

AGENDA
CUMBERLAND TOWN COUNCIL MEETING
Town Council Chambers, 290 Tuttle Road
Monday, October 24, 2005

6:00 p.m. – WORKSHOP re: November 8, 2005 constitutional amendment ballot question re: assessing waterfront land used for commercial fishing activities based on the land's current use.

7:00 p.m. – CALL TO ORDER

I. APPROVAL OF MINUTES

II. MANAGER'S REPORT

III. PUBLIC DISCUSSION

Mainland Public Hearing re: Secession

IV. LEGISLATION AND POLICY

05 – 172. To hold public hearing to consider and act on a request to accept Thomas Drive.

05 – 173. To hold public hearing to consider and act on acceptance of public easements for Rock Ridge Run and several other roads presently designated as private.

05 – 174. To hear from John Chase re: alternative road acceptance procedures.

05 – 175. To hold public hearing to consider and act on amendment to Traffic Ordinance, Article VII, Section 7-3A, re: stop sign(s) at intersection of Highland Avenue and Old Gray Road.

05 – 176. To hold public hearing to consider and act on sale of tax-acquired property located on Route 100, Map U 20, and Lot 57.

05 – 177. To hold public hearing to consider and adopt the revised MMA Model General Assistance Ordinance and Appendixes A-C for the period of October 1, 2005 through October 1, 2006.

05 – 178. To set public hearing to consider and act on amendment to Contract Zone with Peter Kennedy.

V. NEW BUSINESS

VI. ADJOURNMENT

REBROADCAST SCHEDULE ON REVERSE SIDE

MOTIONS

05 – 172. **I move to** accept Thomas Drive as a town road and public right-of-way.

05 – 173. **I move to** accept a public easement on each of the following roads:

Rock Ridge Run	Island Pond Road	Coveside Road
Russell Road	Starboard Lane	Spruce Lane
Lake Road	Forest Avenue	Laurel Lane
Windy Hollow Way	Island Avenue (Lake Avenue-Hillside)	

Conditional upon:

- 1) The Easement Deed is in the format approved by the Town Attorney (attached)
- 2) Certification by the Applicant's Attorney that each owner has the authority to convey the easement
- 3) Any identified road defects repaired
- 4) Designation of a primary contact person for the Town
- 5) Designation and inclusion in the easement of a turnaround for winter maintenance vehicles

05 – 174. **No action necessary.**

05 – 175. **I move to** authorize an amendment to the Town of Cumberland Traffic Ordinance, Article VII, Section 7-3A, and authorize the Town Manager to place stop signs at the intersection of Highland Road and Old Gray Road.

05 – 176. **I move to** authorize the Town Manager to solicit and accept bids and to authorize a Release Deed for the sale of tax-acquired property located on Route 100, a/k/a Map U 20, and Lot 57.

05 - 177. **I move to** adopt the revised MMA Model General Assistance Ordinance **and** Appendixes A through C for the period of October 1, 2005 through October 1, 2006.

05 – 178. **I move to** set a public hearing date of November 14, 2005 to consider and act on an amendment to the Contract Zone with Peter Kennedy.

Item 05-172

Road Acceptances

Thomas Drive Only

Rock Ridge Run will be a Public Easement for Now

Information Attached



Thomas Drive- Rockwood Condos& Toddle Inn- SHP

Item 05-173

Acceptance of Public Easements For Private Roads

The following Roads are ready for
Public Easement Acceptance:

