to this matter.

Sincerely,

  
James N. Katsiaficas

JNK:jec

Enclosure

cc: Robert Littlefield, CEO ✓  
Kenneth M. Cole, III, Esq.

STATE OF MAINE  
CUMBERLAND, SS  
CLERK'S OFFICE  
SUPERIOR COURT

STATE OF MAINE  
CUMBERLAND, SS.

88 APR -4 PM 2:12  
SUPERIOR COURT

Civil Action  
Docket No. CV-88-80 ✓

THOMAS GREENLAW,

Plaintiff

v.

TOWN OF CUMBERLAND,

Defendant

)  
)  
) DOCKET ENTRY  
)  
)  
)  
)  
)

NOW COME the parties and propose that the following Docket Entry and judgment be entered by the Court:

By agreement of counsel, the parties stipulate that Plaintiff presently operates an automobile graveyard which operation is grandfathered under the pre-existing nonconforming use exception of the Zoning Ordinances of the Town of Cumberland;

It being further stipulated by the parties that in addition to operating an automobile graveyard, Plaintiff operates a place of business at 1 Longwoods Road which is engaged primarily in doing automotive and auto body repair, and that to the extent said operation is otherwise prohibited by the zoning ordinances of the Town of Cumberland, it is specifically permitted under the pre-existing non-conforming use exception;

It being further stipulated by the parties that Plaintiff has now rendered his automobile graveyard in compliance with state regulations and laws governing the operation of automobile graveyards;

It is hereby ORDERED and ADJUDGED that Plaintiff is entitled to a permit and license for the calender year 1988 from the Defendant to operate an automobile graveyard;

It is further ORDERED and ADJUDGED that upon obtaining a valid State of Maine salvage operator's license, Plaintiff shall be permitted to erect a sign upon his premises provided said sign is in compliance with State regulations relating to automobile graveyards and salvage operations and the Town of Cumberland sign ordinance;

It is further ORDERED and ADJUDGED that the case be remanded to the Board with the order to issue Plaintiff said permit and license with the sole restrictions that (1) no more than four unregistered and/or uninspected vehicles shall remain outside the screened automobile graveyard and visible from Longwoods Road

at any one time; and (2) none of the vehicles referred to in restriction (1) shall remain unregistered and/or uninspected and outside the screened automobile graveyard for more than sixty (60) consecutive days.

Dated:

4/4/88 *[Signature]*  
Justice, Superior Court

The parties hereby stipulate and consent to the entry of the above order and judgment.

Dated: 4/1/88

REEF, JORDAN & HRYCAY

By: *[Signature]*  
William B. Jordan  
Attorney for Plaintiff

Dated: 3/31/88

*[Signature]*  
James N. Katsiaticas  
Attorney for Defendant

A TRUE COPY

*[Signature]*  
Lucille J. Lepitre

ATTEST

CLERK





# MEMORANDUM CODE ENFORCEMENT OFFICE

---

To: Town of Cumberland Council  
From: William C. Longley Jr. CEO  
Subject: History of Greenlaw's Salvage  
Map: R03 /Lot 20D at 1 Longwood's  
Date: 11-15-07  
CC: William Shane, Town Manager  
Nadeen Daniels, Town Clerk

## History:

7-19-1981 Photos of 1 Longwood's Road  
11-17 1981 Schedule of events for Cumberland vs. Green law  
8-30-1982 Notice of Trial  
9-29-1982 Letter Town Attorney to Town Manager  
10-07-1982 Cumberland vs. Greenlaw  
10-07-1982 Town Attorney to Courts  
01-10-1984 Town Attorney to Town Manager ref: 1981 Court Case  
01-18-1984 Town Attorney to Town Manager ref: State Requirement for license  
02-10-1984 Town Attorney ref: Judgment Doc # 81-24596 dated 1-10-1983  
02-10-1984 Letter CEO to Greenlaw  
04-13-1984 Letter CEO to Greenlaw  
08-30-1984 Town Attorney letter with Copy of Complaint  
10-11-1984 Town Attorney letter Motion to Court CV-84-874  
11-26-1984 Letter from CEO to Council History of Greenlaw (undated)  
01-15-1985 Portland Press Herald "COURT REAFFIRMS JUNKYARD RULES"  
01-28-1985 CEO Memo to Council

01-28-1985 Council Minutes  
 03-11-1985 CEO hand written notes  
 04-25-1985 CEO hand written notes  
 04-29-1985 CEO letter to Greenlaw  
 05-01-1985 CEO hand written notes  
 05-16-1985 CEO letter to Greenlaw  
 05-29-1985 CEO notes about water sample with DEP/ LPI  
 05-30-1985 CEO collected water samples at Greenlaw property  
 06-03-1985 DEPOSITION of THOMAS GREENLAW  
 06-06-1985 CEO hand written notes  
 06-18-1985 CEO hand written notes  
 06-20-1985 CEO hand written notes  
 07-08-1985 Copy of Greenlaw water analysis by State of Maine Lab  
 07-19-1985 DEPOSITION of ROBERT LITTLEFIELD- CEO  
 08-02-1985 ORDER signed by Judge with conditions CV-85-382  
 09-05-1985 CEO hand written notes  
 11-04-1985 Town Attorney to CEO CUMBERLAND vs. GREENLAW dismissed  
 12-06-1985 CEO hand written notes  
 12-09-1985 Memo to Council  
 12-15-1985 CEO notes talked to DEP  
 12-22-1986 CEO notes  
 04-16-1987 CEO letter to Greenlaw Ref: 1986 conditions  
 06-11-1987 Town Attorney to Greenlaw 1986 conditions not met  
 07-10-1987 DEP letter to Greenlaw  
 07-21-1987 Town Attorney letter to Greenlaw  
 04-08-1988 Court settlement of CV-88-80 Greenlaw vs. Town of Cumberland

With conditions: No more than 4 unreg. Or uninspected vehicles shall remain  
 outside the screened area. None of the above to be allowed for more than 60 days.

12-11-1988 Memo to Council inspections on 12-07, 12-08, 12-09  
 06-22-1990 Memo to Town Manager about illegal burning of wires  
 12-17-1990 Memo to Council by CEO  
 03-26-1991 CEO letter to Greenlaw Ref: 170' fence to be installed by 5-01-1991

07-12-1991 CEO letter to Greenlaw Fence not done yet  
 12-09-1991 Memo to Council Fence not done yet  
 12-11-1991 CEO letter to Greenlaw  
 12-23-1991 CEO letter to Town Manager  
 01-27-1992 CEO letter to Council Complaint about fence at Harris Road  
 02-13-1992 CEO letter to Greenlaw Ref: open gate, storage of liquids  
 12-10-1992 CEO hand written notes  
 12-14-1992 Council voted to deny permit  
 12-18-1992 CEO-Larson to Greenlaw  
 12-16-1993 CEO inspection notes  
 12-22-1993 CEO inspection notes  
 12-07-1994 Memo to Council by CEO  
 12-13-1994 Permit issued until 12-31-1995  
 12-11-1995 CEO Memo to Council Issues: Fence, yard area, front yard  
 11-21-1996 DEP letter to State Representative 9 wells with detectable VOLATILES  
 12-09-1996 CEO hand written notes  
 12-09-1996 Council Minutes- 60 day conditional permit issued  
 12-09-1996 To Greenlaw from Planner Donna Larson Ref: DEP groundwater issues  
 12-30-1996 Recycling Licensed Zoning Renewal by CEO  
 12-02-1997 Gate found open  
 12-08-1997 Temporary Conditional Permit until 1-13-1998  
 12-12-1997 Town Manager to Greenlaw Violations: Gate open, Gate unf., Metal tube and canopy no permit issued, and junked vehicles seen from Harris Road  
 12-22-1997 Violation vehicles exposed beyond fence corrected  
 12-23-1997 Agreement by Greenlaw to run fence to "PRICE"  
 01-26-1998 CEO Memo to Council  
 12-10-1998 CEO to Town Manager Ref: Front of property cluttered, Price fence not done , 25+ vehicles stored on site, son-in-law no longer working, limited use only, mall oil spill observed,  
 10-13-1999 Recycling Licensed Zoning Permit Renewal by CEO  
 11-01-1999 CEO Memo to Town Manager 40+ vehicles onsite, waiting for better price for scrap steel  
 11-23-2000 Recycling Licensed Zoning Permit Renewal by CEO

12-11-2000 CEO Memo to Town Manager with photos number of vehicles outside of fenced area, fencing to PRICE not installed yet

06-21-2001 Recycling Licensed Zoning Permit Renewal by CEO

12-13-2001 CEO Memo to Town Manager: No sale of items only processed and stockpiled, Fence not installed because of disagreement with previous CEO, advised to close gate when not in use.

12-04-2002 CEO Memo to Town Manager 15' to 16' of fencing not installed as required by Council, Storage of liquids issue discussed, 15+ cars were taken in for disposal.

12-03-2003 CEO Memo to Town Clerk not able to inspect yet

12-29-2003 E-mail Barb McPheters to Town Clerk Debbie Ref: remove personal items in front yard

12-01-2004 E-mail from Nadine needs State License will expire on 3<sup>rd</sup> of December

1-27-2005 CEO Memo to Council recommend 6 mos to bring into compliance

2-15-2005 Permit renewal 2-15-2005 until 5-15-2005

5-30-2005 Bureau of Motor Vehicles letter

07-07-2005 CEO Memo to Council new sign no permit, photo of bucket of oil, vehicles outside of fenced area.

07-11-2005 Permit renewal 7-11-05 to 9-30-2005 Note about VIABILITY

12-29-2004 CEO Memo to Council 12-22-2005 photos from inspection

1-10-2006 Called Greenlaw to advise 4-3 vote for renewal will need to prove VIABILITY next year

1-10-2006 Permit Renewal for 2006 1-10-2006 until 10-31-2006

10-31-2006 Photos and copy of State Standards

11-02-2006 CEO Memo to Council Ref: State Standards and? if business is VIABLE

11-28-2006 Permit Renewal for 2007 10-01-06 to 10-31-07

06-21-2007 Photos: Tires more than allowed, open gates, fence not maintained, oil on ground and not in proper containers.

8-16-2007 Photos: Demolition debris, open gates with no workers or activity, fence not maintained.

9-27-2007 CEO letter to Greenlaw with request for information by 10-15-2007

10-04-2007 CEO Memo to Council in regards to DEP visit

10-11-2007 Photos from DEP visit see letter 11-09-2007

10-31-2007 Current Permit expired

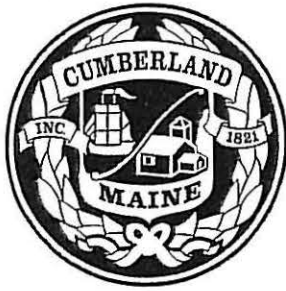
11-01-2007 Greenlaw Salvage application filed



11-09-2007 DEP "LETTER OF WARNING"  
11-13-2007 E-mail from DEP and copy of 11-09 letter  
11-15-2007 HISTORY TO THIS DATE

Auto Graveyard/Junkyard Permit for  
Greenlaw Salvage, 1 Longwoods Road

06-185



# TOWN OF CUMBERLAND, MAINE

290 Tuttle Road

Cumberland Center, Maine 04021-9321

Telephone (207) 829-5559 • Fax (207) 829-2214

---

November 28, 2006

Mr. Thomas Greenlaw  
1 Longwoods Road  
Cumberland, ME 04021

Dear Mr. Greenlaw,

At its meeting of November 27, 2006 the Cumberland Town Council voted unanimously to approve your Automobile Graveyard/Junkyard Permit renewal for 2007. The permit period will run from October 1, 2006 through October 31, 2007.

Please find your permit enclosed. Thank you.

Sincerely,

Nadeen Daniels  
Town Clerk

Cc: MDOT and Bureau of Motor Vehicles  
Ken Cole, Esquire  
William Longley, Code Enforcement Officer

Permit To Be Displayed On Premises

TOWN, CUMBERLAND

COUNTY, CUMBERLAND, MAINE

Public Hearing held November 27, 2006

## PERMIT

To establish, operate or maintain an automobile graveyard and/or junkyard. Subject to existing rules, regulations and any amendments that may be made thereto, under provisions of Title 30-A, Public Laws 1988, Section 3751 to 3760.

This permit is hereby granted upon condition that the automobile graveyard and/or junkyard does not violate any of the above Sections of Title 30-A.

Business Name: **GREENLAW SALVAGE**  
Owner's Name: **THOMAS GREENLAW**  
P.O./Address: **1 LONGWOODS ROAD**  
City/Town: **CUMBERLAND, MAINE 04021**

This permit expires on October 31, 2007, unless sooner revoked by the Municipal Officers.  
Dated at City/Town Cumberland this 28<sup>th</sup> Day of November 2006.

Municipal Officer: \_\_\_\_\_

*William R. Shane*  
William R. Shane  
Town Manager

Certified True Copy

*Nadeen Daniels*

Nadeen Daniels  
Town Clerk

- 1 copy to Applicant
- 1 copy to Municipality
- 1 copy to Dept. of Transportation, Augusta
- 1 copy to Maine State Police, Augusta
- 1 copy to Motor Vehicle Division, Sec. of State







# MEMORANDUM CODE ENFORCEMENT OFFICE

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To: Town of Cumberland Council  
From: William C. Longley Jr. CEO  
Subject: Green law's Salvage  
Date: 11-02-06  
CC: William Shane, Town Manager  
Nadine Daniels, Town Clerk

On or about 10-26-06 I conducted an inspection of the Greenlaw property. My impression is that there has been some change since my last visit on 12-22-05. Today I spoke to Mr. Greenlaw and advised him that he would need to convince the Council that he operates a viable business and is in compliance with all standards per the new State of Maine requirements. (See attached)



# TOWN OF CUMBERLAND, MAINE

290 Turtle Road

Cumberland Center, Maine 04021-9321

Telephone (207) 829-5559 • Fax (207) 829-2214

---

Mr. Thomas Greenlaw  
Greenlaw's Salvage  
1 Longwoods Road  
Cumberland, ME 04021

Dear Mr. Greenlaw,

Please find enclosed the blank application for your 2007 Auto Graveyard & Junkyard Permit. The Cumberland Town Council will hold a public hearing to consider and act on your application at their meeting of November 13, 2006.

As required by MRSA 30-A, Sections 3753 and 3754, the following supporting documentation must accompany your application: (1) proof of mailing the notice of application to all abutting property owners; and (2) demonstration that you are a viable business entity and actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade.

Notice of your application and public hearing will be found in the November 2<sup>nd</sup> and November 9<sup>th</sup> editions of the Community Leader. Please return your application and documentation to my office no later than November 6, 2006. Thank you.

Sincerely,

Nadeen Daniels  
Town Clerk

CC: Town Council  
CEO William Longley

Road." With the Tuttle Road reconstruction the bulk of the project begins near the end of the existing sidewalk and will end at Twin Brooks. Reconstruction of the pavement near the school will require drainage work. "We'd like to take (away) some of the super elevation that occurs today." The third project is one of the "least costly...more interesting ones." The Manager reviewed three scenarios for realignment, suggesting the council "decide when we get to the design standpoint" after seeking neighborhood input. The submission of these projects "doesn't mean you're committing to the funding." There were 87 projects from 27 greater Portland communities submitted for PACTS funding. "I think we've got three very good projects and the only way you're going to be funded is by being in the process." No public comments received.

Motion by Councilor Porter; seconded by Councilor Turner, to endorse the three PACTS FY 2008/2009 projects as submitted by the Cumberland Town Manager in November, 2005 and identified as Tuttle Road Reconstruction; Foreside (Route 88) Shoulder Widening from Falmouth Town Line to Yarmouth Town Line; and Route 1 Ramp A-1/Tuttle Road/Kings Highway/Foreside Road (Route 88) Intersections;

VOTE: UNANIMOUS PASSAGE 7-0

06 - 004.

To consider and act on Auto Graveyard/Junkyard Permit for Greenlaw Salvage, 1 Longwoods Road for the period January through October, 2006.

The Manager explained our Code Enforcement Officer has stated there were several revisions this year to the state law addressing graveyard/junkyard permits. One such change "require(s) the business be a viable business. They are now asking that owners provide evidence that it is an actual business rather than just a collection of materials." Our Code Enforcement Officer has questions regarding the viability of Mr. Greenlaw's junkyard. The Manager recommended council approval so that Mr. Greenlaw "will have the opportunity to put the records together over the next ten months. If not, we take the next steps."

Councilor Damon suggested she would feel more comfortable with a definition of a viable business as opposed to leaving it to local officials to determine the definition. "To me this is kind of nebulous." Councilor Porter added that while the Code Enforcement Officer will offer an opinion "the definition of viable as it is currently written would be determined by the seven of us." Councilor Porter added that during his council tenure, "there has been an issue each year." He indicated he would vote in opposition "because I don't know whether he's viable or not. I do think that contrary to his application, you do see junk from the road. It would be my hope that in the future...it be operated a little bit more professionally." Councilor Kuntz concurred, stating "The next applicant is quite a different story. I think we've had these discussions with Mr. Greenlaw on a number of different occasions." No public comments received.

Motion by Councilor Moriarty, seconded by Councilor Turner to approve the Greenlaw Salvage Auto Graveyard/Junkyard Permit for the period January through October, 2006

with the condition the applicant demonstrates the facility is a viable business entity and is actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade pursuant to Title 30A and the town of Cumberland Zoning Ordinances prior to license reapplication in October, 2006.

VOTE: PASSAGE 4-3 (Chairman Stiles, Councilors Porter and Kuntz)

**06 – 005.**

**To consider and act on an Auto Graveyard/Junkyard Permit for Cumberland Salvage, 40 Blackstrap Road for the period January through October, 2006.**

The Manager stated Mr. Copp “has been a model for how to run a good junkyard facility.” There was further discussion regarding the issue of “viability” and Mr. Copp indicated he would be willing to work with the town on this issue. No public comments received.

Motion by Councilor Storey, seconded by Councilor Damon, to approve the Auto Graveyard/Junkyard Permit for Cumberland Salvage, 40 Blackstrap Road, for the period January through October, 2006.

VOTE: UNANIMOUS 7-0

**06 – 006. To consider and act on the Val Halla Golf Club Liquor License, Auxiliary Mobile Golf Cart License and Special Amusement Permit for calendar year 2006.**

Councilor Storey questioned whether there were any problems with the mobile cart during the past summer, its first year of operation. The Manager replied “It actually went fairly well. The operator was trained in the TIPS program as required. We noticed a significant reduction in the illegal alcohol snuck on the course. We didn’t have any of the problems that some may have anticipated.” No public comments received.

Councilor Kuntz indicated he has received comments stating “they don’t like the idea of it.” Councilor Damon stated she could vote for the Special Amusement Permit, but “not the other two.”

Motion by Councilor Storey, seconded by Councilor Turner, to approve the Val Halla Golf Club Liquor License, Auxiliary Mobile Golf Cart License and Special Amusement Permit for the calendar year 2006.

VOTE: PASSAGE 5-2 (Councilors Kuntz and Damon)

**06 – 007. To accept Rock Ridge Run Road as a public roadway.**

The Manager noted all issues of concern have been addressed, and “we have the deeds executed and ready for council approval. The neighbors worked closely with us and did a lot of the legwork. It does meet our requirements as outlined in our subdivision ordinance.” No public comments received.

# Town of Cumberland Maine

## APPLICATION FOR AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT

### MUNICIPAL OFFICE USE ONLY

Tentative Date of Hearing \_\_\_\_\_

Application Received \_\_\_\_\_

Time of Hearing \_\_\_\_\_ Permit No. \_\_\_\_\_

Place of Hearing \_\_\_\_\_ Fee Paid \$ \_\_\_\_\_

Notifications sent by \_\_\_\_\_ Date \_\_\_\_\_

To the City/Town of \_\_\_\_\_ County of \_\_\_\_\_ Maine

I/We Thomas Greenlaw hereby make application (in quadruplicate) for a permit to establish, operate, maintain an Automobile Graveyard, Automobile Recycling Business and/or Junkyard at the following described location and in accordance with the provisions of Title 30-A, Sections 3751 to 3760, Chapter 183.

### Answer all questions in full.

1. Give location of Automobile Graveyard and/or Junkyard

1 Longwoods Rd.

2. Is this application made by or for a company, partnership, corporation, individual?

3. Is this property leased? NO Property owned by

Address: 1 Longwoods Rd.

4. How is "yard" screened? (Fence?) (Type) wood Height 10 FT.  
Trees? (Type) assorted Embankment?     Gully?     Hill?      
Other?

5. How far is edge of "yard" from center of highway? 100 FT. Feet.

6. Can Junk be seen from any part of highway? Yes     No ✓

7. Were Junkyard Law, Requirements and Fees explained to you? Yes ✓ No



8. Is any portion of this "yard" on public property? Yes \_\_\_ No ☒

9. Is "yard" within 300 feet of a public park, public playground, public bathing beach, school, church or cemetery? Yes \_\_\_ No ☒

10. When was "yard" established? 1950 By whom? James Villacci

11. When was the last permit issued? 2005 To whom? Thomas Greenlaw

The undersigned certifies that the above information is true and correct to the best of his/her knowledge and that he/she is the owner or agent of the property or the he/she has been duly authorized by the owner to make this application and the receive the permit under the law.

Signed by: Tom Greenlaw

For: GREENLAW SALVAGE  
Name of Company, Corporation,  
Partnership, Individual

Address 1 Longwoods Rd. Cumberland CTR. Maine 04021

Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_ Zone \_\_\_\_\_

1 copy of Application to City/Town

1 copy of Application to Applicant

1 copy of Application to Department of Transportation, Augusta

1 copy of Application to Bureau of Motor Vehicles

Make complete sketch of "yard". Show footage of all sides and location in relationship to adjacent properties. Show distance (in feet) from edge of "yard" to center of highway. Fill in Route number or Local Road Name, Name of nearest City/Town in each direction, distance from nearest intersection, bridge or other known reference point.

SITE PLAN

Circle Correct Direction: N S E W

Name:

Address:

LONGWOODS RD RT. 9

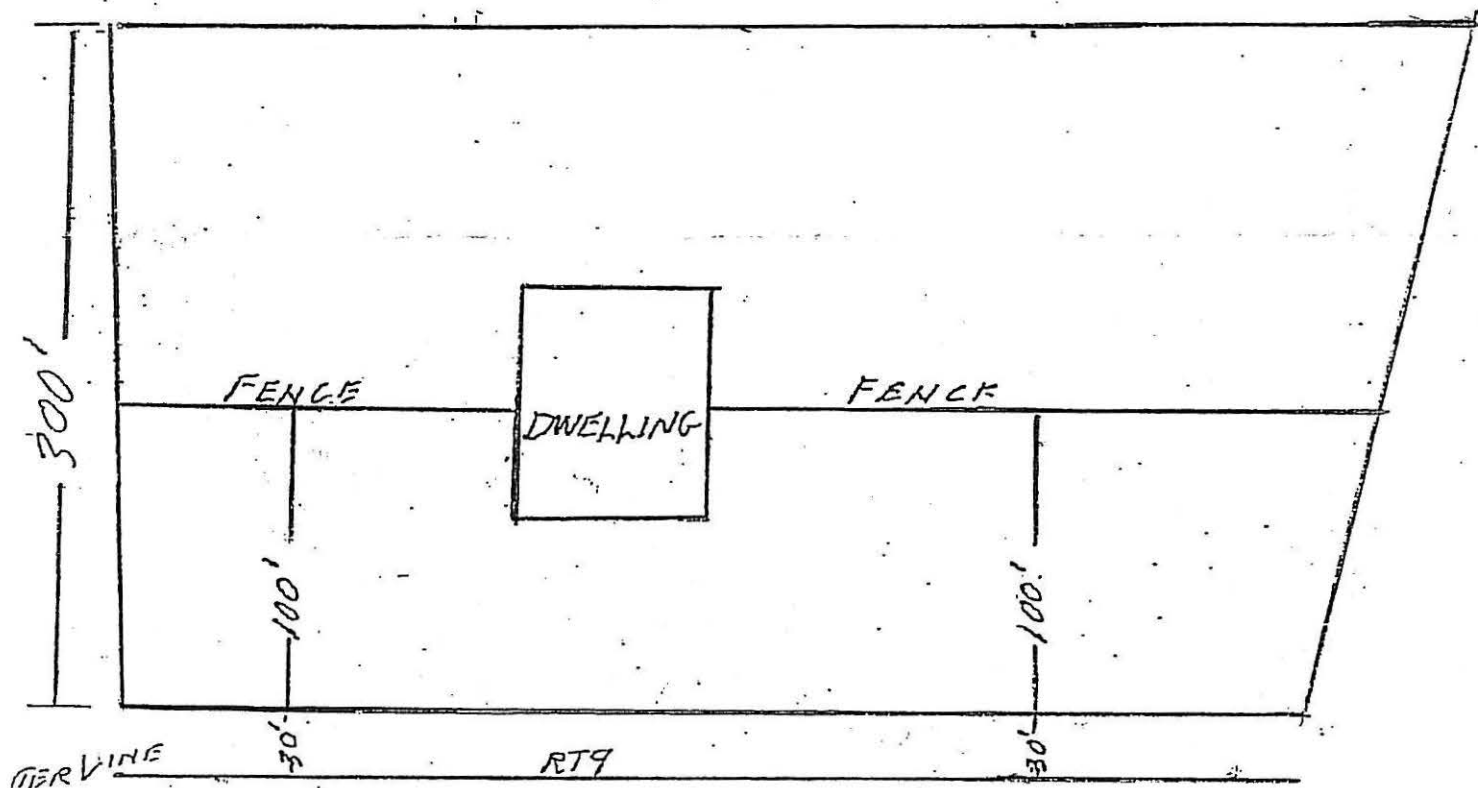
Road Name

or

Route No.

CUMB To

To FAL.



A. Located within 300 feet of a public building, public park, public playground, public bathing beach, school, church or cemetery; and [2003, c. 312, §9 (new).]

B. Within ordinary view from a facility under paragraph A. [2003, c. 312, §9 (new).]  
[2003, c. 312, §9 (new).]

**4. Public and private water supplies.** A permit may not be granted for an automobile graveyard, junkyard or automobile recycling business that handles junk, scrap metal, vehicles or other solid waste within 300 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard, junkyard, automobile recycling business or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit under section 3753.

Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to the effective date of this subsection and handling junk, scrap metal, vehicles or other solid waste within 300 feet of wells that serve as public or private water supplies may continue to operate in those locations under the terms of those permits. Municipal officers or county commissioners may renew a permit allowing the continued handling of junk, scrap metal, vehicles or other solid waste within 300 feet of a well serving as a public or private water supply as long as no further encroachment toward the well occurs. The municipal officers or county commissioners may not renew a permit if there is substantial, credible evidence that the permitted activities have caused contamination of the well. [2005, c. 424, §3 (amd).]

**5. Operating standards.** All automobile graveyards and junkyards permitted pursuant to section 3753 are required to comply with the following standards:

A. All fluids, including, but not limited to, engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water; [2005, c. 247, §1 (amd); §7 (aff).]

B. A vehicle containing fluids may not be stored or dismantled:

(1) Within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5;

(2) Within the 100-year floodplain; or

(3) Over a mapped sand and gravel aquifer;

[2003, c. 312, §9 (new).]

C. Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into the inland waters or tidal waters of the State or on the ice of inland waters or tidal waters or on the banks of inland waters or tidal waters in such a manner that they may fall or be washed into these waters; [2005, c. 247, §2 (amd); §7 (aff).]

D. Junkyard and automobile graveyard owners must demonstrate at the time of licensing that the facility or facilities for which they seek permits are, or are part of, a viable business entity and the facility or facilities are actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade; [2005, c. 683, Pt. A, §51 (rpr).]

E. A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed; [2005, c. 247, §3 (new); §7 (aff).]

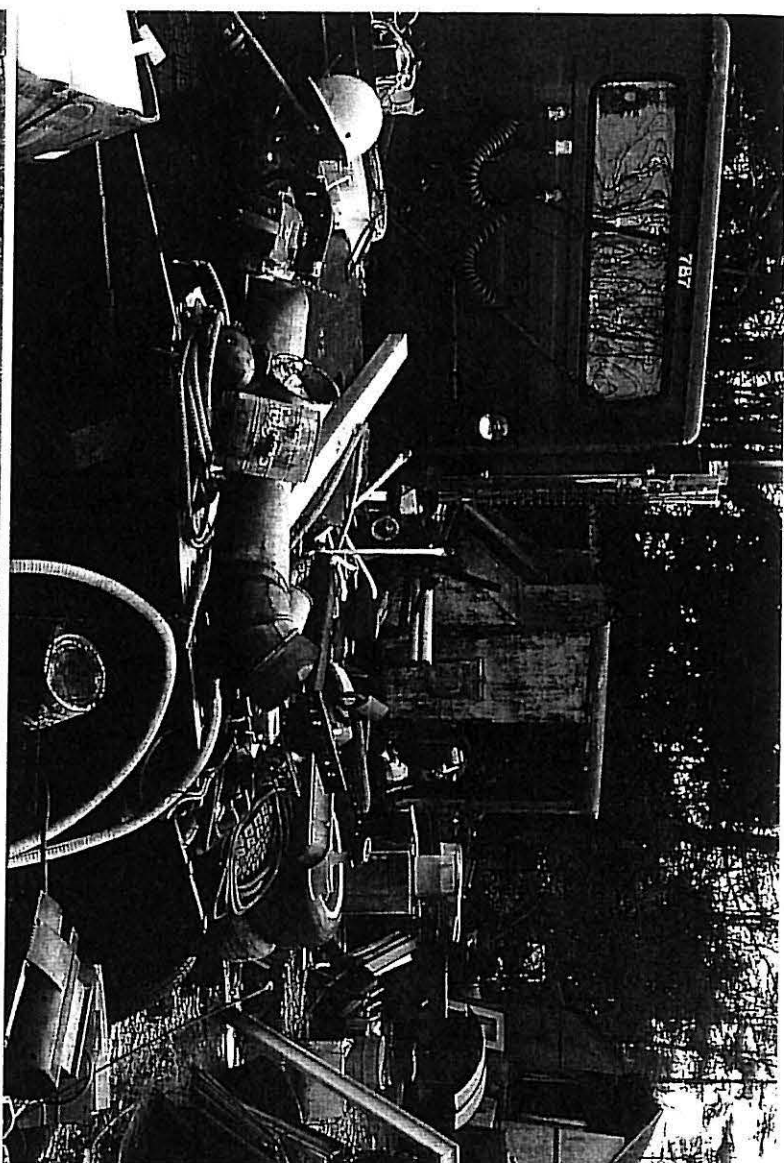
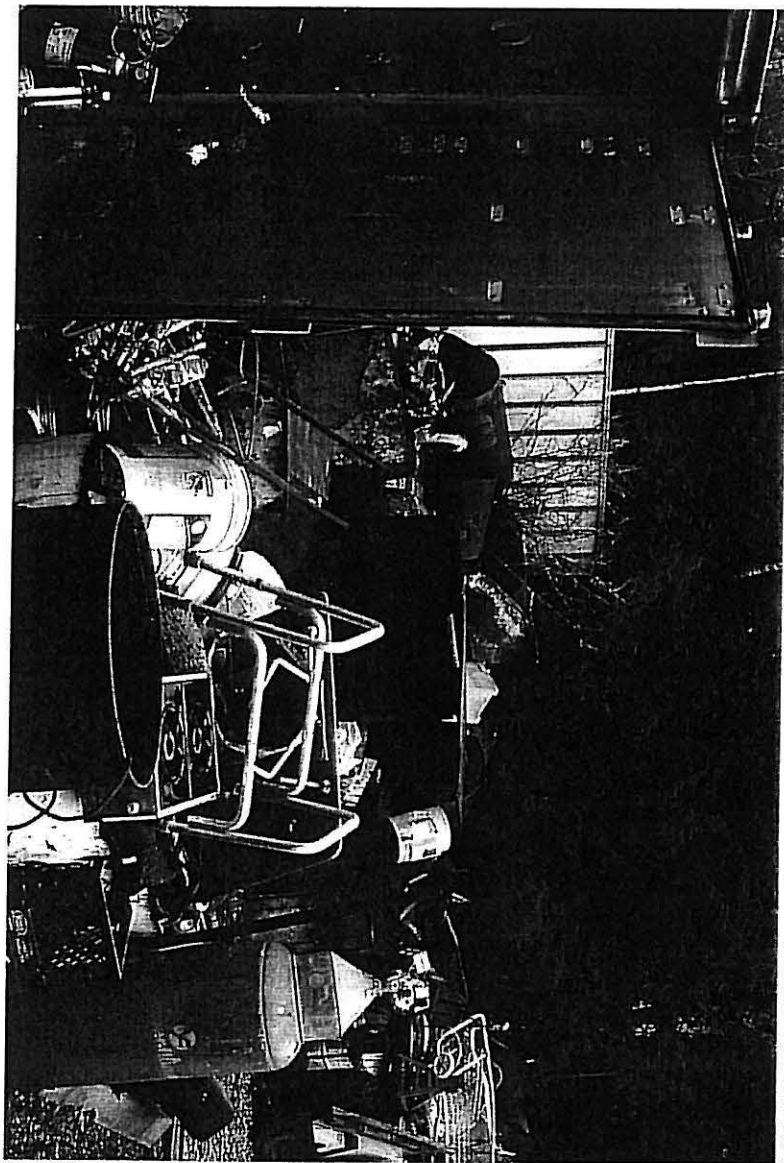
F. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power, appliances and other items within 180 days of acquisition. Motor vehicles, appliances and other items acquired by and on the premises of a junkyard or automobile graveyard prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable; [2005, c. 247, §3 (new); §7 (aff).]

G. Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations; and [2005, c. 247, §3 (new); §7 (aff).]

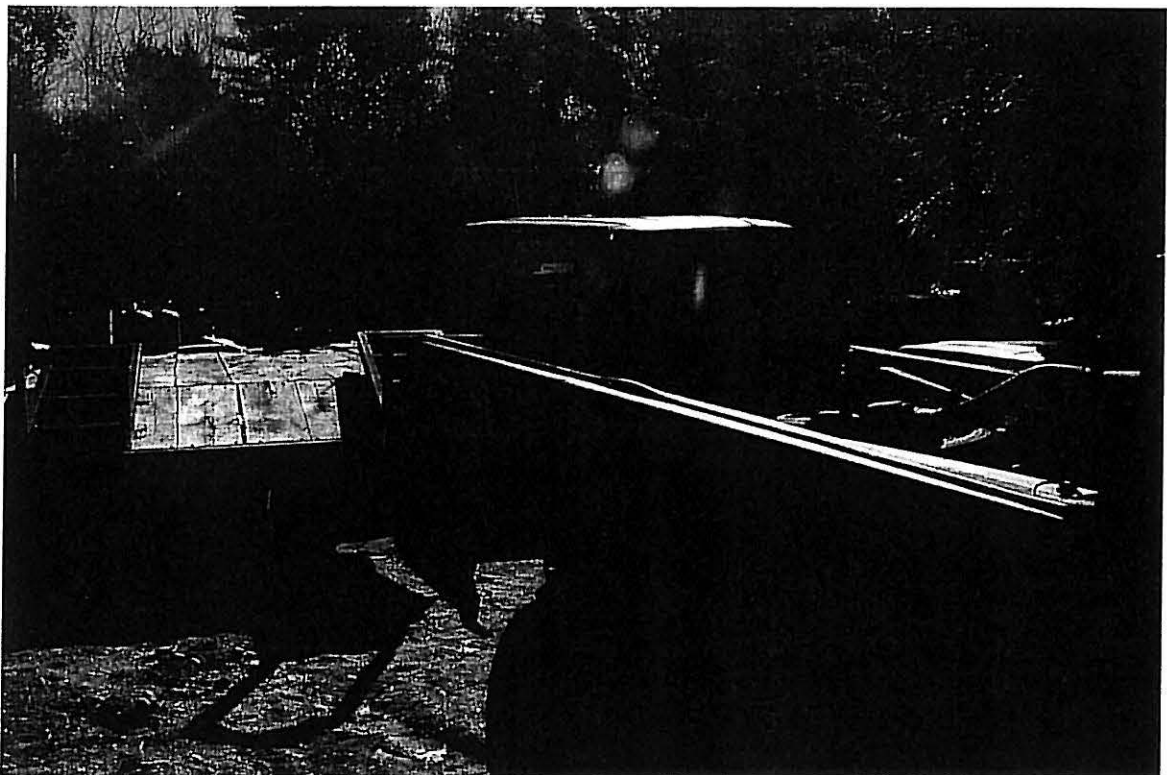
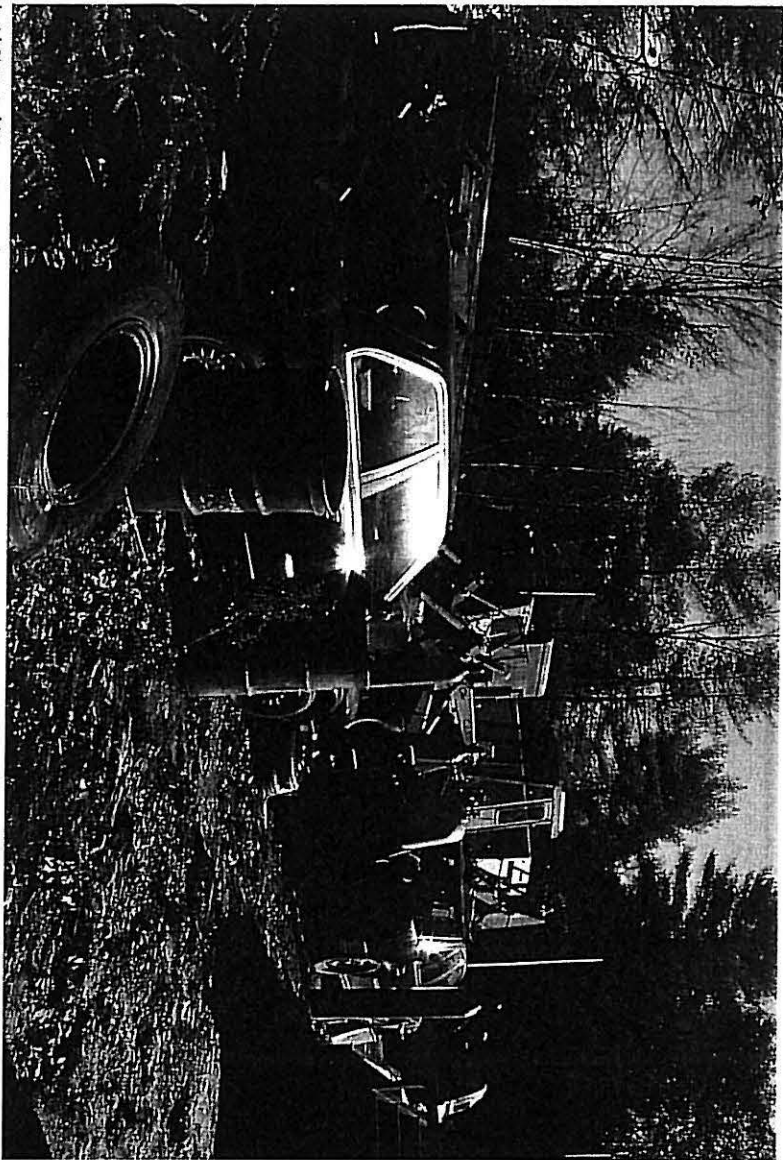
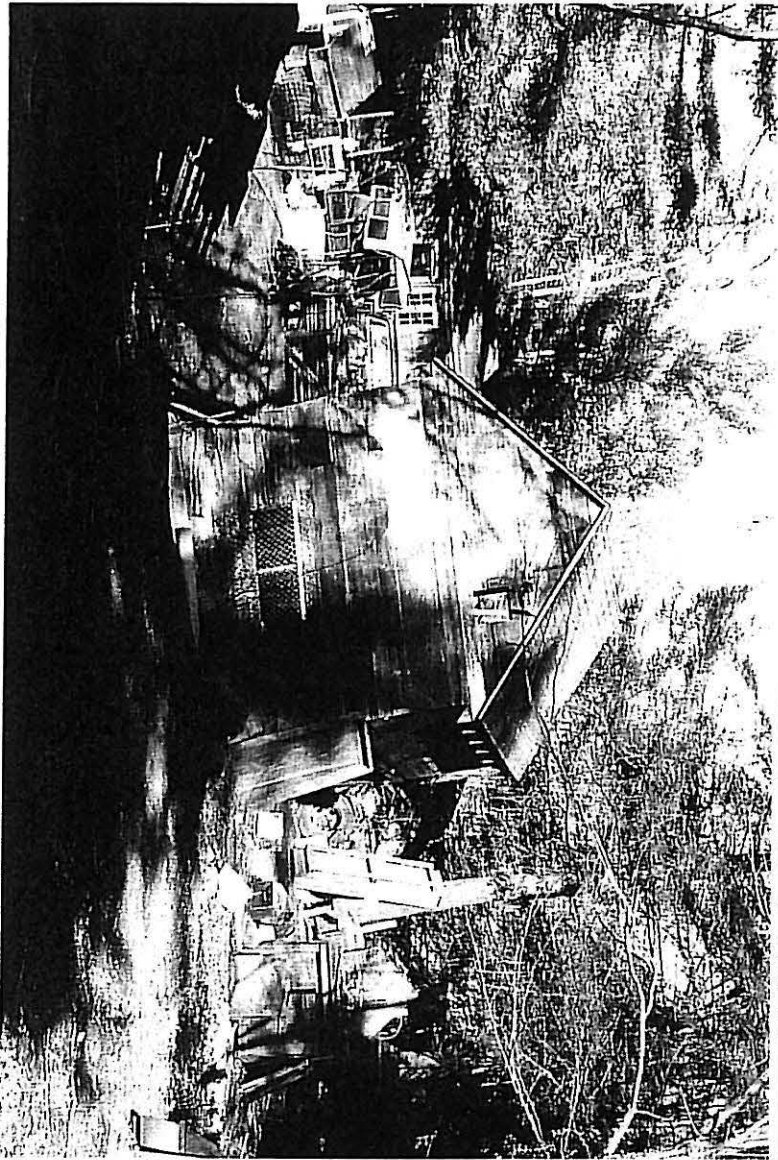
H. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles, appliances and other items before crushing or shredding. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable. [2005, c. 247, §3 (new); §7 (aff).]