1. Island Pond Road
2. Coveside Road
3. Russell Road
4. Starboard Lane
5. Spruce Lane

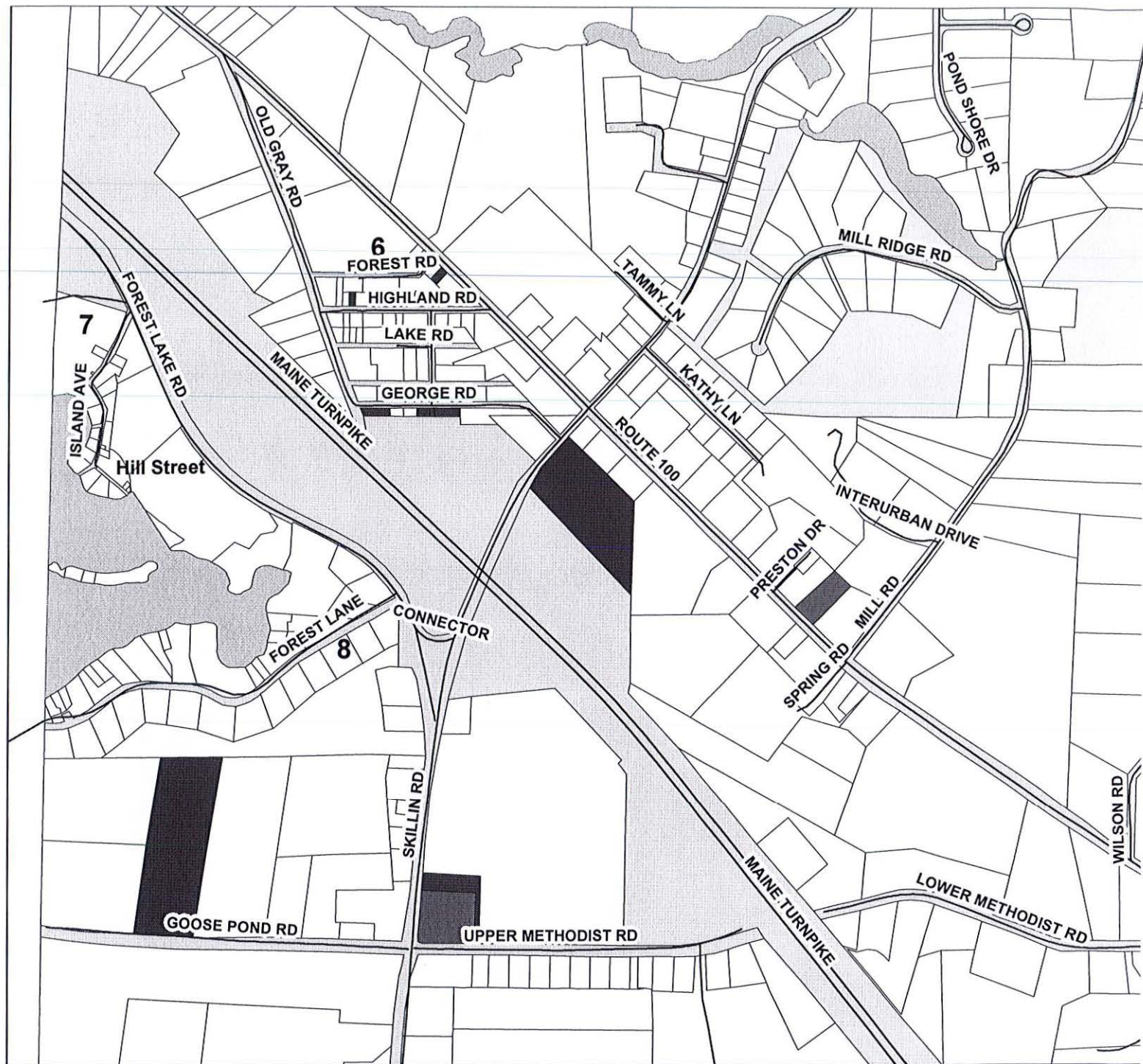
6. Lake Road
7. Island Avenue- Lake Ave.-Hillside
8. Forest Avenue

9. Laurel Lane
10. Windy Hollow Way

- 11. Rock Ridge Run**



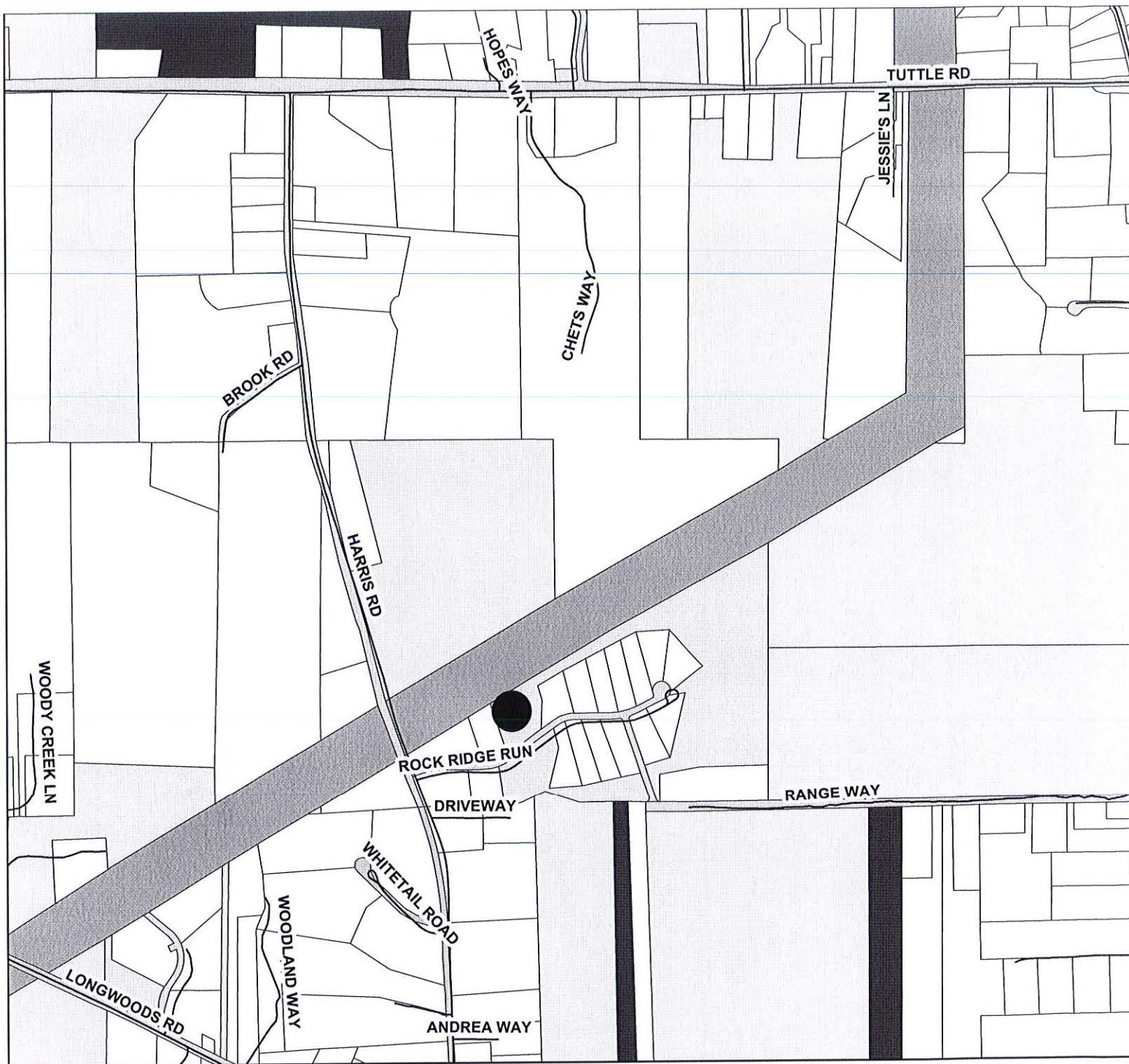
1. Island Pond
2. Coveside
3. Russell Road
4. Starboard
5. Spruce Lane