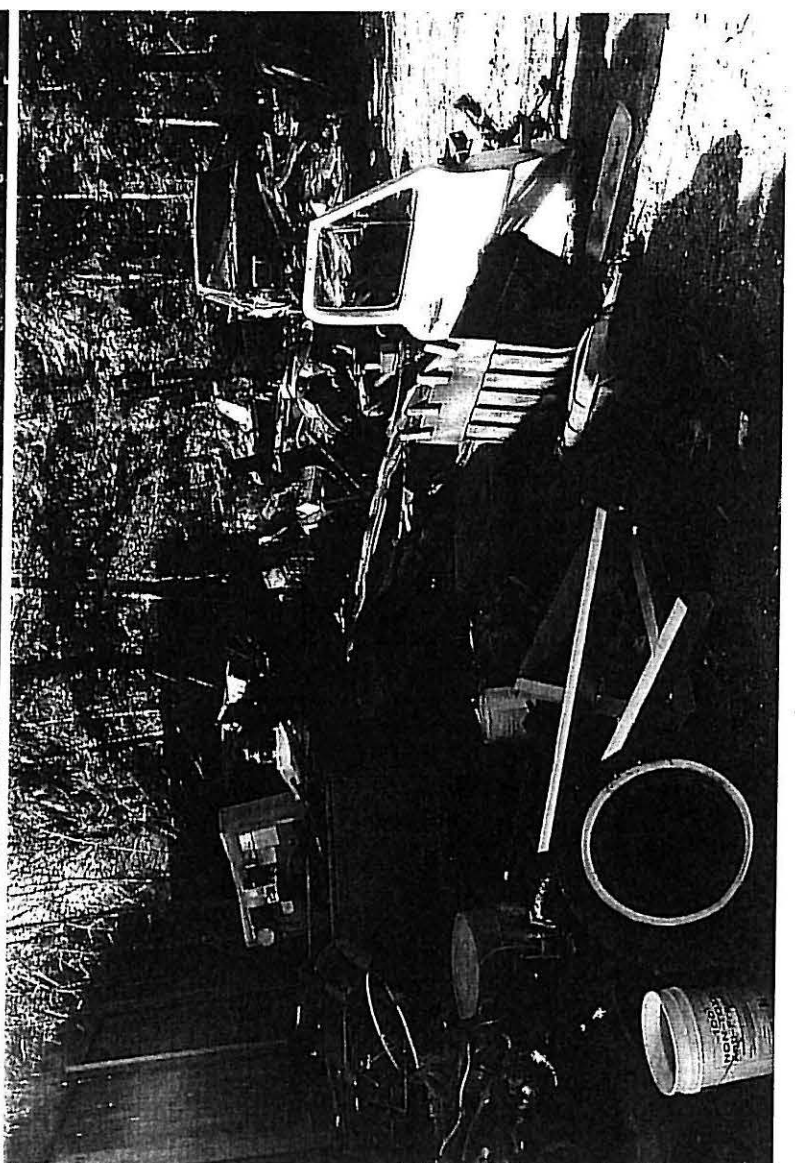
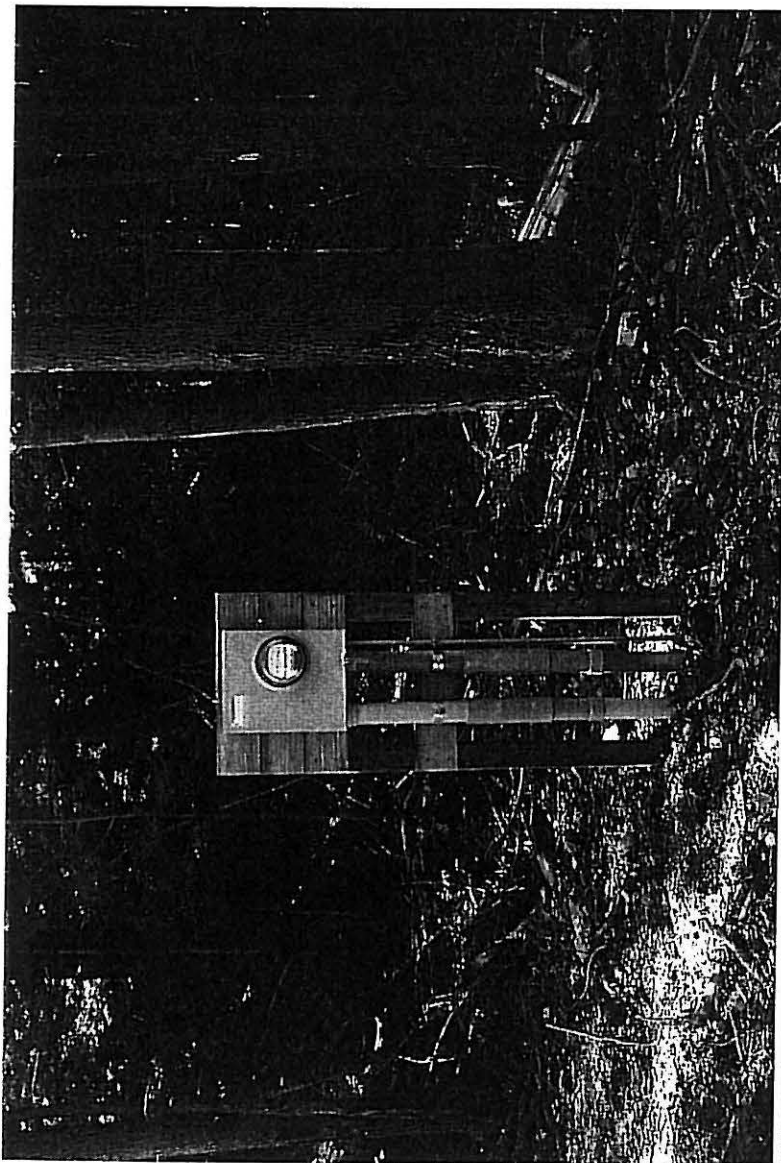
[2005, c. 683, Pt. A, §51 (amd).]

**6. Rules.** A permit, other than a limited-term permit as described in this section, may not be granted for an automobile graveyard or automobile recycling business that is not in compliance with all applicable provisions of the automobile dealer or recycler licensing provisions of Title 29-A, chapter

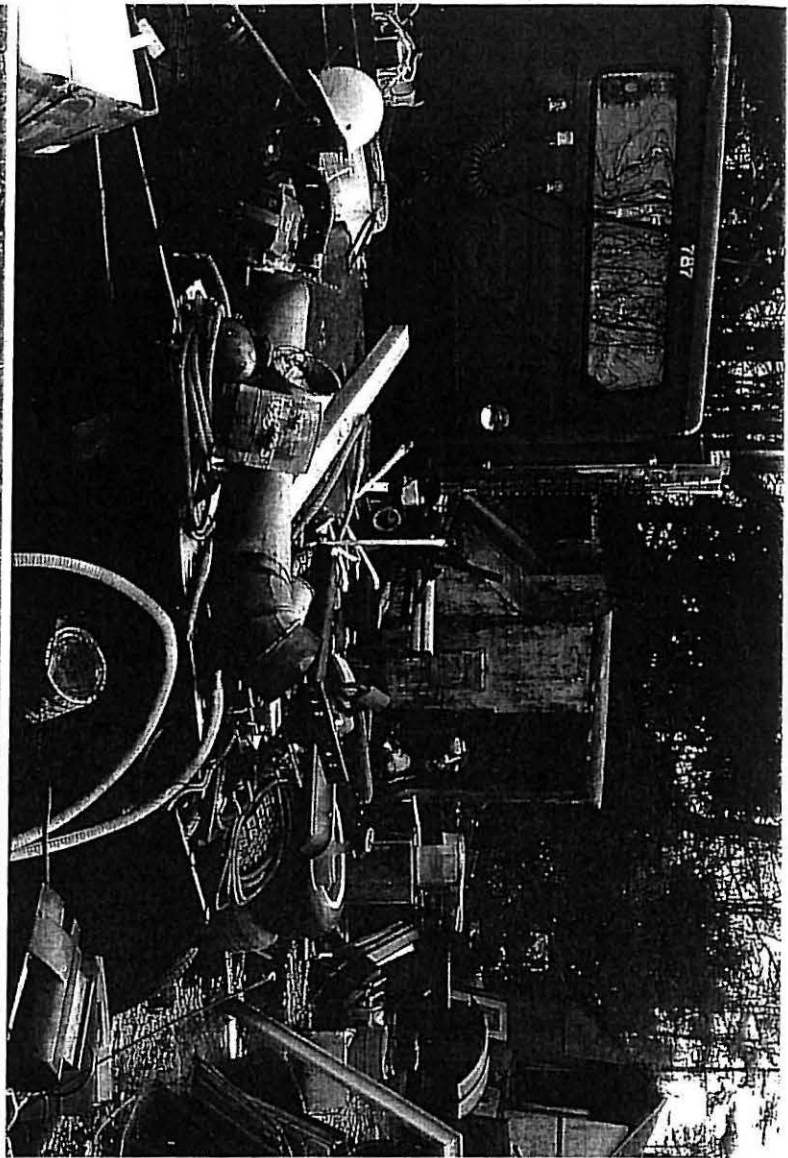
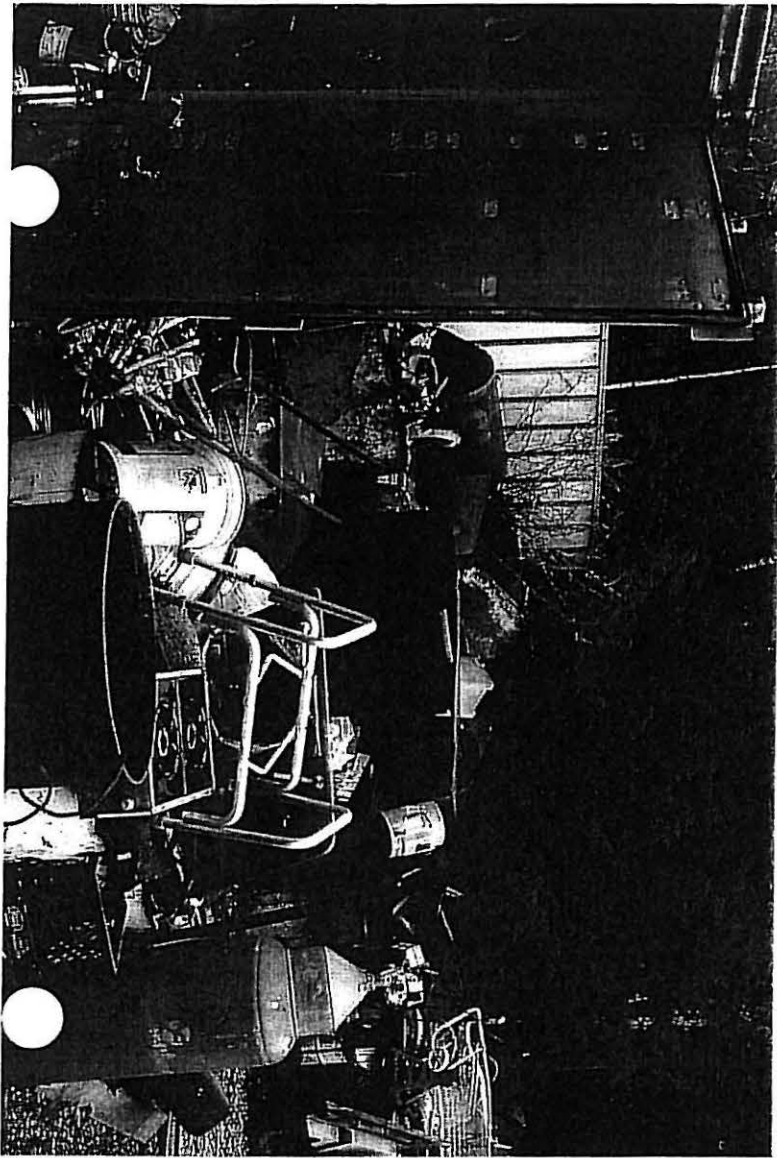


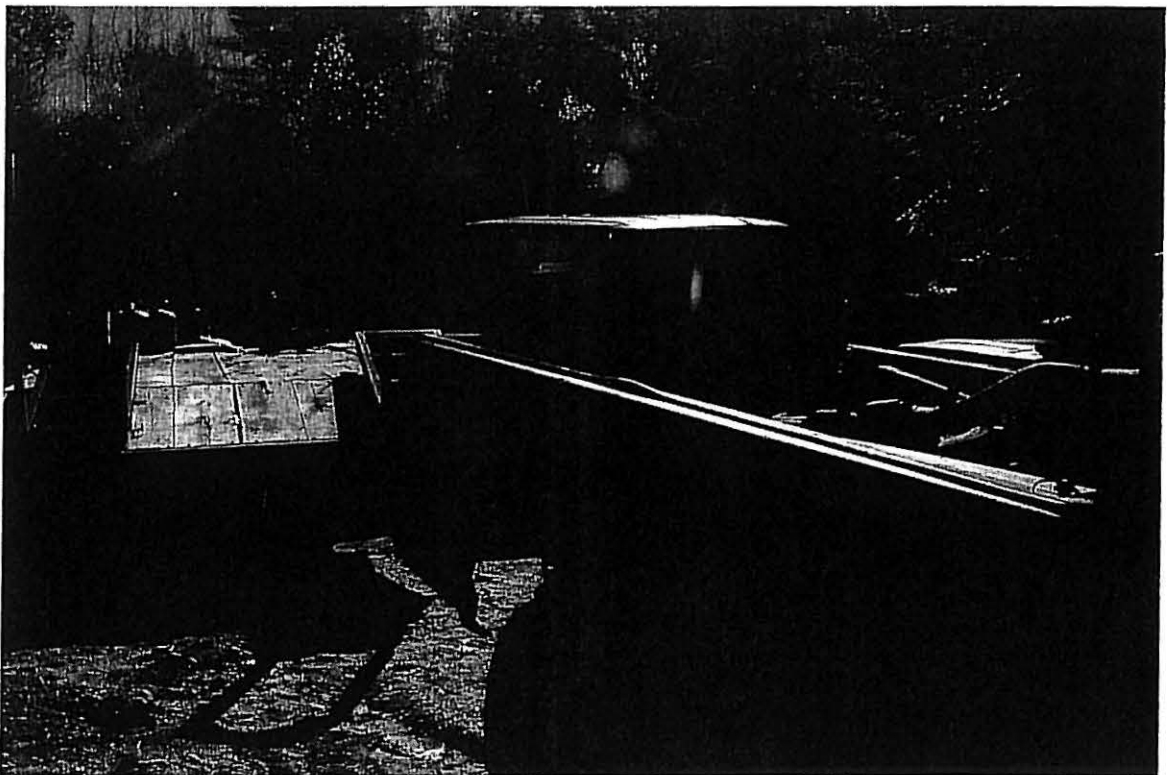
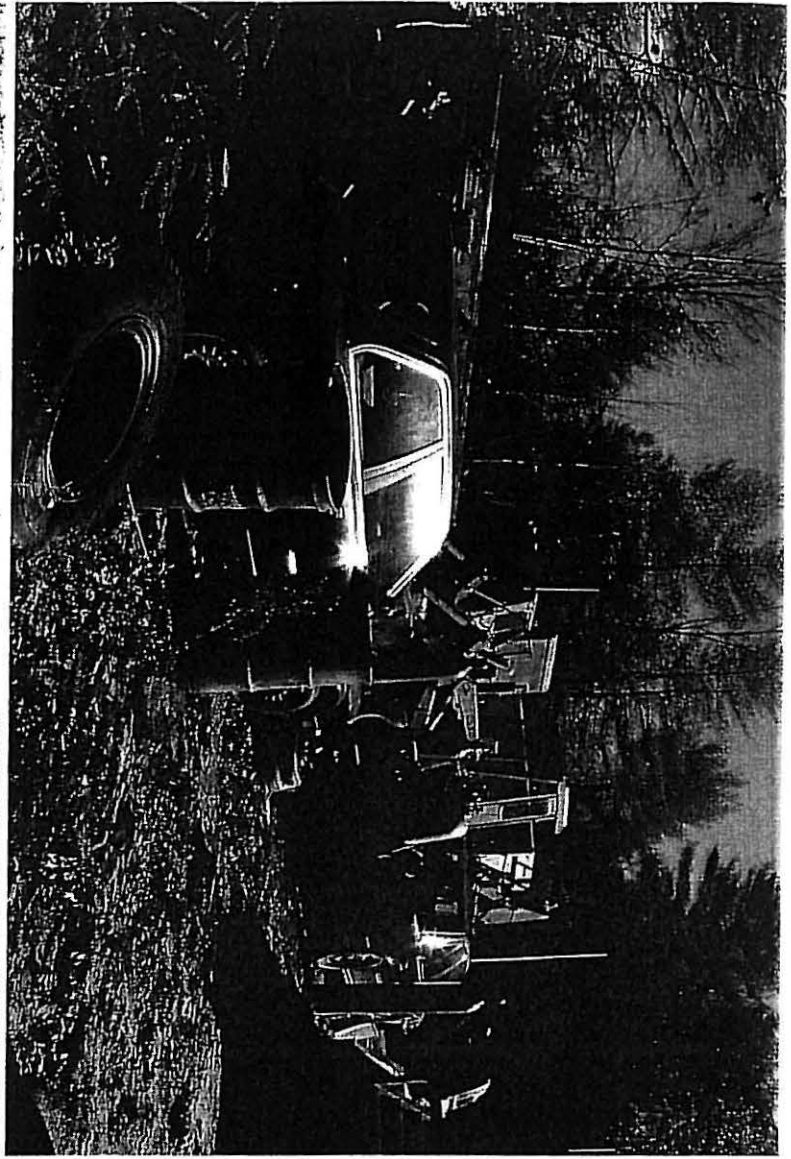
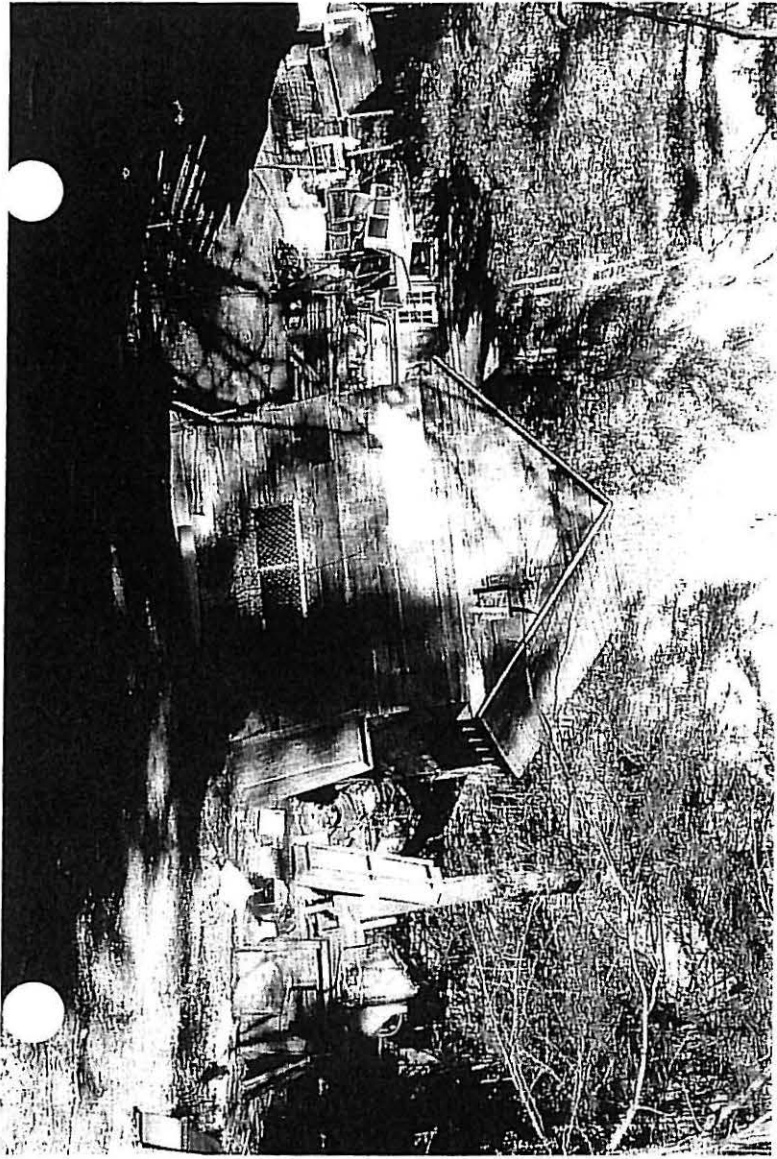