- 6. Lake Road
- 7. Island Avenue
- 8. Forest Lane

9. Laurel Lane
10. Windy Hollow Way





Rock Ridge Run

Eligible for Public Road Classification



RELEASE FORM

Town of Cumberland, Maine

290 Tuttle Road

Cumberland, Maine 04021

Tel: 207-829-3664

Fax: 207-829-2224

I/we hereby agree to release and hold harmless the Town of Cumberland, its officers, agents and employees from any and all liability from any and all claims, damages, actions and causes of action, judgments and costs, including attorney's fees, for personal injury and property damage arising out of or resulting from the Town's maintenance

of _____

(Name of Street or Road)

Owner's Name

Date

Owner's Name

Date

Property Address

Date

Office of the Town Manager, Town of Cumberland
290 Tuttle Road, Cumberland, Maine 04021

TOWN OF CUMBERLAND, MAINE
PRIVATE WAY GRANT OF A PUBLIC EASEMENT

EASEMENT DEED made this _____ day of _____, 2005 by
and between _____, of _____;
_____, of _____; and _____
_____, of _____; all of the Town of
Cumberland, County of Cumberland and State of Maine (hereinafter referred to as
"Grantors") and the TOWN OF CUMBERLAND, a Maine municipality under the laws
of the State of Maine, with a mailing address of 290 Tuttle Road, Cumberland, Maine
04021 (hereinafter referred to as "Cumberland").

WHEREAS, Grantors are the owners and users of a private way known as
_____, in the Town of Cumberland, County of Cumberland and
State of Maine, being set forth in the following deeds:

1. Deed from _____ to _____
_____ dated April 2, 1985 and recorded at Cumberland
County Registry of Deeds in Book _____, Page _____.
2. Deed from _____ to _____
_____ dated April 2, 1985 and recorded at Cumberland
County Registry of Deeds in Book _____, Page _____.
3. Deed from _____ to _____
_____ dated April 2, 1985 and recorded at Cumberland
County Registry of Deeds in Book _____, Page _____.

WHEREAS, Grantors wish to grant Cumberland a Public Easement to the road
upon terms and conditions set forth in this Easement Deed; and

WHEREAS, Cumberland is willing to provide winter maintenance to the road
upon terms and conditions set forth in this Easement Deed.

NOW THEREFORE, in consideration of the promises as set forth herein, the Grantors
hereby grant unto Cumberland a public easement in common with the Grantors to use
the road for all purposes, including but not limited to, enter upon said road with persons,
vehicles and equipment for the purpose of performing maintenance on said road,
including without limitation repairs, snowplowing, and sanding, but Cumberland shall
be under no obligation to perform the same.

As part consideration of this easement and notwithstanding anything to the contrary in the Easement Deed, Grantors shall be obligated to maintain the road at a minimum standard as may be required by Cumberland and subject to the terms of the Manager's Recommendation Private Road Plowing, attached hereto as Exhibit A.

Grantors further hereby agree to indemnify, release and hold harmless the Town of Cumberland, its officers, agents and employees from any and all liability from any and all claims, damages, actions and causes of action, judgments and costs including attorneys' fees, for personal injury and property damage arising out of or resulting from the Town's maintenance of _____.

In the event that Cumberland no longer maintains said _____, Cumberland agrees to sign a recordable release of this easement.

This easement shall be binding on the heirs, devisees, assigns and successors of the parties herein.

WITNESS our hands and seals this _____ day of _____, 2005.

[Owner]

[Owner]

[Owner]

[Owner]

TOWN OF CUMBERLAND

_____ By: _____
Its

STATE OF MAINE
CUMBERLAND, SS. _____, 2005

Then personally appeared the above-named _____
and acknowledged the foregoing instrument to be his/her free act and deed.