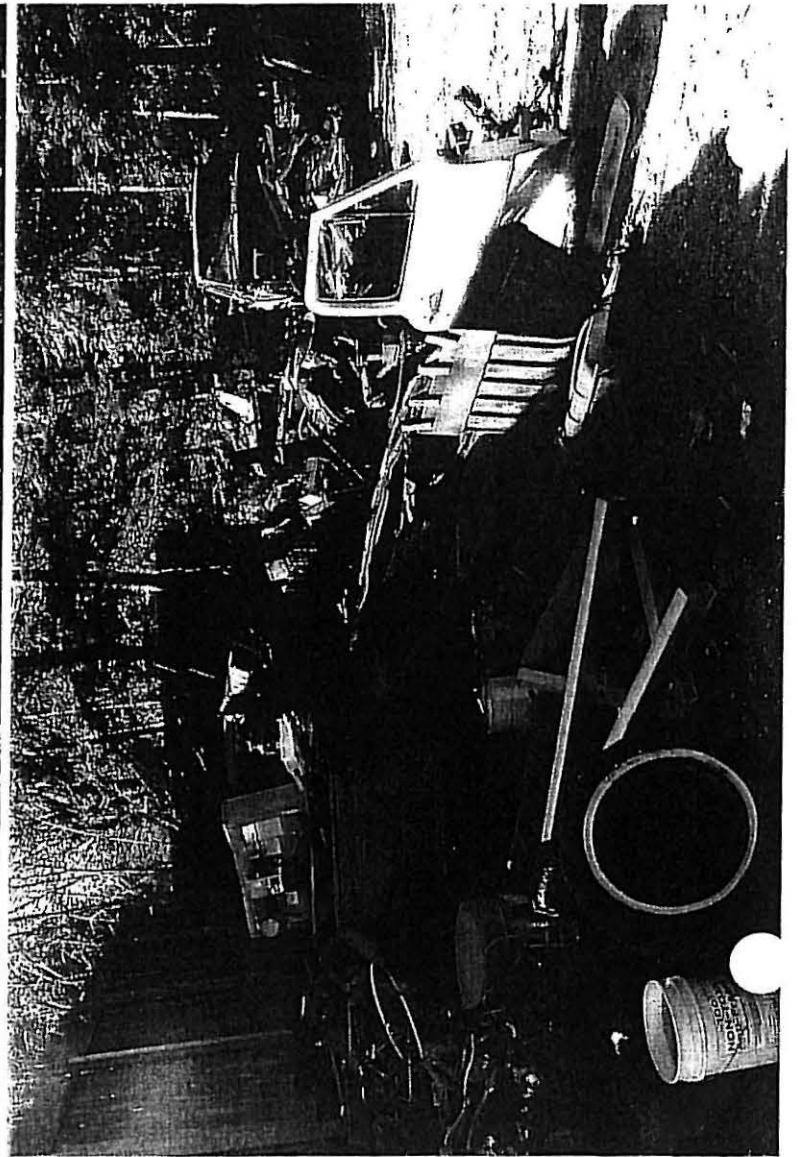
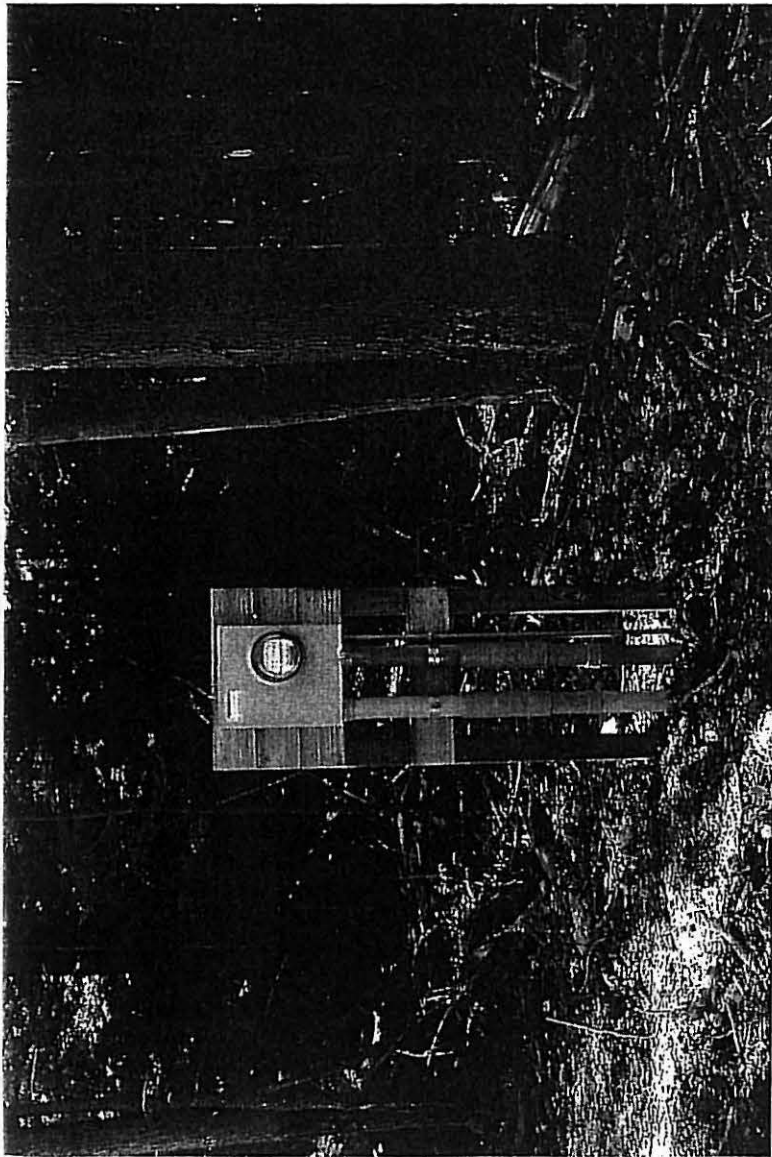










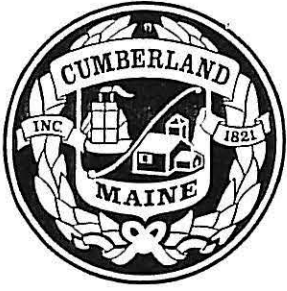




# Item 06-004

To consider and act on Auto Graveyard/Junkyard  
Permit for Greenlaw Salvage, 1 Longwoods Road  
for the period January through October, 2006.

Please note - we have asked Mr. Greenlaw to attend the meeting and speak to the issue of being a "viable" business, as mentioned in Code Enforcement Officer William Longley's letter. It may be necessary to table this item until further documentation has been provided by Mr. Greenlaw.



# TOWN OF CUMBERLAND, MAINE

290 Tuttle Road

Cumberland Center, Maine 04021-9321

Telephone (207) 829-5559 • Fax (207) 829-2214

January 10, 2006

Mr. Thomas Greenlaw  
1 Longwoods Road  
Cumberland, ME 04021

Dear Mr. Greenlaw:

At its meeting of January 9, 2006 the Town Council voted 4-3 to approve your Automobile Graveyard/Junkyard License for the period January 1, 2006 through October, 2006.

The Town Council's vote authorized the following motion:

"To approve the Greenlaw Salvage Auto Graveyard/Junkyard Permit for the period January through October, 2006 with the condition that the applicant demonstrates the facility is a viable business entity and is actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade pursuant to Title 30A and the Town of Cumberland Zoning Ordinances prior to license reapplication in October, 2006."

I have enclosed your 2006 Automobile Graveyard/Junkyard Permit.

Sincerely,

Nadeen Daniels  
Town Clerk

Cc: MDOT and Bureau of Motor Vehicles  
Ken Cole, Esquire  
William Longley, Code Enforcement Officer

Permit to Be Displayed On Premises

TOWN CUMBERLAND

COUNTY, CUMBERLAND, MAINE

Public Hearing held January 10, 2006

**PERMIT**

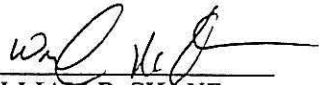
To establish, operate or maintain an automobile graveyard and/or junkyard. Subject to existing rules, regulations and any amendments that may be made thereto, under the provisions of Title 30-A, Public Laws 1988, Section 3751 to 3760.

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This permit is hereby granted upon condition that the automobile graveyard and/or junkyard does not violate any of the above Sections of Title 30-A.

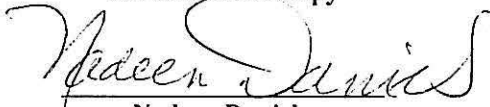
Business Name: GREENLAW'S SALVAGE  
Owner's Name: THOMAS GREENLAW  
P. O. /Address: 1 LONGWOODS ROAD  
City/ Town: CUMBERLAND, MAINE 04021

This permit expires on October 31, 2006, unless sooner revoked by the Municipal Officers.  
Dated at City/Town Cumberland this 10<sup>th</sup> day of January 2006.

Municipal Officer: 

WILLIAM R. SHANE  
TOWN MANAGER

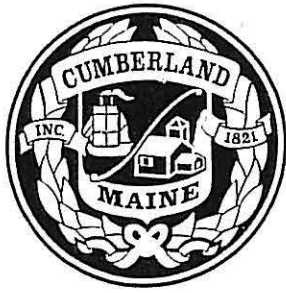
Certified True Copy



Nadeen Daniels  
Town Clerk

1 copy to Applicant  
1 copy to Municipality  
1 copy to Dept of Transportation, Augusta  
1 copy to Maine State Police, Augusta  
1 copy to Motor Vehicle Division, Sec of State





# TOWN OF CUMBERLAND, MAINE

290 Tuttle Road

Cumberland Center, Maine 04021-9321

Telephone (207) 829-5559 • Fax (207) 829-2214

---

November 18, 2005

Mr. Thomas Greenlaw  
1 Longwoods Road  
Cumberland ME 04021

Dear Mr. Greenlaw,

Enclosed please find the application for your 2006 Junkyard Permit. Please fill out this form and return it to me, along with a check for \$50.00, no later than November 30, 2005 so that your application may be processed.

The Town Council will hold a public hearing on your application at the December 12, 2005 Town Council meeting. Thank you for your prompt assistance.

Sincerely,

Nadeen Daniels  
Town Clerk

Enclosure

PH held on

07/11/05

item # 05-115

Approved by unanimous  
consent.

Expires 09/30/05

# Town of Cumberland Maine

## APPLICATION FOR AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT

### MUNICIPAL OFFICE USE ONLY

Tentative Date of Hearing \_\_\_\_\_

Application Received \_\_\_\_\_

Time of Hearing \_\_\_\_\_ Permit No. \_\_\_\_\_

Place of Hearing \_\_\_\_\_ Fee Paid \$ \_\_\_\_\_

Notifications sent by \_\_\_\_\_ Date \_\_\_\_\_

To the City/Town \_\_\_\_\_ County \_\_\_\_\_ Maine

I/We Thomas Greenlaw hereby make application (in quadruplicate) for a permit to establish, operate, maintain an Automobile Graveyard, Automobile Recycling Business and/or Junkyard at the following described location and in accordance with the provisions of Title 30-A, Sections 3751 to 3760, Chapter 183.

#### Answer all questions in full.

1. Give location of Automobile Graveyard and/or Junkyard

1 Longwoods Rd.

2. Is this application made by or for a company, partnership, corporation, individual?

3. Is this property leased? NO Property owned by \_\_\_\_\_

Address:

1 Longwoods Rd.

4. How is "yard" screened? - Fence? (Type) wood Height 10 <sup>FT.</sup>

Trees? (Type) assorted Embankment?    Gully?    Hill?    Other?   

5. How far is edge of "yard" from center of highway? 100 <sup>FT.</sup> feet.

6. Can junk be seen from any part of highway? Yes    No ✓

7. Was Junkyard Law, Requirements and Fees explained to you? Yes ✓ No   

Received  
12/14/05



8. Is any portion of this "yard" on public property? Yes \_\_\_ No ✓

9. Is "yard" within 300 feet of a Public Park, Public Playground, Public Bathing Beach, School, Church or Cemetery? Yes \_\_\_ No ✓

10. When was "yard" established? 1950 By Whom?  
James Villacci

11. When was last permit issued? 2004 To Whom?  
Thomas Greenlaw

The undersigned certifies that the above information is true and correct to the best of his/her knowledge and that he/she is the owner or agent of the property or that he/she has been duly authorized by the owner to make this application and to receive the permit under the law.

Signed by 

For: \_\_\_\_\_  
Name of Company, Corporation,  
Partnership, Individual

Address HONKWOODS RD CUMBERLAND ME.

Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_ Zone \_\_\_\_\_

1 copy of Application to City/Town

1 copy of Application to Applicant

1 copy of Application to Department of Transportation, Augusta

1 copy of Application to Bureau of Motor Vehicles,

Make complete sketch of "yard." Show footage of all sides and location in relationship to adjacent properties. Show distance (in feet) from edge of "yard" to center of highway. Fill in Route Number or Local Road Name, Name of nearest City/Town in each direction, distance from nearest intersection, bridge or other known reference point.

# SITE PLAN

Circle Correct Direction: N S E W

Name:

Address:

LONGWOODS RD RT. 9

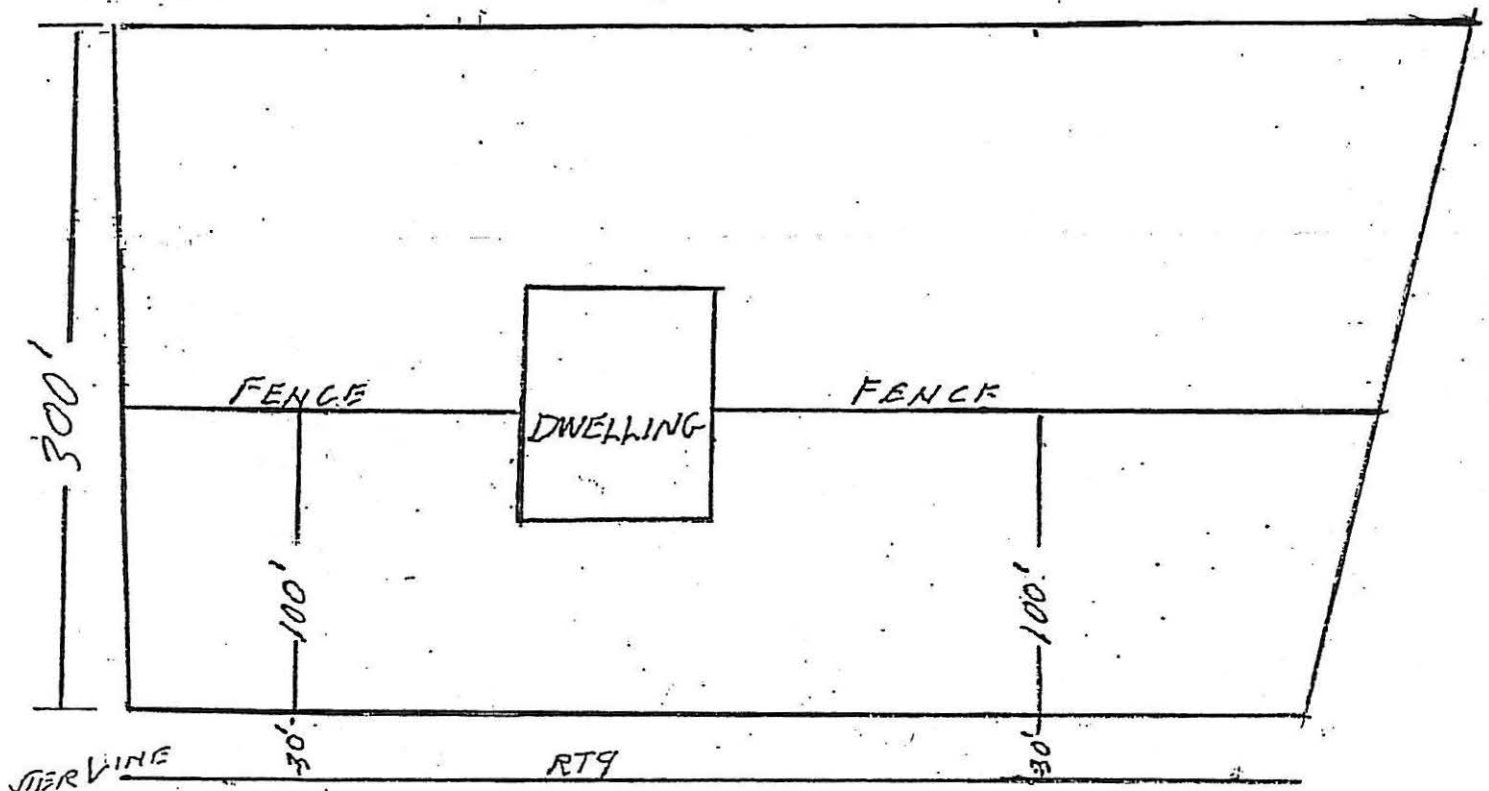
Road Name

or

Route No.