Before me,

Attorney at Law/Notary Public
Print Name: _____
My Commission Expires: _____

STATE OF MAINE
CUMBERLAND, SS. _____, 2005

Then personally appeared the above-named _____,
_____ of said TOWN OF CUMBERLAND and acknowledged
the foregoing instrument to be h____ free act and deed in h____ said capacity and the free
act and deed of said municipality.

Before me,

Attorney at Law/Notary Public
Print Name: _____
My Commission Expires: _____

Manager's Recommendation- Private Road Plowing

April 11, 2005

There are several issues surrounding the plowing of these private roads. The two of most concern for me are:

- 1) The Maine Tort Claim Act which limits our legal exposures as a result of an accident or a claim against the Town to \$400,000 is not applicable when plowing on a private road. With or without a license/permission slip (whatever we choose to call the present policy) we are fully exposed from a liability standpoint as a Town. Our insurance carrier has recommended we purchase additional liability insurance if we continue this practice.
- 2) Our employees are personally liable for accidents while operating a Town vehicle on any private road. The argument that plowing of private roads is within the normal and accepted scope of their job responsibilities will be impossible to defend. Therefore we put our own employees at risk of personal lawsuits and at risk of losing personal belongings and assets.

A **public easement protects** us as a Town and our employees from the two concerns listed above related to plowing of these roads. At a minimum, to plow next winter on any of the listed roads, a public easement must be in place – no exceptions.

The policy issue is yours to wrestle and determine what's fair and best for the entire Town including the **263 homeowners listed on the 29** roads we presently plow; the 256 homeowners on private roads on the Mainland (**179 homes on 37 roads** with 3 or more homes); and the 121 homeowners on private roads on the Island (**89 homes on 21 roads** with 3 or more houses).

The Public Works' Director believes any road receiving public services should be built to at least a Public Roads Standard. I would be disappointed if he felt otherwise. My job, however, is the implementation of **Town Council Policy** and whatever your decision, it shall be implemented by me and my staff.

I believe a compromise can be reached but it may not be viewed by everyone as a win-win more like a **lose-lose**. I believe however, the existing geometric challenges of several of the roads could never meet our present private road standards and to meet the standards would adversely impact the character of the neighborhood if a set of unattainable standards are invoked. I would recommend the following:

- A) All existing roads must present to the Town Council for acceptance a **Public Easement** in a form acceptable to the Town Manager and approved by the Town Attorney.

B) **All existing private roads** receiving winter maintenance services (winter of 2004-2005) shall be permitted to maintain the existing road width and geometry providing the road shall be maintained in a safe and passable condition **as determined by the Town Council in its sole discretion** based on a report to it from the Town's Public Works Director and the following conditions are met:

- 1) A **Public Easement** is prepared to include turnaround space for winter road equipment
- 2) A **Road Association** shall be formed and a designated contact person assigned as the Town's primary contact when dealing with all road issues.
- 3) The **road surface**, if gravel, shall be graded and free of ruts, depressions and washboard surface on October 1 of each year. If paved, must be free of potholes, divots or other road defects that may damage Town equipment.
- 4) The **drainage system shall be maintained** and functional throughout the year.
- 5) The Public Works Director shall perform an **Annual Inspection** each year by September 1 and prepare a defect list for the Road Association. All repairs must be completed by October 1. If repairs have not been completed by October 1, the Town Council shall make a determination if snow plowing and winter maintenance will be permitted on the roadway.
- 6) **Winter Road Repairs** - If the road conditions over the winter deteriorate to a point where the Public Works Director has determined continued plowing will damage equipment and or property, the Road Association shall make necessary repairs within 5 working days. If the Association has not repaired the defects, the Town may repair the defect and invoice the Association for all equipment labor and materials (per the values in the most recently published FEMA rates) to the Association or contract such repairs and forward paid invoices to the Association for reimbursement. Failure to pay the invoiced amount prior to June 30th shall suspend all winter plowing activities until the Town Council has reviewed the circumstances and determined the proper recourse which may include discontinuance of all maintenance activities.
- 7) **Winter Maintenance shall be limited** to plowing, sanding, salting, shelving etc. No spring clean-up or year round maintenance shall be implemented unless specifically authorized by the Town Council. (No additional activities budgeted in FY 06)
- 8) **The Town Council may waive any or all conditions, except the Public Easement, when it deems that such waivers are in the best interest of the Town.**

C) All **future Winter Road plowing requests** shall be brought to a standard accepted by the Town Council with recommendations from the Winter Maintenance Private Roads Committee of the Town. (To be developed by December 1, 2005 – no additional monies have been budgeted for FY 06 for the plowing of any additional roads)

D) The Town's acceptance of a public easement over any private road **shall not obligate the Town to provide winter maintenance** or any other improvement to said road except to the extent that the Town Council annually votes to do so as a part of the municipal budget process.

E) **New subdivision roads** shall be held to the present acceptance standards and procedures as defined in the Subdivision Ordinance, but shall not be brought forward for **consideration until 75%** of all the homes in the subdivision have been built. Until 75 % of the homes have been built, the Town shall not consider any road maintenance requests unless authorized by the Town Council in a public meeting.

SECTION 4 SUBDIVISION APPLICATION PROCEDURES

4.6 PUBLIC ACCEPTANCE OF STREETS, RECREATION AREAS

- A. When a street, easement, open space area, park, playground, or other recreation area is shown on the Final Plan, approval of the Plan shall not constitute an acceptance by the Town of such areas. All Plans shall be endorsed with the following note: **"The approval of this Plan by the Planning Board does not constitute acceptance by the Town of any street, easement, open space area, park, playground, or other recreation area thereon."** The Planning Board may also require the filing of a written agreement between the applicant and the Town Council covering future deed and title requirement, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such areas.

William Shane

From: Adam Ogden
Sent: Thursday, October 06, 2005 4:05 PM
To: William Shane
Cc: Terry Snow, PA; Kenneth M. Cole, III
Subject: RE: Roadway Certifications

Bill:

I have reviewed the following twelve (12) roads and a list of the defects and pictures are attached in my memo:

Island Pond Road – Tree Trimming/brush removal along road.

Laurel Lane – NO TURN AROUND – Need easement to use driveway.

Coveside Road – Excellent – need to move rocks in cul-de-sac away from edge of pavement (four feet from edge)

Russel Road – Tree Trimming to 14 foot and tree and brush removal along road.

Starboard Lane – Specimen trees and shrubs are abutting pavement, fence abuts pavement along first lot - NO TURN AROUND AVAILABLE – Need easement on private property (Ginoux parcel), no place to turn around without using private driveway.

Spruce Lane – Tree trimming to 14 feet and brush removal along road, - NO TURN AROUND AVAILABLE – Need easements on private property, both on #11 and #14 Spruce Lane. The only way to turn around is to use private driveways at end.

Lake Road – appears to be acceptable – NO TRUN AROUND Need easement

Island Avenue – Tree trimming to 14 feet, brush removal along edge of gravel road, NO TURN AROUND AVAILABLE. Request is for Island Ave only? (This road leads to Lake Ave and Hill St which are narrow and have NO TURN AROUNDS.)

Flintlock Ridge – Acceptable – additionally this road is proposed for dedication – See subdivision inspections and WRS Memo.

Rock Ridge – Acceptable – needs brush removal at culvert crossing- additionally this road is proposed for dedication – see subdivision inspections and WRS Memo.

Thomas Drive – Acceptable – needs gravel shoulder. – This road is proposed for dedication - See subdivision inspections and WRS Memo.

Broadcove Way – Acceptable - sewer cover needs to be reset (Portland Water District will do this) NO TURN AROUND AVAILABLE, however, Mrs. Stewart has indicated that she is willing to provide easement to use driveway for turn around. Trees on right hand side should be trimmed to 14 feet and trimmed away from edge of pavement.

I spoke with Terry this afternoon and we discussed the Island Ave issue, another road (Forest Ave, which I have not reviewed), Broad Cove Way which may be represented by another law firm, and Piampiano's road which is not on the list and appears to have its own issues and is not represented by Terry Snow.

It appears that easements for turn arounds are the biggest issue. Tree trimming and brush trimming can be accomplished this fall.

10/6/2005

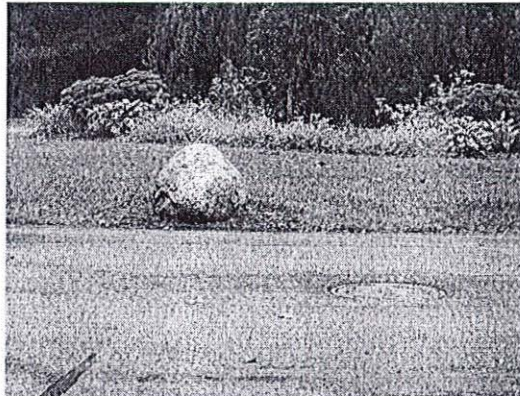
Summary of Inspection for Private Road Easements – Oct 2005

Island Pond Road – Tree Trimming/brush removal along road.



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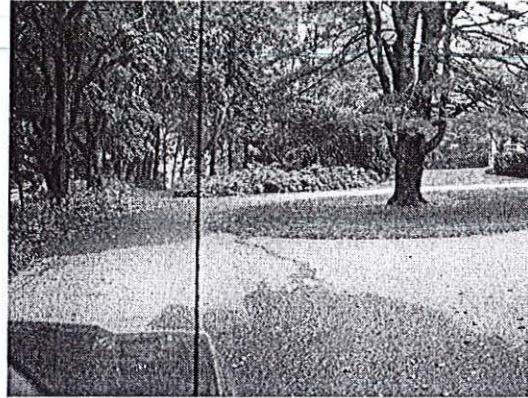
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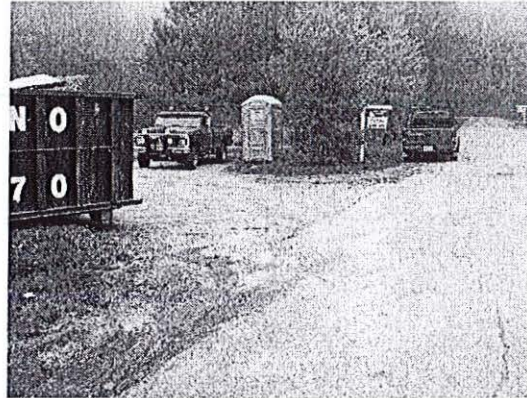
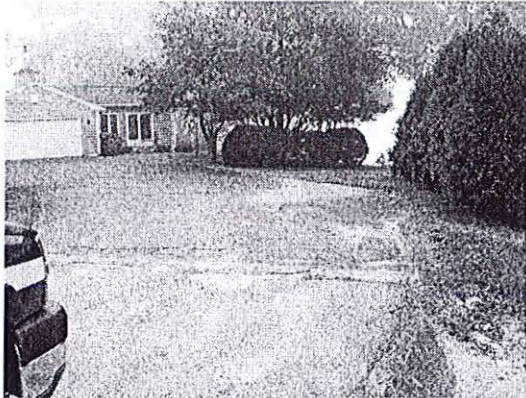
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Item 05-174