CUMB To

To FAL.



Motion to approve the Greenlaw Salvage Auto Graveyard/Junkyard Permit for the period January through October, 2006 with the condition that the applicant demonstrates the facility is a viable business entity and is actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade pursuant to Title 30A and the Town of Cumberland Zoning Ordinances prior to license reapplication in October, 2006.

Prev: [Chapter 183 §3751](#)  
 Next: [Chapter 183 §3753](#)

**Title 30-A: MUNICIPALITIES AND COUNTIES (HEADING: PL 1987, c. 737, Pt. A, §2 (new))**

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**Subpart 6: REGULATION, LICENSES AND PERMITS (HEADING: PL 1987, c. 737, Pt. A, §2 (new))**

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**Chapter 183: ECONOMIC REGULATION (HEADING: PL 1987, c. 737, Pt. A, §2 (new))**

**Subchapter 1: JUNKYARDS AND AUTOMOBILE GRAVEYARDS (HEADING: PL 1991, c. 548, Pt. B, §4 (rpr))**

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**§3752. Definitions**

[Revisor's Office](#)

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As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

**1. Automobile graveyard.** "Automobile graveyard" means a yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A, section 101, subsection 42, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

A. "Automobile graveyard" does not include:

(1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;

(2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title 29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by an automobile hobbyist to comply with the screening requirements in section 3754-A, subsection 1, paragraph A and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;

(3) An area used for the parking or storage of vehicles, vehicle parts or

equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;

(4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5;

(5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;

(6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;

(7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or

(8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

[2005, c. 424, §1 (amd).]

[2005, c. 424, §1 (amd).]

**1-A. Automobile recycling business.** "Automobile recycling business" means the business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.

A. "Automobile recycling business" does not include:

(1) Financial institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;

(2) Insurance companies licensed to do business in the State;

(3) New vehicle dealers, as defined in Title 29-A, section 851, licensed to do business in the State; or



(4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business.

[2003, c. 312, §4 (new).]

[2003, c. 312, §4 (amd).]

**2. Highway.** "Highway" means any public way. [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

**3. Interstate System.** "Interstate System" means those portions of the Maine Turnpike and the state highway system incorporated in the National System of Interstate and Defense Highways, as officially designated by the Department of Transportation. [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

**4. Junkyard.** "Junkyard" means a yard, field or other outside area used to store, dismantle or otherwise handle:

A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture; [2003, c. 312, §5 (amd).]

B. Discarded, scrap and junked lumber; and [2003, c. 312, §5 (amd).]

C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material. [2003, c. 312, §5 (amd).]

D. [2003, c. 312, §5 (rp).]  
[2003, c. 312, §5 (amd).]

**5. Primary System.** "Primary System" means that portion of the state highway system which the Department of Transportation has by official designation incorporated into the Federal-Aid Primary System. [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

**6. Recycling or recycling operations.** [2003, c. 312, §6 (rp).]

Section History:

Prev: [Chapter 183 §3754](#)  
Next: [Chapter 183 §3755](#)

**Title 30-A: MUNICIPALITIES AND COUNTIES (HEADING:  
PL 1987, c. 737, Pt. A, §2 (new))**

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**Subpart 6: REGULATION, LICENSES AND PERMITS  
(HEADING: PL 1987, c. 737, Pt. A, §2 (new))**

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**Chapter 183: ECONOMIC REGULATION (HEADING: PL 1987,  
c. 737, Pt. A, §2 (new))**

**Subchapter 1: JUNKYARDS AND AUTOMOBILE GRAVEYARDS  
(HEADING: PL 1991, c. 548, Pt. B, §4 (rpr))**

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**§3754-A. Limitations on graveyard, automobile recycling  
business and junkyard permits**

[Revisor's Office](#)

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**1. Highways; Interstate System and Primary System.** A permit may not be granted for an automobile graveyard or junkyard within 1,000 feet of the right-of-way of any highway incorporated in both the Interstate System and Primary System or within 600 feet of the right-of-way of any other highway, except for:

A. Those automobile graveyards or junkyards that are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings or fences. Screening required by this paragraph must be:

(1) At a height, density and depth sufficient to accomplish complete screening from ordinary view;

(2) Well constructed and properly maintained at a minimum height of 6 feet;

(3) Placed outside of the highway right-of-way; and

(4) Acceptable to the municipal officers or county commissioners; and [2003, c. 312, §9 (new).]

B. Those automobile graveyards or junkyards located within areas that have been zoned for industrial use and located more than 600 feet but less than 1,000 feet from the right-of-way of any highway incorporated in both the Interstate System and Primary System. [2003, c. 312, §9 (new).]  
[2003, c. 312, §9 (new).]

**2. Limitation on new permits.** A permit may not be granted for an automobile graveyard or junkyard established after October 3, 1973 and located within 100 feet of any highway. [2003, c. 312, §9 (new).]

**3. Public facilities.** A new permit may not be granted for an automobile graveyard or junkyard that is:

A. Located within 300 feet of a public building, public park, public playground, public bathing beach, school, church or cemetery; and [2003, c. 312, §9 (new).]

B. Within ordinary view from a facility under paragraph A. [2003, c. 312, §9 (new).]  
[2003, c. 312, §9 (new).]

**4. Public and private water supplies.** A permit may not be granted for an automobile graveyard, junkyard or automobile recycling business that handles junk, scrap metal, vehicles or other solid waste within 300 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard, junkyard, automobile recycling business or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit under section 3753.

Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to the effective date of this subsection and handling junk, scrap metal, vehicles or other solid waste within 300 feet of wells that serve as public or private water supplies may continue to operate in those locations under the terms of those permits. Municipal officers or county commissioners may renew a permit allowing the continued handling of junk, scrap metal, vehicles or other solid waste within 300 feet of a well serving as a public or private water supply as long as no further encroachment toward the well occurs. The municipal officers or county commissioners may not renew a permit if there is substantial, credible evidence that the permitted activities have caused contamination of the well. [2005, c. 424, §3 (amd).]

**5. Operating standards.** All automobile graveyards and junkyards permitted pursuant to section 3753 are required to comply with the following standards:

A. All fluids, including, but not limited to, engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water; [2005, c. 247, §1 (amd); §7 (aff).]

B. A vehicle containing fluids may not be stored or dismantled:

(1) Within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5;

(2) Within the 100-year floodplain; or

(3) Over a mapped sand and gravel aquifer;

[2003, c. 312, §9 (new).]

C. Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into the inland waters or tidal waters of the State or on the ice of inland waters or tidal waters or on the banks of inland waters or tidal waters in such a manner that they may fall or be washed into these waters; [2005, c. 247, §2 (amd); §7 (aff).]

D. Junkyard and automobile graveyard owners must demonstrate at the time of licensing that the facility or facilities for which they seek permits are, or are part of, a viable business entity and the facility or facilities are actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade; [2005, c. 683, Pt. A, §51 (rpr).]

E. A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed; [2005, c. 247, §3 (new); §7 (aff).]

F. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power, appliances and other items within 180 days of acquisition. Motor vehicles, appliances and other items acquired by and on the premises of a junkyard or automobile graveyard prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable; [2005, c. 247, §3 (new); §7 (aff).]

G. Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations; and [2005, c. 247, §3 (new); §7 (aff).]

H. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles, appliances and other items before crushing or shredding. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable. [2005, c. 247, §3 (new); §7 (aff).]  
[2005, c. 683, Pt. A, §51 (amd).]

**6. Rules.** A permit, other than a limited-term permit as described in this section, may not be granted for an automobile graveyard or automobile recycling business that is not in compliance with all applicable provisions of the automobile dealer or recycler licensing provisions of Title 29-A, chapter

9. Municipal officers or county commissioners may award a limited-term permit conditioned upon an automobile graveyard's or automobile recycling business's demonstrating compliance with the provisions of Title 29-A, chapter 9 within 90 calendar days of the issuance of the municipal or county limited-term permit. [2003, c. 312, §9 (new).]

**6-A. Relationship to state storm water requirements.** After October 30, 2005, municipal officers or county commissioners may reject an application for an automobile graveyard or automobile recycling business if the applicant has not demonstrated that:

A. A notice of intent has been filed with the Department of Environmental Protection to comply with the general permit provisions for storm water discharges; or [2005, c. 247, §4 (new); §7 (aff).]

B. The Department of Environmental Protection has determined that a storm water discharge permit is not required. [2005, c. 247, §4 (new); §7 (aff).]  
[2005, c. 247, §4 (new); §7 (aff).]

**7. Local ordinances.** This subchapter may not be construed to limit a municipality's home rule authority to enact ordinances with respect to automobile graveyards, automobile recycling businesses and junkyards that the municipality determines reasonable, including, but not limited to, ordinances concerning:

A. Compliance with state and federal solid waste and hazardous waste regulations; [2003, c. 312, §9 (new).]

B. Fire and traffic safety; [2003, c. 312, §9 (new).]

C. Levels of noise that can be heard outside the premises; [2003, c. 312, §9 (new).]

D. Distance from existing residential or institutional uses; [2003, c. 312, §9 (new).]

E. The effect on groundwater and surface water, as long as municipal ordinances on groundwater are no less stringent than or inconsistent with rules adopted by the Department of Environmental Protection; and [2003, c. 312, §9 (new).]

F. Best management practices for automobile graveyards, junkyards and automobile recycling businesses developed by the Department of Environmental Protection. [2003, c. 312, §9 (new).]

Municipal officers or county commissioners shall consider compliance with these local ordinances in deciding whether to grant or deny a permit for any



automobile graveyard, automobile recycling business or junkyard and in attaching conditions of approval to a permit.  
[2003, c. 312, §9 (new).]

**8. Applicability.** Municipalities may apply local ordinances adopted previously under subsection 7 pertaining to automobile graveyards and junkyards to an automobile recycling business without amending those ordinances to include automobile recycling businesses. A municipality must provide notice of its intent to apply these ordinances at the time an application for an automobile recycling business permit is filed. [2003, c. 312, §9 (new).]

**9. Right of entry.** Municipal officers or their designees may, to carry out the provisions of this subchapter or to determine compliance with any laws, ordinances, license or permit approvals, decisions or conditions:

A. Enter any automobile graveyard, junkyard or automobile recycling business property and inspect all outside areas, equipment and activities at reasonable hours for compliance with the laws or ordinances set forth in accordance with this subchapter; and [2003, c. 312, §9 (new).]

B. Enter any building on the property with the consent of the owner, occupant or agent to inspect the building and activities within the building for compliance with the laws or ordinances set forth in accordance with this subchapter. [2003, c. 312, §9 (new).]

A municipal officer's or designee's entry onto property under this subsection is not a trespass.  
[2003, c. 312, §9 (new).]

**10. Standard for permit.** The municipal officers or county commissioners may issue a permit to an automobile graveyard or junkyard if that automobile graveyard or junkyard meets the operating standards set forth in subsection 5. [2005, c. 424, §5 (new).]

For purposes of revocation or suspension of a permit pursuant to section 3758-A, subsection 5, each of the standards set forth in this section is a condition of a permit. [2005, c. 424, §6 (new).]

Section History:

PL 2003, Ch. 312, §9 (NEW).  
PL 2005, Ch. 247, §1-4 (AMD).  
PL 2005, Ch. 247, §7 (AFF).  
PL 2005, Ch. 424, §3-6 (AMD).  
PL 2005, Ch. 683, §A51 (AMD).

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**Title 30-A: MUNICIPALITIES AND COUNTIES (HEADING: PL 1987, c. 737, Pt. A, §2 (new))**

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**Subchapter 1: JUNKYARDS AND AUTOMOBILE GRAVEYARDS (HEADING: PL 1991, c. 548, Pt. B, §4 (rpr))**

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**§3755-A. Automobile recycling business permits; operation standards**

[Revisor's Office](#)

[Maine Legislature](#)

**1. Application.** An application for an automobile recycling business permit must include the following information:

A. The name and address of the property owner; [1993, c. 173, §6 (new).]

B. The name and address of the person or entity who will operate the site; and [1993, c. 173, §6 (new).]

C. A site plan, including:

(1) Property boundary lines;

(2) A description of the soils on the property;

(3) The location of any sand and gravel aquifer recharge areas;

(4) The location of any residence or school within 500 feet of where the cars will be stored;

(5) The location of any body of water on the property or within 200 feet of the property lines;

(6) The boundaries of the 100-year flood plain;

(7) The location of all roads within 1,000 feet of the site;

(8) A plan for containment of fluids, containment and disposal of batteries and storage or disposal of tires; and

(9) The location within the property boundary lines where vehicles are drained, dismantled or stored.

[1993, c. 173, §6 (new).]

[1993, c. 173, §6 (new).]

**2. Standards for permit.** The municipality may issue a permit to an automobile recycling business if the business demonstrates that the business meets the operation standards set forth in subsection 3. [1993, c. 173, §6 (new).]

**3. Operation standards.** An automobile recycling business licensed under this section must meet the following standards.

A. The site of the yard must be enclosed by a visual screen that complies with the screening requirements of section 3754-A. [2003, c. 312, §11 (amd).]

B. A vehicle containing fluids may not be stored within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5. [2003, c. 312, §11 (amd).]

C. A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery or public playground or park that existed on the date the permit was issued. [1993, c. 173, §6 (new).]

D. A vehicle may not be dismantled or stored over a sand and gravel aquifer or aquifer recharge area. [1993, c. 173, §6 (new).]

E. A vehicle containing fluids may not be dismantled or stored within the 100-year flood plain. [1993, c. 173, §6 (new).]

F. Except as provided in subsection 3754-A, subsection 4, a vehicle may not be dismantled or stored within 300 feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator's abutting residence. [2003, c. 312, §11 (amd).]

G. A vehicle may not be located or dismantled closer than 20 feet from any lot line, unless the operator has notarized written permission from the abutting property owner. [1993, c. 173, §6 (new).]

H. Dismantling of a vehicle must be performed in accordance with the following standards.

(1) Batteries must be removed.

(2) All fluids, including but not limited to engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be drained into watertight, covered containers and must be recycled or disposed of in accordance with applicable federal and state laws, rules and regulations.

(3) Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground.

(4) Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations.

(5) A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed.

(6) All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power within 180 days of acquisition. Motor vehicles acquired by and on the premises of an automobile recycling business prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable.

(7) All fluids, refrigerant, batteries and mercury switches must be removed from vehicles before crushing or shredding. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable.

[2005, c. 683, Pt. A, §52 (amd).]

[2005, c. 683, Pt. A, §52 (amd).]

**4. Revocation or suspension of permit.** For purposes of section 3758-A, subsection 5, each of the standards set forth in this section are conditions of a permit. [RR 2003, c. 1, §32 (cor).]

**5. Relationship to automobile graveyard permit.** A person who recycles automobiles but does not qualify for, or loses, an automobile recycling business permit may apply for an automobile graveyard permit. [1993, c. 173, §6 (new).]

#### Section History:

PL 1993, Ch. 173, §6 (NEW).

PL 2003, Ch. 312, §11 (AMD).

RR 2003, Ch. 1, §32 (COR).

PL 2005, Ch. 247, §5 (AMD).

PL 2005, Ch. 247, §7 (AFF).

PL 2005, Ch. 683, §A52 (AMD).

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[PDF](#), [Word \(RTF\)](#)[Statute Search](#)[List of Titles](#)[Maine Law](#)[Disclaimer](#)**Title 30-A: MUNICIPALITIES AND COUNTIES (HEADING: PL 1987, c. 737, Pt. A, §2 (new))****Part 2: MUNICIPALITIES (HEADING: PL 1987, c. 737, Pt. A, §2 (new))****Subpart 6: REGULATION, LICENSES AND PERMITS (HEADING: PL 1987, c. 737, Pt. A, §2 (new))****Chapter 183: ECONOMIC REGULATION (HEADING: PL 1987, c. 737, Pt. A, §2 (new))****Subchapter 1: JUNKYARDS AND AUTOMOBILE****GRAVEYARDS (HEADING: PL 1991, c. 548, Pt. B, §4 (rpr))****§3756. Permit fees****Revisor's Office****Maine Legislature**

The municipal officers or county commissioners shall collect, in advance from the applicant for a permit, a fee in accordance with the following schedule: [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

**1. Graveyard or junkyard.** Fifty dollars for each application for an automobile graveyard or junkyard plus the cost of posting and publishing the notice under section 3754; [2005, c. 424, §7 (amd).]

**2. Graveyard or junkyard within 100 feet from highway.** [2003, c. 312, §12 (rp).]

**3. Recycling business.** Two hundred fifty dollars for a 5-year permit for an automobile recycling business plus the cost of posting and publishing the notice under section 3754; or [2003, c. 312, §12 (amd).]

**4. Fee.** A fee as otherwise established by municipal ordinance or rule. [2003, c. 312, §12 (new).]

**Section History:**

PL 1987, Ch. 737, §A2, C106 (NEW).

PL 1989, Ch. 6, § (AMD).

PL 1989, Ch. 9, §2 (AMD).

PL 1989, Ch. 104, §C8, 10 (AMD).

PL 1993, Ch. 173, §7 (AMD).

PL 2003, Ch. 312, §12 (AMD).

PL 2005, Ch. 424, §7 (AMD).

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**Title 30-A: MUNICIPALITIES AND COUNTIES (HEADING: PL 1987, c. 737, Pt. A, §2 (new))**

**Part 2: MUNICIPALITIES (HEADING: PL 1987, c. 737, Pt. A, §2 (new))**

**Subpart 6: REGULATION, LICENSES AND PERMITS (HEADING: PL 1987, c. 737, Pt. A, §2 (new))**

**Chapter 183: ECONOMIC REGULATION (HEADING: PL 1987, c. 737, Pt. A, §2 (new))**

**Subchapter 1: JUNKYARDS AND AUTOMOBILE GRAVEYARDS (HEADING: PL 1991, c. 548, Pt. B, §4 (rpr))**

**§3758-A. Violations**

**1. Enforcement.** All state, county and local law enforcement officers shall enforce the provisions of this subchapter. [2003, c. 312, §14 (new) .]

**2. Municipal authority.** Municipal officers or their designees may enforce the provisions of this subchapter pursuant to:

A. The enforcement of land use laws and ordinances under section 4452; [2003, c. 312, §14 (new) .]

B. The litter control provisions of Title 17, chapter 80; or [2003, c. 312, §14 (new) .]

C. The abatement of nuisance provisions of Title 17, chapter 91. [2003, c. 312, §14 (new) .]  
[2003, c. 312, §14 (new) .]

**3. Penalties.** Violations of this subchapter are subject to the penalty provisions of section 4452; Title 17, sections 2264-A and 2264-B; or Title 17, chapter 91. Each day that the violation continues constitutes a separate offense. [2003, c. 312, §14 (new) .]

**4. Abatement.** If the municipality is the prevailing party in an action taken pursuant to the provisions of this Title or Title 17 as outlined in subsection 2 and the violator does not complete any ordered correction or abatement in accordance with the ordered schedule, the municipal officers or designated agent may enter the property and may act to abate the site in compliance with the order. To recover any actual and direct expenses incurred by the municipality in the abatement of the nuisance, the municipality may:

A. File a civil action against the owner to recover the cost of abatement, including the expense of court costs and reasonable attorney's fees necessary to file and conduct the action; [2003, c. 312, §14 (new) .]

B. File a lien on real estate where the junkyard, automobile graveyard or automobile recycling business is located; or [2003, c. 312, §14 (new) .]

C. Assess a special tax on real estate where the junkyard, automobile graveyard or automobile recycling business is located. This amount must be included in the next annual warrant to the tax collector of the municipality, for collection in the same manner as other state, county and municipal taxes are collected. Interest as determined by the municipality pursuant to Title 36, section 505 in the year in which the special tax is assessed accrues on all unpaid balances of the special tax beginning on the 60th day after the day of commitment of the special tax to the collector. The interest must be added to and becomes a part of the tax. [2003, c. 312, §14 (new) .]  
[2003, c. 312, §14 (new) .]