Alternative Road Acceptance Procedures

Item 05-175

Stop Sign Request

Intersection of Highland Ave. and Old Gray Road

Traffic Ordinance Article VII “Stop and Yield Intersections”

Section 7-3 A. “Other Intersections where stop and yield required”

Article VII, Stop and Yield Intersections -

7-1: Through streets designated -

Those streets and parts of streets described in schedule I attached hereto and made a part hereof, are hereby declared to be through streets for the purpose of this section.

7-2: Signs required at through streets -

Whenever this ordinance designates and describes a through street, it shall be the duty of the Chief of Police with the cooperation of the Highway Department, to place and maintain a stop sign, or on the basis of an engineering and traffic investigation at any intersection a yield sign, on each and every street intersecting such through street unless traffic at any such intersection is controlled at all times by traffic-control signals; provided, however, that at the intersection of two such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of said streets as may be recommended to and voted by the Town Council, by the Chief of Police upon the basis of an engineering and traffic study.

7-3: Other intersections where stop or yield required -

The Chief of Police is to designate intersections where a particular hazard exists upon other than through streets and to determine and recommend to the Town Council:

**

- A. whether vehicles shall stop at one or more entrances to any such intersection, in which event, upon vote of the Town Council, he shall cause to be erected a stop sign at every such place where a stop is required, or:
- B. whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection, in which event upon vote of the Town Council he shall cause to be erected a yield sign at every place where obedience is required.

7-4: State approval -

On state-aid and state highways, the designation of through streets and the installation of stop and yield signs are subject to Maine Department of Transportation approval.

Article VIII, Miscellaneous Driving Rules

8-1: Stop when traffic obstructed -

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or sidewalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal to proceed.