**5. Revocation or suspension of permit.** Violation of any condition, restriction or limitation inserted in a permit by the municipal officers or county commissioners is cause for revocation or suspension of the permit by the same authority that issued the permit. A permit may not be revoked or suspended without a hearing and notice to the owner or the operator of the automobile graveyard, automobile recycling business or junkyard. Notice of hearing must be sent to the owner or operator by registered mail at least 7 but not more than 14 days before the hearing. The notice must state the time and the place of hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit.

The municipal officers or county commissioners shall provide written or electronic notice of the hearing to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles at least 7 days before the hearing.  
[2005, c. 424, §8 (amd) .]

**6. Removal of all materials after permit denial or revocation.** The owner or operator of a junkyard, automobile graveyard or automobile recycling business for which a permit has been denied or revoked shall, not later than 90 days after all appeals have been denied, begin the removal of all vehicles, vehicle parts and materials associated with the operation of that junkyard, automobile graveyard or automobile recycling business. The property must be free of all scrapped or junked vehicles and materials not later than 180 days after denial of all appeals. An alternative schedule for removal of junk or vehicles may be employed if specifically approved by the municipal officers or county commissioners. [2003, c. 312, §14 (new) .]

Section History:

PL 2003, Ch. 312, §14 (NEW) .

Prev: Chapter 183 §3759

Next: Chapter 183 §3781

**Title 30-A: MUNICIPALITIES AND COUNTIES (HEADING: PL 1987, c. 737, Pt. A, §2 (new))**Download Chapter 183  
PDF, Word (RTF)**Part 2: MUNICIPALITIES (HEADING: PL 1987, c. 737, Pt. A, §2 (new))**Download Section 3760  
PDF, Word (RTF)**Subpart 6: REGULATION, LICENSES AND PERMITS (HEADING: PL 1987, c. 737, Pt. A, §2 (new))**Statute Search**Chapter 183: ECONOMIC REGULATION (HEADING: PL 1987, c. 737, Pt. A, §2 (new))**List of TitlesMaine Law**Subchapter 1: JUNKYARDS AND AUTOMOBILE GRAVEYARDS (HEADING: PL 1991, c. 548, Pt. B, §4 (rpr))**Disclaimer**§3760. Relocation, removal, disposal, compensation and condemnation**Revisor's OfficeMaine Legislature

**1. Acquisition of land.** If the Department of Transportation determines that the topography of the land adjacent to any portion of a highway incorporated in the Interstate or Primary Systems does not permit adequate screening under section 3754-A, subsection 1 or that adequate screening is not economically feasible, it may acquire by gift, purchase or condemnation any interests in property that are necessary to secure the relocation, removal or disposal of the automobile graveyards or junkyards. [2003, c. 312, §16 (amd).]

**2. Compensation.** In the case of such acquisition, just compensation shall be paid to the owner for the relocation, removal or disposal of the following automobile graveyards and junkyards:

A. Those which were operating and in existence on May 11, 1966 and located in areas adjacent to any portion of a highway incorporated in the Interstate or Primary Systems, which exceed federal restrictions and for which federal funds are available to defray the costs; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. Those in operation along any highway made a part of the Interstate or Primary Systems on or after May 11, 1966; and [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

C. Those in operation and established on or after May 11, 1966. [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]  
[1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

**3. Procedures.** The purchase, condemnation, negotiation, assessment of damage and appeal procedures shall be in accordance with this section and Title 23, sections 153-A to 159. [1993, c. 536, §4 (amd).]

**4. Use of federal funds.** This section does not prevent the department from participating with the owner when federal funds are available to defray costs of screening junkyards whenever it is determined to be more feasible to screen rather than to be involved in the cost or impact of acquisition and relocation. [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

Section History:

PL 1987, Ch. 737, §A2, C106 (NEW).  
PL 1989, Ch. 6, § (AMD).  
PL 1989, Ch. 9, §2 (AMD).  
PL 1989, Ch. 104, §C8, 10 (AMD).  
PL 1993, Ch. 536, §4 (AMD).  
PL 2003, Ch. 312, §16 (AMD).

**The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public. If you need legal advice, please consult a qualified attorney.**

Office of the Revisor of Statutes  
7 State House Station  
State House Room 108  
Augusta, Maine 04333-0007

This page created on: 2006-11-02

# ITEM 07-161

To consider an act on a Resolution of Support for the  
Downeaster Train.



## William Shane

---

**From:** Douglas Richmond Architects [drarch@zwi.net]  
**Sent:** Monday, November 05, 2007 2:52 PM  
**To:** Anthony Plante; William Shane; Dale Olmstead; David Cole; Jerry Bryant; Jim Gailey; Jim Thomas; John Bubier; Joseph Gray; Mike McGovern; Nat Tupper; Nathan Poore; Rick Michaud; Ronald Owens; Scott Tilton  
**Cc:** Davis, Wayne E.  
**Subject:** Downeaster resolution support  
**Attachments:** Downeaster Resolution.pdf

Members of PACTS Policy Committee:

I am a member of PACTS Planning Committee and a Board Member of TrainRiders Northeast. At my request, John Duncan sent me the e-mail addresses of the members of the Policy Committee.

Attached is a resolution\* that I hope you will consider supporting, as well as asking for formal support from your town/city councils. Some may wish to support the Downeaster (#1) only, while other towns may wish to support the expansion (#2) also. Questions should be addressed to Wayne Davis of TrainRiders (879-7245). Resolutions should also be sent to:

Wayne Davis  
TrainRiders Northeast  
Box 4869  
Portland, ME 04112.

Please be advised that state support for the Downeaster is at a critical stage and your support is greatly needed.

\*The attached resolution may be used by each council as a guide for forming their own resolutions.

Regards,

Robert Kahn

Douglas Richmond Architects  
98 Maine Street  
Brunswick, ME 04011

207-729-0989  
[drarch@zwi.net](mailto:drarch@zwi.net)

11/5/2007

RESOLUTION  
OF

---

October 3, 2007

**WHEREAS**, passenger rail service provides an environmentally sound, safe, all weather transportation choice to travelers; and

**WHEREAS**, passenger rail service has proven that it results in economic development in the areas which it serves; and

**WHEREAS**, a rational balanced transportation system provides travelers with transportation choices; and

**WHEREAS**, the over one and a half million people who have ridden the Downeaster passenger rail service operated since December 15, 2001 by Amtrak for Maine's Northern New England Passenger Rail Authority, as well as the economic benefits associated with that service, clearly demonstrate the ability and vitality of passenger rail service in Maine and surrounding areas; and

**WHEREAS**, federal support for the operation of the Downeaster passenger rail service will terminate in 2008;

**NOW, THEREFORE**, it is hereby **RESOLVED** that:

1. The \_\_\_\_\_ strongly supports the Downeaster passenger rail service and urges the Maine State Legislature to provide operating support on an ongoing basis for the portion of the costs of the operations of the Downeaster service that are not covered by other revenue sources, which, as proposed by Governor Baldacci's Task Force on Passenger Rail Funding, can occur without raising tax rates for Maine citizens; and

2. The \_\_\_\_\_ strongly supports the expansion of the Downeaster passenger rail service, and the obvious resulting economic benefits which now exist between Portland, Maine and Boston, Massachusetts, northward through Yarmouth and Freeport, Maine to Brunswick, within no more than two years, with further expansion and connections after that time.

# ITEM 07-162

To appoint members to Doane Property Development  
Committee.

DOANE PROPERTY DEVELOPMENT COMMITTEE  
APPLICANTS

November 2007

April Caron  
Ted Chadbourne  
Jeff Daigle  
Dave Finnegan  
Kathleen Lynch

Carle Middlekauff  
George "Liam" Russell  
Pam Russell  
John Stroud  
William Ward



# ITEM

## 07-163

To set a Public Hearing date (12/10) to consider and act on  
Greely High School Swimming Pool License  
renewal for 2008 calendar year.



## Report on the Annual Inspection of the Greely Pool

106.1 I inspected the pool facility and pool records on November 14, 2007

In the downstairs area, they will be getting a new pump during the renovations. The eye wash is functional, the grating over the drain area is secure. The hallway leading to the downstairs area is graffiti emblazoned and the steps and hallway need to be swept of litter.

102 & 126.6 First Aid Kit: A new plastic, well stocked kit is available. It has been checked out by Chris, the Rescue Chief. However, the list in the ordinance does not match the contents of the Kit. My suggestion is to amend that part of the ordinance with language such as "A first aid kit should always be available and well supplied according to the current suggestions by the Rescue Chief or his/her substitute." This would, hopefully, align the contents with more current needs and reduce the necessity of frequent amendments to the ordinance in this area.

120.2 During renovations, the pool lighting is to be changed. The plan is to have the pool closed during the remodeling August-November 2008 during which family friendly changing areas will be constructed and a lift for a wheelchair bound person to access the pool will be added.

122.1 All toilet and shower facilities are clean and supplied with hand soap.

123.3 All of the chemical and bather load records have been examined at regular intervals. The record keeping of this pool has been excellent.

123.6 All of the bacteriological analyses of the pool this year have been negative for e-coli and total coliform.

125.3 There has not been a fecal accident in the pool for 1 ½ years

126.1 There is a slight wiggle on starting block 1 and 5.

126.5 In the pool area the life saving equipment satisfies the ordinance requirements.

128.1 Patti Drew, the Pool Operator, is knowledgeable and effective as a Pool Director.

128.3 The pool staff is current on their certifications and those who have certifications expiring 12/31/07 will be renewed or not working.

The two exterior doors work.

The paint around the bleachers is chipping --- to be remedied during the summer remodeling.

Eileen Wyatt  
Town of Cumberland Health Officer

TOWN OF CUMBERLAND

APPLICATION TO OPERATE A PUBLIC SWIMMING POOL

Date of Application: 10/30/07

Individual Preparing Application: Patti Drew

Owner of Pool (Licensee): MSAD #51

Premises to be Licensed: Greely High School Pool

Location (Street Address): 303 Main St., Cumberland

Dimensions of Pool: 75ft x 35ft 3.5ft at shallow 10ft at deep

Pool Volume: 160,000 gal.

Maximum Depth: 10 ft

Brief Narrative Description of Nature of Use of Pool:

MSAD #51 swim lessons swim team

Recreation swim lessons, lap swim, Aquatic fitness, swim team, open swim  
lifeguard training

Designated Pool Director: Patti Drew

Section 8.1: Source of water supply for pool, drinking  
fountains, showers, etc.: Public

Section 8.2: Does pool meet the requirement of this section?

yes

Section 9.1: Does waste disposal system meet the requirements of  
this section?

yes

Section 9.2: Does pool meet the conditions of this section? yes

Section 10.1: Does pool meet the construction standards of this  
section?

yes

Section 10.2: Pool bottom material:

plaster + tile lane markings

Section 10.3: Does pool conform to standards of this section? yes

Section 11.1: Does pool conform to standards of this section? yes

Section 11.2: Does pool conform to standards of this section? yes

Section 11.3: Does pool conform to standards of this section? yes

Section 11.4 Depth, shallow end: 3' 6"

Section 12.1: Is depth marked at or above water line surface on vertical wall of pool? Yes ☐ No ☒; on edge of deck? Yes ☒ No ☐; at maximum and minimum points? Yes ☒ No ☐; at points of break between the depth and shallow portions not more than 25 feet apart? Yes ☒ No ☐; and at the diving area? Yes ☒ No ☐

Section 12.2: Size (height) of depth marking numerals: 4"  
Contrasting color to background? Yes ☒ No ☐

Section 12.3: Width of lane markings: 7ft

Section 13.1: Does pool conform to standards of this section? yes

Section 14.2: Bather capacity as computed under the provisions of this section: 170

Sections 15.1 and 15.2:  
Does pool conform to requirements of these sections? yes

Section 16.1: Does pool conform to requirements of this section? yes

Section 16.2: Does pool conform to requirements of this section? yes

Section 16.3: Does pool conform to requirements of this section? yes

Section 16.4: Does pool conform to requirements of this section? yes

Section 16.5: Does pool conform to requirements of this section? N/A no diving board

Section 17.1: Does pool conform to requirements of this section? yes

Section 17.2: Does pool conform to requirements of this section? yes

Section 17.3: Will the pool operator be required to enforce the provisions of this section? yes

Section 18.1: Does the pool diving area conform to the requirements of this section? *N/A no board*

Height of diving board(s) in meters: *N/A*

Depth of water at end of diving board(s) and 12 feet beyond: *N/A*

Section 18.2: Free and unobstructed headroom above diving board(s): *N/A*

Section 18.3: Horizontal separation between diving board and sidewalls of the pool: *N/A*

Section 19.1: Type of disinfectant feeder: *PPG chlorination system  
Chlorine Pucks*

Section 19.2: (Where applicable)  
Are the requirements of Section 19.2(a) fulfilled? *N/A*

Does the chlorinating equipment conform to the requirements of Section 19.2(b)? *yes*

19.2(c) Is chlorine gas used? If yes, are gas cylinders securely mounted? Is a valve system wrench maintained on or near the chlorine cylinder? Is a valve protection hood provided? *N/A*

19.2(d) In the event of an accident or other drainage to the chlorinating equipment or chlorine supply, would leaking chlorine gas be vented to the out-of-doors? *yes*

19.2(e) Does the equipment conform to the provisions of this section? *yes*

19.2(f) Is a gas mask meeting these standards available? If yes, where? *NO*

19.2(g) Person responsible for operation and installation of chlorinating equipment: *Operation: Patti Drew  
Installation: Ron Fabio Pool Company currently Christman Pool  
Services for repairs & upgrades*

Section 20.1: Is underwater lighting used? If yes, intensity of underwater lighting: *No*

Section 20.2: Does the lighting of the pool area conform to the requirements of this section: *yes*

Section 20.3: Does all electrical wiring conform with the National Electrical Code of the National Underwriters Laboratory and all state and local laws and regulations? *yes*

Section 20.4: Are the provisions of this section met? *N/A*

Section 20.5: Are the requirements of this section met? *yes*

Section 20.6: Are all electrical light fixtures protected as required by this section?

*yes*

Section 20.7: Are the pool, dressing rooms, shower rooms, and toilet spaces adequately ventilated as required by this section?

*Pool ventilated but locker rooms are not.*

Section 20.8: Has a directive been issued to the pool director or operators to assure compliance with this section?

*yes*

Section 21.1: Do the bathhouses (locker rooms) conform to the requirements of this section?

*yes*

Section 21.2: Do the floors of the locker rooms conform to the requirements of this section?

*yes*

Section 21.3: Are the requirements of this section met as they apply to the premises to be licensed:

*yes*

Section 22.1: Do toilet, lavatory, shower facilities and drinking fountains conform to the schedule contained in this section?

*yes*

Section 22.2: Does the layout of the bathhouse conform to the requirements of this section?

*yes*

Section 22.3: Do the showers meet the requirements of this section?

*yes*

Section 22.4: What action has been taken or is contemplated to comply with the intent of this section?

*yes*

Section 23.1: Is the pool continuously disinfected by a chemical? If yes, what is that chemical?

*yes - Chlorine*

Section 23.3: Has a ph testing kit accurate to the nearest 0.2 ph unit been provided for testing purposes?

*yes*

Section 23.4: Has a total alkalinity test kit been provided for testing purposes?

*yes*



Section 24.1: How often is visible dirt scheduled to be removed from the pool? *2 times per week or as needed on daily basis*

Section 24.2 How often is floating matter regularly scheduled to be removed from the pool? *hourly*

Section 26.1: Is a telephone for emergency use provided as required by this section? *yes*

Section 26.2: Are emergency numbers listed as required? *yes*

Section 26.3: How is access to the pool area restricted during non-operating hour? *All doors locked securely from locker room and hallway*

Section 26.5: What life saving equipment is provided at the pool? *Rescue Tubes, Shephard crook (2) life rings (2)*

Section 26.6: Is a first aid kit meeting the standards of this section readily available? *yes*

Section 26.7: Is life saving equipment mounted and distributed as required by this section? *yes*

Section 27.1: Has a procedure for record-keeping been established or at least the specific data elements specified by this section? *yes*

Section 27.2: Where are/will the public swimming pool records be kept? *At Recreation Department*

Other explanations or information which could be helpful to the Town Council in determining whether or not a license should be granted:

# ITEM

## 07-164

To set a Public Hearing date (12/10) to consider and act on a Liquor License, Mobile Vending Cart License and Special Amusement Permit application for Val Halla Golf Course for the period January 31, 2008 through January 31, 2009.

**Department of Public Safety  
Liquor Licensing & Inspection  
Division**



**BUREAU USE ONLY**

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

**PRESENT LICENSE EXPIRES** 01-31-08

**INDICATE TYPE OF PRIVILEGE:** ☐ MALT ☐ SPIRITUOUS ☐ VINOUS

**INDICATE TYPE OF LICENSE:**

☐ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTINONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☒ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: \_\_\_\_\_

**REFER TO PAGE 3 FOR FEE SCHEDULE**

**ALL QUESTIONS MUST BE ANSWERED IN FULL**

1. APPLICANT(S) (Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>Town of Cumberland</u> DOB: _____			2. Business Name (D/B/A) <u>Val Halla Golf Course</u>		
DOB: _____					
DOB: _____			Location (Street Address) <u>60 Val Halla Rd</u>		
Address <u>290 Tuttle Rd</u>			City/Town <u>Cumberland</u>	State <u>ME</u>	Zip Code <u>04021</u>
			Mailing Address <u>290 Tuttle Rd</u>		
City/Town <u>Cumberland</u>	State <u>ME</u>	Zip Code <u>04021</u>	City/Town <u>Cumberland</u>	State <u>ME</u>	Zip Code <u>04021</u>
Telephone Number <u>207-829-2205</u>	Fax Number <u>829-5916</u>		Business Telephone Number <u>207-829-2225</u>	Fax Number <u>207-829-5373</u>	
Federal I.D. # <u>016000128</u>			Seller Certificate # <u>0218379</u>		

3. If premises is a hotel, indicate number of rooms available for transient guests: N/A

4. State amount of gross income from period of last license: ROOMS \$ 0 FOOD \$ 22,056 LIQUOR \$ 138,737<sup>35</sup>

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

complete Supplementary Questionnaire, If YES

6. Do you permit dancing or entertainment on the licensed premises? YES ☒ NO ☐

7. If manager is to be employed, give name: KEVIN GOODEINS

8. If business is NEW or under new ownership, indicate starting date: N/A

Requested inspection date: April - NOV Business hours: 8 AM - 4 PM

9. Business records are located at: 290 Tuttle Rd Cumberland ME 04021

10. Is/are applicants(s) citizens of the United States? YES ☐ NO ☒ N/A

11. Is/are applicant(s) residents of the State of Maine? YES ☐ NO ☒ N/A



12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:  
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Kevin Googins	3/16/1982	Portland, ME

Residence address on all of the above for previous 5 years (Limit answer to city & state)

245 Greely Rd North Yarmouth ME 04097

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: \_\_\_\_\_

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

16. Does/do applicant(s) own the premises? Yes ☒ No ☐ If No give name and address of owner: \_\_\_\_\_

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) Clubhouse and Attached Decks

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☒ NO ☐ Applied for: \_\_\_\_\_

19. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1 mile Which of the above is nearest? School

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: \_\_\_\_\_

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

**NOTE:** "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Cumberland, Maine on \_\_\_\_\_, 20 07  
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Kevin Googins

Print Name

Signature of Applicant or Corporate Officer(s)

William R. Shane

Print Name

Town Manager

## NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

**THIS APPROVAL EXPIRES IN 60 DAYS.**

### FEE SCHEDULE

<b>Class I</b>	Spirituos, Vinous and Malt .....	\$ 900.00 ✓
	<b>CLASS I:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
<b>Class I-A</b>	Spirituos, Vinous and Malt, Optional Food (Hotels Only) .....	\$1,100.00
	<b>CLASS I-A:</b> Hotels only that do not serve three meals a day.	
<b>Class II</b>	Spirituos Only .....	\$ 550.00
	<b>CLASS II:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
<b>Class III</b>	Vinous Only .....	\$ 220.00
	<b>CLASS III:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
<b>Class IV</b>	Malt Liquor Only .....	\$ 220.00
	<b>CLASS IV:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
<b>Class V</b>	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) .....	\$ 495.00
	<b>CLASS V:</b> Clubs without catering privileges.	
<b>Class X</b>	Spirituos, Vinous and Malt – Class A Lounge .....	\$2,200.00
	<b>CLASS X:</b> Class A Lounge	
<b>Class XI</b>	Spirituos, Vinous and Malt – Restaurant Lounge .....	\$1,500.00
	<b>CLASS XI:</b> Restaurant/Lounge; and OTB.	
<b>FILING FEE</b>	.....	\$ 10.00 ✓

**UNORGANIZED TERRITORIES** \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to: **TREASURER, STATE OF MAINE. – DEPARTMENT OF PUBLIC SAFETY, LIQUOR LICENSING AND INSPECTION DIVISION, 164 STATE HOUSE STATION, AUGUSTA ME 04333-0164.** Payments by check subject to penalty provided by Sec. 3, Title 28A, MRS.



Dated at: Cumberland, Maine Cumberland ss  
City/Town (County)  
On: \_\_\_\_\_  
Date

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and herby approve said application.

## NOTICE – SPECIAL ATTENTION

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.



TOWN OF CUMBERLAND

APPLICATION FOR A SPECIAL AMUSEMENT PERMIT  
FOR MUSIC, DANCING AND/OR ENTERTAINMENT

Name of Applicant: Town of Cumberland Phone: 829-2205  
Residence of Applicant: 290 Tuttle Rd Cumberland ME 04021  
Business Name: Val Halla Golf Course Bus. Phone: 829-2225  
Business Address: 60 Val Halla Rd Cumberland ME 04021  
Name of Manager: Kevin Goughs Phone: 829-2225 x3  
Residence of Manager: 245 Greeley Rd North Yarmouth ME 04097  
Type of Entertainment Applied for: Music, Dancing, And/or Entertainment

Has applicant ever had a license to conduct the business therein described either denied or revoked? NO If so, the applicant shall describe specifically those circumstances \_\_\_\_\_

Has applicant, Partners, Associates or Corporate Officers ever been convicted of a felony? NO If so, the applicant shall describe specifically those circumstances. \_\_\_\_\_

Additional information may be required by the Town Council prior to the issuance of said permit, including but not limited to a copy of the applicant's current liquor license.

The fee for a Special Amusement Permit shall be \$10.00, non-refundable and payable when application is made for said permit.

[Signature]  
Applicant's Signature

11/13/07  
Date

For Town Office Use Only:

Municipal Officers:

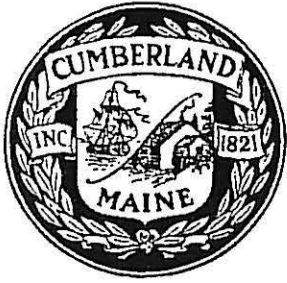
Approved: \_\_\_\_\_  
Disapproved: \_\_\_\_\_  
Comment: \_\_\_\_\_

Application Received: \_\_\_\_\_  
Public Notice Posted: \_\_\_\_\_  
Date Issued: \_\_\_\_\_  
Date of Expiration: \_\_\_\_\_

# ITEM

## 07-165

To set a Public Hearing date (12/10) re: amendments to  
current Shellfish Ordinance, including a decrease in  
license allocations for 2008.



# M E M O R A N D U M

TOWN OF CUMBERLAND, MAINE  
290 TUTTLE ROAD  
CUMBERLAND, MAINE 04021  
TEL: 207-829-2205 FAX: 829-2224

**To:** Town Council  
**From:** William R. Shane, Town Manager *WRS*  
**Date:** November 21, 2007  
**Re:** Shellfish Commission Upcoming Report

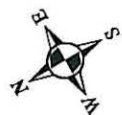
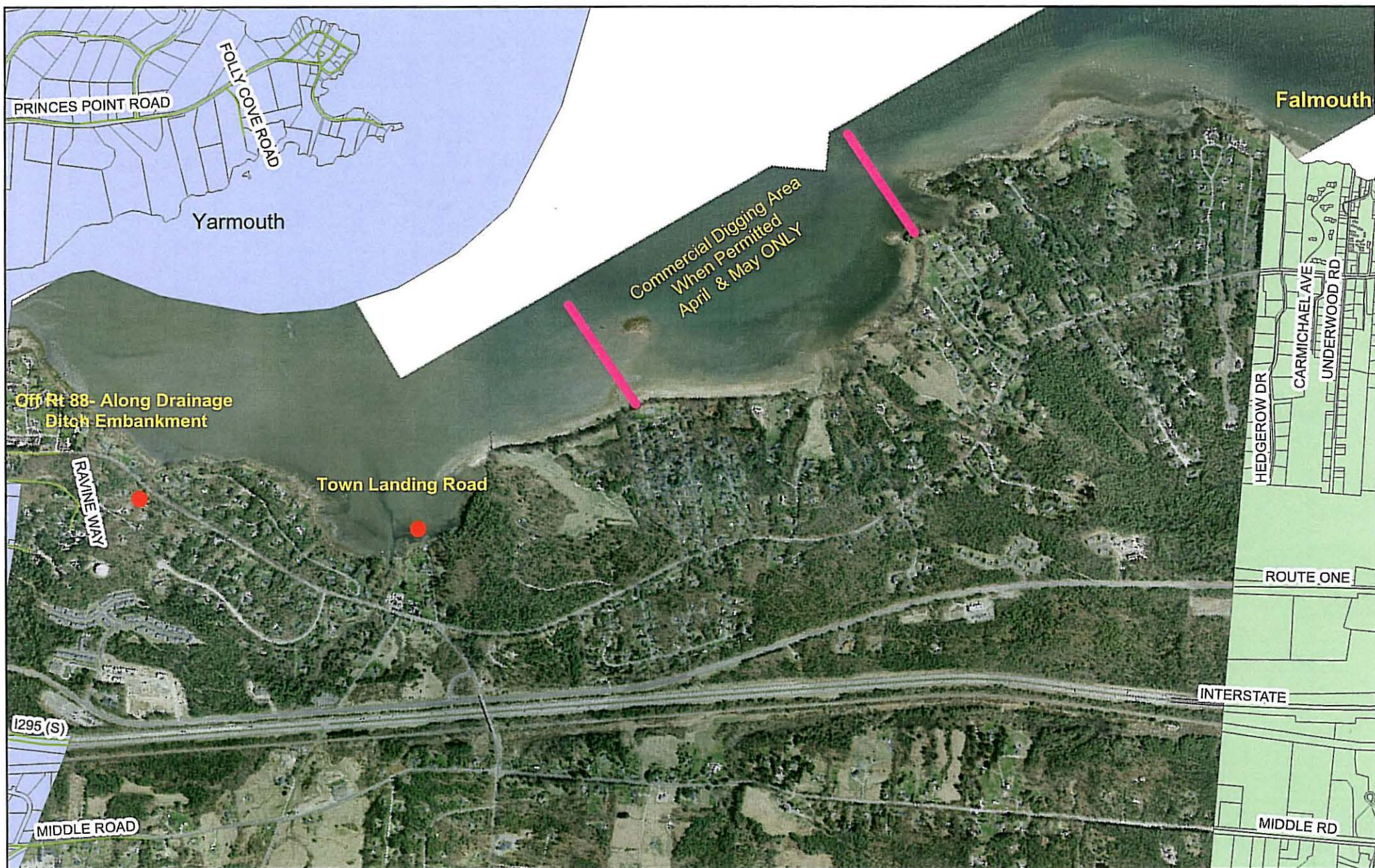
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The Shellfish commission will be recommending changes and fee increases to the present ordinance to better protect the Shellfish Resource. The attached document represents approximately 10 meetings of work since March of this year.

George Turner and Steve Moriarty will be meeting with the Chairman of the Commission to discuss the changes and review the recommendations prior to your November 26, 2007 meeting.

I am recommending the changes as proposed and that a December 10, 2007 public hearing be held to adopt the changes. The most significant changes are a recommendation to support no commercial licenses for the upcoming season and that "unlimited" residential licenses are issued. The law requires that 10% non-resident licenses be issued. The Commission is recommending 30 licenses be authorized until the 10% mark is met, then an additional 10 license for non residents be released. Under our current policy, we have issued over 70 non-resident licenses (the bulk of all of our enforcement action).





1,500 750 0 1,500 Feet

**Public Access Points**



**Town of Cumberland  
Shellfish Commission  
Clam Flat Map- June 2007**



# **SHELLFISH CONSERVATION ORDINANCE FOR THE TOWN OF CUMBERLAND, MAINE**

## **SECTION 101. TITLE**

This ordinance shall be known and cited as the Shellfish Conservation Ordinance of the Town of Cumberland, Maine.

## **SECTION 102. AUTHORITY**

This Ordinance is enacted in accordance with 12 M.R.S.A. Section 6671, as amended from time to time.

## **SECTION 103. PURPOSE**

The purpose of this Ordinance is to establish a shellfish conservation program for the Town of Cumberland which will ensure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means, which may include:

- A. Licensing;
- B. Limiting the number of shellfish harvesters;
- C. Restricting the time and area where digging is permitted;
- D. Limiting the minimum size of clams taken;
- E. Limiting the amount of clams taken daily by a harvester.

## **SECTION 104. CONSERVATION AND MANAGEMENT OF SHELLFISH RESOURCES**

It is hereby determined as follows:

1. The clam-flats of the Town are a very valuable shellfish resource, which is important to the local economy.
2. These flats are not an inexhaustible resource, and, therefore, they must be prudently managed in order to remain viable.
3. As part of the management process, it may be necessary to: restrict the taking of shellfish by limiting the number of shellfish licenses, restrict the size and quantity of shellfish, which may be harvested, and, take other measures as Outlined in the Ordinance.

## SECTION 105. DEFINITIONS

**Guests:** "Guests" shall mean any persons invited to assist the holder of a Recreational Shellfish License. The Licensee must be present. Only one hoe may be in use.

**Lot:** The word "lot" as used in this Ordinance means the total number of soft shell clams in a bulk pile. Where soft-shell clams are in a box, barrel or other container, the contents of each box, barrel or other container constitutes a separate lot.

**Municipality:** "Municipality" refers to the Town of Cumberland, Maine.

**Non-resident:** The word "non-resident" means anyone not qualified as a resident under this Ordinance.

**Personal Use:** "Personal use" means for consumption or use by oneself, by members of the immediate family or by invited guests.

**Possession:** "Possession" means to have in one's custody or control, either personally or by another who is under one's control.

**Resident:** The term "resident" refers to a person who has been domiciled in this municipality for at least 180 days prior to the time their claim of such residence is made, or a person who has paid property taxes on property located in the Town of Cumberland in the calendar year preceding the year in which the license is being issued.

**Shellfish:** "Shellfish" means soft-shell clams (*Mya arenaria*). quahogs (*Mercaenaria mercenaria*) and hen clams (*Maetridae*). State Law shall apply to Quahogs, Hen Clams, Razor Clams and Oysters.

**Taxpayer:** "Taxpayer" means the owner of real estate located in the Town of Cumberland.

**Town Closed Conservation Area:** "Town Closed Conservation Area" means a clam flat or clam-flats closed pursuant to Section 116 of this Ordinance.

**Town:** "Town" means the Town of Cumberland, Maine.

**Volunteer:** "Volunteer," means a person who participates in any of the activities of the Shellfish Conservation Commission.

**Washing:** Washing or holding in closed areas. A person may not:

- a) wash, hold or keep shellfish in any area closed by regulation;
- b) wash, hold or keep shellfish in any area closed by regulation when the person has one or more convictions for violating paragraph A;

Vote: addition  
of definitions  
Personal Use &  
Possession

Vote:  
addition of  
definition  
Washing



**c) possess, ship, transport or sell shellfish washed, held or kept in any area closed by regulation. (per Title 12 § 6621)**

## **SECTION 106. LICENSING**

A Municipal Shellfish License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current, valid license issued by this municipality as provided by this Ordinance.

No person shall be issued a Municipal Shellfish License who, upon the time of request, has failed to appear in court for a shellfish violation, or has failed to pay any outstanding shellfish violation fines.

## **SECTION 107. HARVESTING**

The harvesting of shellfish within the Town of Cumberland is permitted only during those hours starting 1/2 hour before sunrise and ending 1/2 hour after sunset. It is unlawful to harvest shellfish during the time starting 1/2 hour after sunset to 1/2 hour before sunrise.

In an effort to maintain shoreline stability, shellfish harvesting is prohibited in or adjacent to areas of eelgrass, (*Zostera marina*).

Harvesting of shellfish is only permitted with tools that have equally spaced tines such as a clam hoe or spading fork. Using shovels and garden spades is not permitted since they result in many broken clams.

Commercial Harvesting shall be limited to the **mainland** area from Sea Cove Road on Cumberland Foreside, north to the outflow at the northerly edge of Wildwood Beach for the months of April and May. The commercial harvesting during these two months shall be unlimited each tide during this time. **on the mainland only.**

**There is no Commercial digging in Cumberland. From time to time As appropriate, the Shellfish Commission may designate other areas in Cumberland to be open to Commercial digging. Notice shall be published in a local paper and notice shall be provided to those who have submitted completed notification forms by January 5th each year.**

Rules shall be promulgated annually by the Shellfish Commission. The rules shall include areas for harvesting as well as a recommendation for the number of licenses to be issued each year in each category of license.

## **SECTION 108. DESIGNATION, SCOPE AND QUALIFICATIONS**

### **1. COMMERCIAL LICENSES:**

#### **a. Resident Commercial Shellfish License:**

This license is available to residents and/or taxpayers of the Town of Cumberland and entitles the holder to dig and take two (2) bushels of shellfish per **day** from the shores and flats of this municipality and reciprocating municipalities **IN THE**



**AREAS DESIGNATED IN SECTION 107 OF THIS ORDINANCE. The licensee will be permitted to harvest ninety (90) days commercially throughout the year.**

The licensee will maintain an accurate log of the days harvested commercially in **their** required Shellfish Harvesting Log, which is due by **November** June 30<sup>th</sup> each year to the office of the Town Clerk. The commercial license will revert to a recreational license the remaining days of the calendar year. **two hundred and seventy-five days (275) of the year.**

**Non-Resident Commercial Shellfish License:**

This license is available to non- residents of this municipality and entitles the holder to dig and take two (2) bushels of shellfish per day from the **shores and flats of this municipality** areas designated in Section 107. The licensee will be permitted to harvest **ninety (90) days** commercially **throughout the year** during the months of April and May. The licensee will maintain an accurate log of the days harvested commercially in **their** required Shellfish Harvesting Log, which is due by **November** June 30<sup>th</sup> of each year to the office of the Town Clerk. The commercial license will revert to a recreational license the remaining days of the year. **two hundred and seventy-five days (275) of the year.**

2. **Qualifications Specific to Commercial Shellfish Licenses:**

- a. The Shellfish Conservation Commission may specifically designate the period of validity as well as the areas open to commercial harvesting each year.
- b. Commercial Shellfish License holders are supplied with, and required to keep, a Shellfish Harvesting Log which must be submitted to the Town Clerk **no later than November by June 30<sup>th</sup>** of each year. The Log will include the license holder's name and address and will show the date, location, and number of bushels harvested during each tide. Commercial License holders, who do not submit Harvesting Logs as required, will not be eligible for a Commercial License during the next period of issuance of Commercial Licenses.
- c. **A shellfish license must be on your person when harvesting shellfish.**

3. **RECREATIONAL SHELLFISH LICENSES:** A person holding a recreational shellfish license may not engage in the wholesale or retail sale of any shellfish harvested under that license. Recreational shellfish licenses are not available and not valid for a person who holds a shellfish license issued by the **Maine State** Commissioner of Marine Resources, or a recreational license issued by any other municipality. **Resident Commercial or Resident Licenses may be held by a resident of either the Town of Chebeague Island and or the Town of Cumberland as per the July 1, 2007 State Legislature Act of Separation. Cumberland and Chebeague Island residents will be eligible for resident licenses in each or both the communities.**



Maine certified shellfish wardens of the Town of Cumberland shall be issued a recreational shellfish license.

- a. **Resident Recreational Shellfish License:** This license is available to residents and/or taxpayers of the Town and entitles the holder to dig and take no more than one peck of shellfish per day for the use of their and their immediate family, except that a child 12 years or younger shall be exempt from the license requirement and shall be allowed to assist the license holder. The license holder and child may possess no more than one peck of shellfish per tide.

Vote: Per  
Don Card,  
change "tide"  
to "day"

- b. **Non-Resident Recreational Shellfish License:** This license is available to non-residents of the Town, and entitles the holder to dig and take no more than one peck of shellfish per calendar for their use, and their immediate family, except that a child 12 years or younger shall be exempt from the license requirement and shall be allowed to assist the license holder. The license holder and child may possess no more than one peck of shellfish per tide.

Vote: Per  
Don Card,  
change  
"tide" to  
"day"

- c. **Monthly Recreational Shellfish License:** during all the months of the calendar year June, July, August, and September, a specific number of licenses will be available for issuance during each of the four months and will be valid only for the month in which it is issued. (For example - if ten licenses are available for the month of June, they will not be sold before June 1st and, regardless of the day of the month they are sold, they will expire at midnight on June 30th.) It entitles the holder to dig and take no more than one peck of shellfish per calendar day tide for the use of their and their immediate family, except that a child 12 years or younger shall be exempt from the license requirement and shall be allowed to assist the license holder. The license holder and child may possess no more than one peck of shellfish per day.

~~d. **Daily Recreational Shellfish Licenses:** This license is available only during the months of June, July, August and September, and is valid only for the day for which it is issued. Daily Recreational Shellfish Licenses will be sold commencing on the first day of the month during which the day for which it is valid occurs. Only one license will be available for each day of the month and only one daily license per month may be issued to any one person.~~

~~d. e. **At no time shall any recreational license holder and guests be allowed to harvest a combined total that exceeds one peck of shellfish per license/ per tide.**~~

~~d -f. **A Shellfish License must be on your person when harvesting shellfish.**~~

4. **Volunteer Program:**

- a. Should any non-resident volunteer participate in ten (10) or more hours of Shellfish Conservation Commission activities in a calendar year, that person will be eligible for placement in the lottery for assured a non-resident recreational

~~or commercial~~ license, applied for in the following year (cost of license responsibility of applicant and based on availability of **Commercial** Licenses).

- b. Volunteer hours are to be recorded by a **designee member** of the Shellfish Conservation Commission present for that activity in which the volunteer has participated.

#### SECTION 109. FEES

1.	Resident Commercial Shellfish License:	<del>\$50.00</del> <b>100.00</b>	<div>Vote: New fees</div>
2.	Non-Resident Commercial Shellfish License:	<del>\$100.00</del> <b>200.00</b>	
3.	Resident Recreational Shellfish License:	\$ 25.00 Over age 62 is free.	
4.	Non-Resident Recreational Shellfish License:	\$ 50.00 Over age 62 is free.	
5.	Monthly Recreational Shellfish License:	Resident - <del>\$10.00</del> <b>15.00</b> Non-Resident - <del>\$20.00</del> <b>30.00</b> Over age 62 is free	
6.	<del>Daily Recreational Shellfish License:</del>	<del>\$5.00</del> <b>Over age 62 is free</b>	

#### SECTION 110. SIGNATURE ON LICENSE

The licensee must sign the shellfish license to make it valid.

#### SECTION 111. LICENSE APPLICATION

Applicants must apply in person (no agents or power of attorney accepted), except as may otherwise be required by State or federal statute, to the Town Clerk for the licenses required by this Ordinance on forms provided by the municipality.

#### SECTION 112. CONTENTS OF THE APPLICATION

The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature, and whatever other information the municipality may require.

#### SECTION 113. MISREPRESENTATION

Any person who gives false information on a shellfish license application, will cause said shellfish license to become invalid and void.



## SECTION 114. LICENSE EXPIRATION DATE

Each shellfish license issued under the authority of this Ordinance expires at midnight on the 31st day of December next following date of issue, unless otherwise specified in this ordinance; see Section 108(2)(a) & Section 108(3)(c).

## SECTION 115. RECIPROCAL HARVESTING PRIVILEGES

Licenses from any other municipality cooperating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of their shellfish licenses.

## SECTION 116. NUMBERS OF LICENSES AND NOTICE OF PERIOD OF ISSUANCE

Because the shellfish resources are limited and because a commercial or recreational digger can be expected to harvest a certain volume of clams per year, the number of diggers must be controlled. This number will vary from year to year depending upon estimates of the resource capabilities and management requirements consistent with good resource utilization. The following procedures will be followed to exercise control:

1. Prior to November 1<sup>st</sup> of each year, the Town Shellfish Conservation Commission with the approval of the Commissioner of Marine Resources shall prepare its recommendation to the Town Council of the number of resident and non-resident commercial and recreational shellfish licenses to be made available.
2. The Shellfish Conservation Commission will notify the Town Clerk and the Town Council in Cumberland in writing prior to December 1<sup>st</sup> of the number of resident and non-resident commercial and recreational shellfish licenses to be made available. The Town Council then shall adopt a shellfish license allocation. The Shellfish Conservation Commission, in preparing a recommended allocation of shellfish licenses, and the Town Council, in adopting an allocation of shellfish licenses, shall provide and reserve a minimum number of shellfish licenses for non-residents, which shall be a number not less than 10% of the number of shellfish licenses provided for residents. When the number of commercial resident shellfish licenses is less than ten (10) but more than five (5), at least one (1) non-resident commercial shellfish license shall be provided. When the number of resident commercial shellfish licenses is five (5) or fewer, non-resident commercial shellfish licenses shall not be required.

~~There is no Commercial digging in Cumberland. From time to time the Shellfish Commission may designate areas in Cumberland to be open to Commercial digging. Notice shall be published in a local paper and to those who have submitted completed notification forms by January 5<sup>th</sup> each year~~



3. The period of issuance for shellfish licenses shall be from **January 1<sup>st</sup> to December 31<sup>st</sup> April 30<sup>th</sup>** each year. ~~except for Commercial, Non-Resident Commercial and Non-Resident Recreational Shellfish licenses which shall be issued pursuant to 116.5.a. After April 30<sup>th</sup>, any remaining shellfish licenses shall be issued to Residents and Non-Residents on a first come first serve basis.~~
4. At least ten (10) days prior to the issuance of shellfish licenses, the Town Clerk, upon direction of the Town Council, shall provide notice of the number of shellfish licenses, resident and non-resident, and the procedure for application for such shellfish licenses by publishing the same in a trade or industry publication or in a newspaper or combination of newspapers with general circulation which the Town Council considers effective in reaching persons affected, and by posting the same in the Town Office until the period of issuance concludes.
5. The Town Clerk shall issue Commercial, **Non-Resident Commercial** and Non-Resident Recreational Shellfish licenses as allocated, according to the following procedure:
  - a. The Town Clerk and/or Deputy Clerk shall accept applications for Commercial, **Commercial Non-Resident** and Non-Resident Recreational Shellfish licenses from resident and non-resident applicants during regular town office hours through the month of December.
  - b. ~~The Clerk shall prepare a list of the names of the qualifying applicants; the list need not be in any particular order. Next to each name on the list, the clerk shall enter a unique three-digit number, selected at random, and shall write each such number on an index card. All the index cards shall be of uniform size, color and texture.~~
  - c. ~~The numbered index cards shall then be placed in a box or other container capable of being closed and sufficiently large so the index cards can be easily mixed by shaking the container.~~
  - d. ~~The Clerk's assistant shall shake the container in order to mix the contents, and shall then place or hold the container at a location above the Clerk's eye level, so that the Clerk can reach into the container and withdraw cards without seeing the numbers on the cards.~~
  - e. ~~The Clerk shall withdraw all of the cards one by one, reading each number drawn out loud. The Clerk's assistant shall make a list of each of the numbers so drawn in the order in which they are drawn. Then, using the list prepared under subparagraph (b) above, the Clerk shall place the corresponding applicant's name next to each number.~~



b. ~~f.~~ The Clerk shall then issue the available shellfish licenses to the qualifying applicants, first to residents and then to non-residents, in the order in which their names appear on the list prepared under subparagraph (e). That list shall establish the order of priority for the issuance of any Commercial, ~~Non-Resident Commercial~~ and Non-Resident Recreational Shellfish licenses until the next annual licensing procedure under this Ordinance.

c. ~~g.~~ The procedure set forth in this Section 116 shall be a public proceeding, open to the public, but no applicant or any member of the public has any right to participate in the procedure. Applicants are not required to be present at the time the issuance list is established. The procedure shall be conducted at the Cumberland Town Office on the date designated in the Town Clerk Notice as provided in Section 115.4, at a time set by the Town Clerk. The Clerk shall announce the exact time for the procedure by posting a notice in the Cumberland Town Office at least seven (7) days prior to the date of the procedure. Any failure to provide such notice shall not invalidate the results of the procedure.

6. A copy of the Cumberland Shellfish Ordinance shall be given with each shellfish license issue.

#### **7. ALTERNATIVE LICENSING PROCEDURES**

**In the event that the Shellfish Conservation Commission shall establish that no limit on non-commercial licenses shall be imposed, the following procedure shall govern the issuance of licenses notwithstanding the provisions of Section 116 (1).**

**A. Beginning on the first business day of January, the Town Clerk shall issue resident recreational licenses to residents upon application, said licenses to be effective that day.**

**B. Beginning on the first business day of January, the Town Clerk shall issue, by lottery, 40 non-resident, non-commercial licenses to be effective January 1<sup>st</sup> as follows:**

**1. The Town Clerk shall establish a waiting list by lottery for all non-resident applicants and shall issue licenses for not less than ten (10) non-resident applicants or all non-resident applicants whichever is less, after 400 residential recreational licenses have been issued.**

**2. Whenever the Town Clerk shall issue any increment of 9, or part thereof, residential non-commercial licenses in excess of 90, the Clerk shall issue one additional non-resident, non-commercial license to a non-resident on the waiting list, if any.**



3. Any person notified by the Town Clerk that they have been selected from the waiting list and is qualified to apply for a non-resident, non-commercial license, shall make an application to the Town Clerk and pay the applicable license fee within fourteen (14) business days of the mailing of said notice of eligibility. In the event that the person fails to make an application, qualify, or pay the license fee within the prescribed time period, they shall be returned to the end of the waiting list.

4. Open License Sales: When the Shellfish Conservation Committee determines limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year:

a. Notice of the dates, places, times and the procedures for the license sales shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to the commissioner of Marine Resources.

b. For each commercial license category, the Town Clerk shall issue one license to non-residents when six licenses are issued to residents and one more to non-residents when four more are issued to residents; thereafter, one non-resident license will be issued for every ten additional resident licenses issued. For each recreational license category, the Town Clerk shall issue one license to a resident and one to a non-resident; thereafter, one non-resident license will be issued for every ten additional resident licenses issued.

C. Commercial and senior citizen licenses issued shall not be counted in the calculation of licenses sold under this section.

## SECTION 117. OPENING AND CLOSING OF FLATS

The Town Council with the approval of the Commissioner of Marine Resources may open and close clam flats. When information in the possession of the Shellfish Conservation Commission indicates that a clam flat should be opened or closed, it shall immediately advise the Town Council. The Town Council shall call a public hearing on 10-days notice published in a newspaper having general circulation in the Town, stating the time, place and subject matter of the hearing; and shall send a copy of the notice to the Department of Marine Resources. At the hearing, the Commission shall present evidence obtained from its survey and other sources, and members of the public may present evidence in support or refutation of the evidence presented by the Commission.

After the hearing is closed, the Town Council shall make findings of fact on the relevant evidence presented. If the request is to open the flat, the Town Council shall then



~~make a conclusion based on those findings of fact as to whether opening the flat is warranted by the recovery of the resource; or the freedom from predation, competition or other resource problem. If so, the Town Council with the concurrence of the Department of Marine Resources shall order the flat opening and shall set such time limitation and other harvesting conditions as are consistent with good conservation practices. If the request is to close the flat, the Town Council shall make a conclusion based on their findings of fact as to whether closing the flat is warranted by depletion of the shellfish, destruction of existing seed, or predation, competition or other resource problem. If so, the Town Council shall order the flat closed until further request for opening by the Commission. The Commissioner of Marine Resources prior to enactment shall approve any proposal for opening or closing of flats.~~

The Shellfish Conservation Commission, with the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest and designate areas and period for commercial or recreational harvesting thereon. Upon concurrence of the Department of Marine Resources area biologist that the status of the shellfish resources and other factors bearing on sound management indicate that an area should be opened for either recreational or commercial harvesting, the Shellfish Conservation Commission may call a public hearing on ten day's notice published in a newspaper having general circulation in the Town, stating the time, place, and subject matter of the hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Shellfish Conservation Commission made after the hearing shall be based on findings of fact.

#### **SECTION 118. MINIMUM LEGAL SIZE OF SOFTSHELL CLAMS**

Pursuant to 12 M.R.S.A. ss 6671 and 6681, as amended from time to time, it is unlawful to possess soft-shelled clamshell stock whose shells are less than 2 inches in the largest diameter. The Town Clerk's office shall issue annually a 2" ring with each license. For purposes of this Ordinance, the term "possess", means dig, take, harvest, ship, transport, hold, buy, and sell retail and wholesale soft-shelled clamshell stock.

#### **SECTION 119. METHOD OF DETERMINING TOLERANCE**

Pursuant to 12 M.R.S.A. ss 6671 and 6681, as amended from time to time, any person may possess soft-shelled clams that are less than 2 inches if they comprise less than 10% of any bulk pile. The tolerance shall be determined by numerical count of not less than one (1) peck nor more than four (4) pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.

#### **SECTION 120. SHELLFISH CONSERVATION COMMISSION**

The Shellfish Conservation Program for the Town of Cumberland will be administered by the Shellfish Conservation Commission consisting of ~~five (5)~~ seven (7) members. The Cumberland Town Council will appoint the Shell Conservation Commission members. In addition, the Shellfish Conservation Warden shall serve as an ex-officio member.



1. The Commission's responsibilities include:
  - A. Establishing, annually, in conjunction with the Department of Marine Resources, the number of shellfish digging licenses to be issued;
  - B. Surveying the clam flats to maintain current information on shellfish resources;
  - C. Submitting to the Town Council proposals for the expenditures of funds for the purpose of shellfish conservation;
  - D. Keeping this Ordinance under review and making recommendations for its amendments;
  - E. Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources;
  - F. Recommending conservation closures and openings to the Town Council in conjunction with the Department of Marine Resources;
  - G. Submitting an annual report to the Municipality and the Department of Marine Resources covering the above topics and all other Commission activities.

#### **SECTION 121. ENFORCEMENT, PENALTY, SEPARABILITY, DURATION & REPEAL**

1. **Enforcement.** The Chief of Police, members of the Cumberland Police Department, special police officers as provided in 30-A M.R.S.A. Section 2672, and the Shellfish Conservation Warden, shall enforce this Ordinance.
2. **Penalty.** A person who violates this Ordinance shall be punished as provided in 12 M.R.S.A. Section 6671 as, amended from time to time.
3. **Separability.** If any provision of this Ordinance is declared to be invalid, that declaration does not affect the remainder of the Ordinance.
4. **Duration.** This Ordinance shall remain in effect until amended or repealed.  
December 31, 2003
5. **Repeal.** Any Ordinance regulating the harvesting or conservation of shellfish in the Town is hereby repealed. This includes any provision of other Town Ordinances, which are inconsistent with this Ordinance.

#### **SECTION 122. MISREPRESENTATION**

It shall be unlawful and a violation of this Ordinance, for any person to falsify or give false information in connection with a shellfish license application. In addition to any criminal penalties which may result from a violation of this Ordinance, the shellfish license granted to any person who gives false information on a shellfish license application will automatically be void.



## **SECTION 123. SUSPENSION**

1. **Violation of Shellfish Ordinance.** The Town Clerk shall suspend any and all shellfish licenses issued under this Ordinance, if the license holder is convicted in court of violating any section of this Ordinance. The license holder shall immediately surrender his/her license to the Town Clerk or his/her designee.
2. **Suspension based on conviction in a Town Closed Conservation Area.** The Town Clerk shall suspend any and all shellfish licenses issued under this Ordinance if the license holder has been convicted in court of possessing shellfish from a Town Closed Conservation Area.
3. **Length of Suspension for Numbers 1 and 2 above.** The suspension of a license may not exceed the following:
  - a. 30 days from the date of first conviction.
  - b. 365 days (one year) from the date of the second conviction.
  - c. Lifetime revocation of Shellfish License for all third violations.
4. **Applicable Standards:** Any conviction more than three (3) years before last conviction shall not be counted in determining lengths of suspension.

## **SECTION 124. SUSPENSION BASED ON REFUSING INSPECTION**

The Town Clerk shall suspend any and all shellfish licenses if the license holder refuses to allow inspection in the enforcement of the Ordinance. This suspension may not exceed 90 days.

## **SECTION 125. HEARING**

Any licensee whose shellfish license has been suspended shall be entitled to a hearing before the Town Manager, upon the filing of a written request for hearing with the Town Manager within thirty (30) days following the effective date of suspension. The applicant shall be given at least seven (7), days prior written notice of the date, time and place of hearing before the Town Manager. Any person aggrieved by the Town Manager's decision may appeal to the Superior Court within thirty (30) days from receipt of the Town Manager's written decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

## **SECTION 126. APPOINTMENT OF SHELLFISH CONSERVATION WARDEN; COMPENSATION; REMOVAL**

The Town Council shall appoint a Shellfish Conservation Warden yearly, and establish the Shellfish Conservation Warden's compensation and, for cause by them declared in writing, after due notice to the officer and hearing, if requested, remove the Shellfish Conservation Warden and appoint another one.

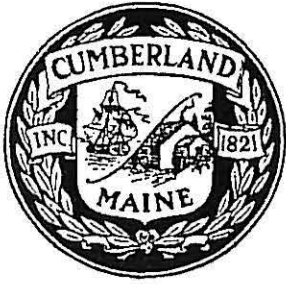
IN ACCORDANCE WITH STATE LAW THIS ORDINANCE EXPIRES WITHIN THREE YEARS OF THE REVISED DATE.

Effective Date: January 1, 2000

Enacted 10-15-81  
Re-enacted 1984  
Re-enacted 1987  
Revised 1990  
Re-enacted Dec. 1991  
Revised Jan. 1994  
Amended Jan. 1995  
Revised Jan. 1997  
Amended Jan. 1998  
Amended Dec. 1998  
Enacted Nov. 1999  
Amended 12-11-2000  
Amended: 01-01 2001  
Revised 5-24-2004  
Re-enacted 5-24-2004  
Fees updated on 1-1-2006 & 07  
Fees & Revisions Dec. 10, 2007

# ITEM 07-166

To set a Public Hearing date (12/10) re: establishment of  
Route 100 TIF District.



# M E M O R A N D U M

TOWN OF CUMBERLAND, MAINE  
290 TUTTLE ROAD  
CUMBERLAND, MAINE 04021  
TEL: 207-829-2205 FAX: 829-2224

**To:** Town Council  
**From:** William R. Shane, Town Manager *WRS*  
**Date:** November 7, 2007  
**Re:** TIF Subcommittee Report

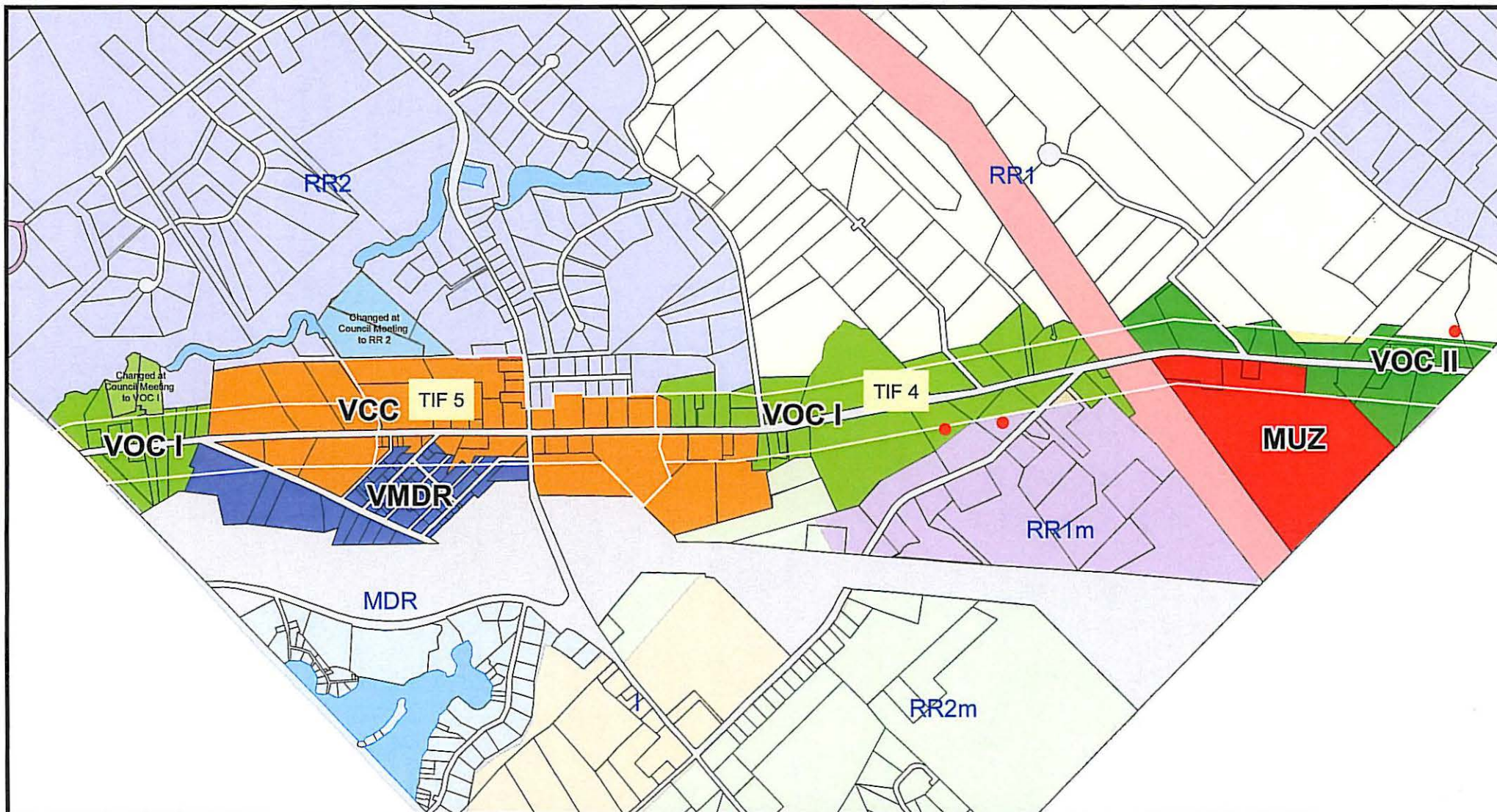
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The TIF subcommittee met on November 5, 2007 to discuss the establishment of two new TIF Districts on Rt. 100. The establishment of the 2 districts will allow the Council to offer Credit Enhancement Agreements to invite development along the new commercial corridor in concert with new zones and the new Rt. 100 Design Criteria.

The subcommittee recommends consideration for 2 TIF Districts, District 4 would comprise the southern portion of the new VOC I and TIF District 5 would comprise the entire VCC zone (see Attached maps).

I am recommending two public hearings be held; one on **December 10, 2007** and a second on **January 14, 2008 (for action)**. The Town Attorney will be preparing the formal documents required to develop a TIF District and they will be modified, if necessary, after your public hearings.





**Route 100 Draft Zoning  
Town of Cumberland  
Draft 18  
October 2007**

**Proposed Route 100 Zoning**

- Village Center Commercial (142 acres)
- Village Office Commercial I (105 acres)
- Village Office Commercial II (42 acres)
- Mixed Use (49 acres)
- Village Medium Density Residential (37 acres)

● Indicates zone does not follow property line (splits parcel)