8-2: Driving through funeral or other procession -

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

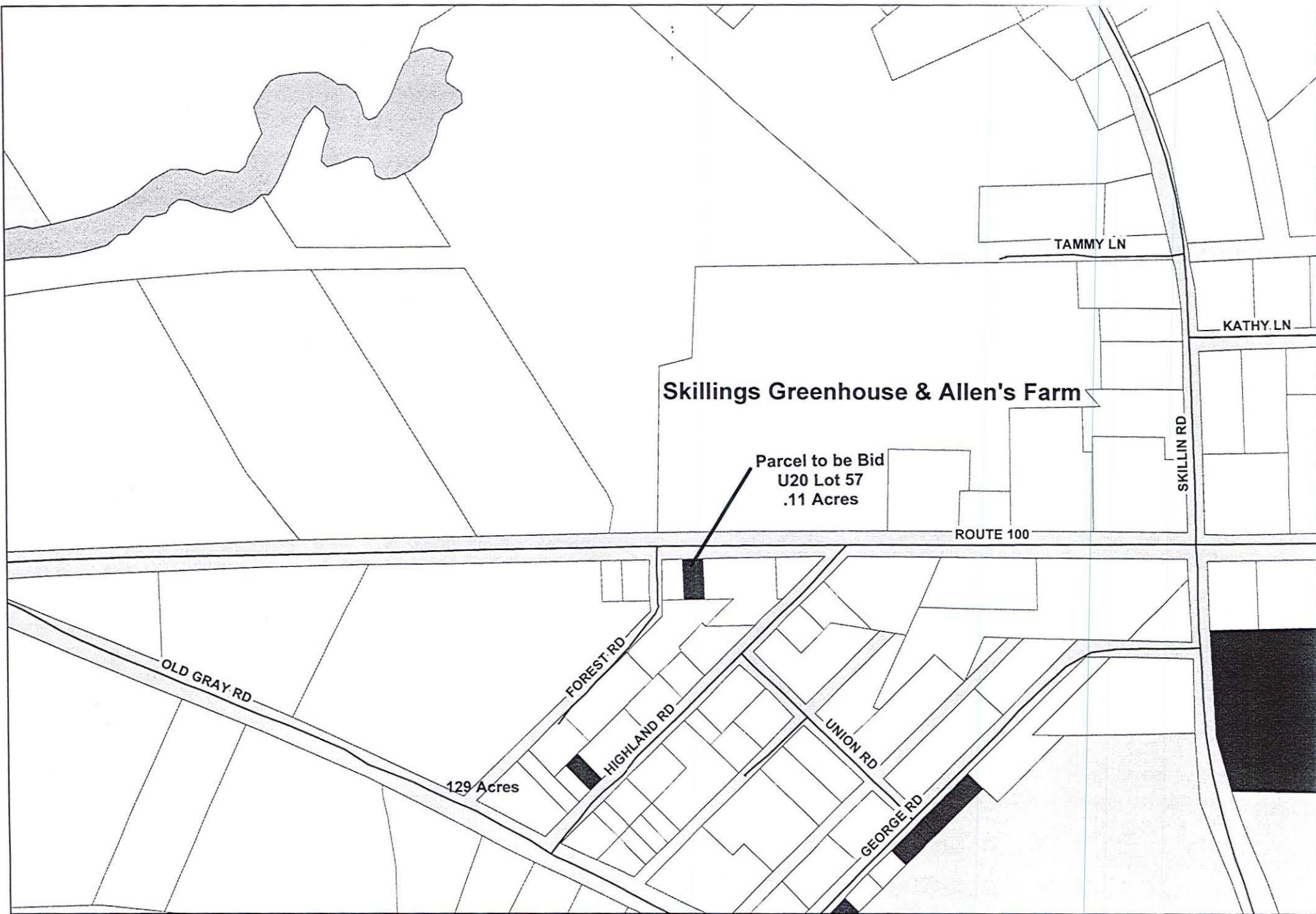


**Stop Signs (2) Locations
Highland Ave- Old Gray Road
West Cumberland**

Item 05-176

Sale of Tax Acquired Property Rt 100 Near Skillins / Allen's Farm

- **Accept Bid**
- **Authorize Release Deed**



300 150 0 300 Feet



**Route 100 Tax Acquired Property 1960's
Map U 20 Lot 57 -.11 Acres**

0000-0001-7020-0000

Print Date: 09/22/2005 08:29

CURRENT OWNER					TOPO.		UTILITIES		STRT./ROAD		LOCATION		CURRENT ASSESSMENT				3206 CUMBERLAND CTR, M. VISION					
TOWN OF CUMBERLAND 290 TUTTLE RD. CUMBERLAND, ME 04021-9321 Additional Owners:													Description	Code	Appraised Value	Assessed Value						
													EXM LAND	9030	12,300	12,300						
					SUPPLEMENTAL DATA																	
					Other ID:		0U20 0057 0000															
					EXEMPT		5400															
					RESEXM		Y															
					TREES																	
					hearing																	
					GIS ID: 0U20 0057 0000		ASSOC PID#															
RECORD OF OWNERSHIP					BK-VOL/PAGE		SALE DATE		q/u	w/i	SALE PRICE		V.C.	PREVIOUS ASSESSMENTS (HISTORY)								
TOWN OF CUMBERLAND					2994/ 264				U		0			Yr.	Code	Assessed Value	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value
														2006	9030	12,300	2004	9030	12,300	2005	9030	12,300
														Total:		12,300	Total:		12,300	Total:		12,300
EXEMPTIONS					OTHER ASSESSMENTS							This signature acknowledges a visit by a Data Collector or Assessor										
Year	Type	Description	Amount	Code	Description	Number	Amount	Comm. Int.														
Total:																						
ASSESSING NEIGHBORHOOD																						
NBHD/ SUB		NBHD NAME		STREET INDEX NAME		TRACING		BATCH														
80/A																						
NOTES																						
LAND VALUED RESIDENTIALLY BECAUSE OF MINIMAL SIZE																						
										Appraised Bldg. Value (Card) 0												
										Appraised XF (B) Value (Bldg) 0												
										Appraised OB (L) Value (Bldg) 0												
										Appraised Land Value (Bldg) 12,300												
										Special Land Value 0												
										Total Appraised Parcel Value 12,300												
										Valuation Method: C												
										Adjustment: 0												
										Net Total Appraised Parcel Value 12,300												
BUILDING PERMIT RECORD										VISIT/ CHANGE HISTORY												
Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Date Comp.	Comments	Date	Type	IS	ID	Cd.	Purpose/Result								
									9/5/1996			PB	00	Measur+Listed								
LAND LINE VALUATION SECTION																						
B#	Use Code	Description	Zone	D	Frontage	Depth	Units	Unit Price	I. Factor	S.A.	S.O.	C. Factor	ST. Idx	Adj.	Notes- Adj	Special Pricing	Adj. Unit Price	Land Value				
1	9030	MUNICIPAL MDL-00	HC				5,227 SF	9.85	1.00	5	5	0.30	80	0.80	-20% UND -50% SIZI		2.36	12,300				
Total Card Land Units:							5,227 SF	Parcel Total Land Area:							5,227 SF	Total Land Value:					12,300	

Vision ID: 3374

Bldg Name:

State Use: 9050

Bldg #: 1 of 1 *Sec #:* 1 of 1 *Card* 1 *of* 1

Print Date: 09/22/2005 08:29

CONSTRUCTION DETAIL				CONSTRUCTION DETAIL (CONTINUED)								
Element	Cd.	Ch.	Description	Element	Cd.	Ch.	Description					
Model	00		Vacant									
				MIXED USE								
				Code	Description	Percentage						
				9030	MUNICIPAL MDL-00	100						
				COST/MARKET VALUATION								
				Adj. Base Rate:		0.00						
				Section. RCN:		0						
				Net Other Adj:		0.00						
				Replace Cost		0						
				AYB								
				EYB		0						
				Dep Code								
Remodel Rating												
Year Remodeled												
Dep %												
Funcnl Obslnc												
Econ Obslnc												
Cost Trend Factor		1										
Status												
% Complete												
Overall % Cond												
Apprais Val												
Dep % Ovr		0										
Dep Ovr Comment												
Misc Imp Ovr		0										
Misc Imp Ovr Comment												
Cost to Cure Ovr		0										
Cost to Cure Ovr Comment												
OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)												
Code	Description	Sub	Sub Descript	L/B	Units	Unit Price	Yr	Gde	Dp Rt	Cnd	%Cnd	Apr Value
BUILDING SUB-AREA SUMMARY SECTION												
Code	Description	Living Area		Gross Area		Eff. Area		Unit Cost		Undreprec. Value		

No Photo On Record

William Shane

From: William Shane
Sent: Saturday, September 17, 2005 8:44 AM
To: 'Sally Stockwell'; Jennifer West (jwest@normandeau.com)
Cc: 'Stephen W. Moriarty'
Subject: Land on Route 100

Dear Sally & Jennifer:

I will be concurrently placing out to bid and asking for a recommendation from the Lands and Conservation Commission on a 6,000 sf piece of property across from Allen's Farm on Route 100. The property was tax acquired in 1960 for \$11.64. The property truly only has value to an abutter since it is a lot which can not be built upon due to State plumbing laws, set back rules, etc. One of the abutters is interested in developing a Commercial use on the property (I believe some type of bird shop).

I will be sending out on Monday additional information on the lot and request your commission make a recommendation to the Town Council by October 10th.

Thank you both for your assistance,

Bill

William R. Shane , Town Manager
290 Tuttle Road
Cumberland, Maine 04021
207-829-2205

9/22/2005

Item 05-177

MMA Model General Assistance Ordinance and Appendixes A-C

There are several updates to the Model Ordinance as a result of new legislation, case law and DHHS regulations.

Appendixes A through C have also been updated. Appendix A specifies the overall level of assistance established by law and can not be changed at the municipal level.

Appendix B specifies the maximum levels of assistance for food. Appendix C specifies the maximum level of assistance for housing. If either Appendix B or C were to be amended at the municipal level, we must first perform a market survey.

I recommend you adopt the revised MMA Model General Assistance Ordinance AND Appendixes A through C for the period October 1, 2005 through October 1, 2006.



TOWN OF CUMBERLAND, MAINE

290 Tuttle Road

Cumberland Center, Maine 04021-9321

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

October 31, 2005

DHHS
General Assistance Unit
#11 State House Station
Whitten Road
Augusta, ME 04333

Dear DHHS:

Please find enclosed a copy of the town of Cumberland's 'adoption sheet' signifying the town's adoption of the revised MMA Model GA Ordinance and Appendixes A through C for 2005-2006.

Thank you.

Sincerely,

Nadeen Daniels
Town Clerk

05-177

GENERAL ASSISTANCE ORDINANCE

APPENDIXES A-C

2005-2006

The Municipality of Cumberland adopts the MMA Model Ordinance GA Appendixes (A-C) for the period of Oct. 1, 2005—Oct. 1, 2006. These appendixes are filed with the Department of Human Services (DHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the 24th (day) of October (month) 2005 (year) by the municipal officers:

Harland E. Storey

(Print Name)

George S. Turner

(Print Name)

William C. Stiles

(Print Name)

Stephen W. Moriarty

(Print Name)

(Print Name)

(Print Name)

Harland E. Storey

(Signature)

George S. Turner

(Signature)

William C. Stiles

(Signature)

Stephen W. Moriarty

(Signature)

(Signature)

(Signature)

GENERAL ASSISTANCE ORDINANCE

Table of Contents

The Municipality of Cumberland enacts the following General Assistance

Ordinance. This Ordinance is filed with the Department of Health & Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the 24th day of October, 2005, by the municipal officers:
(day) (month) (year)

Harland E Storey

(Print Name)

Harland E Storey

(Signature)

George S. Turner

(Print Name)

George S. Turner

(Signature)

William C Stiles

(Print Name)

William C Stiles

(Signature)

~~Jeffrey Porter~~

(Print Name)

~~Jeffrey Porter~~

(Signature)

Stephen W. Moriarty

(Print Name)

Stephen W. Moriarty

(Signature)

(Print Name)
(Signature)

To: Municipal Officials/Welfare Directors/General Assistance Administrators

From: Antoinette Mancusi, Technical Advisor

Re: 2005 General Assistance Ordinance Revision

Date: Sept. 6, 2005

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In addition to new yearly GA maximums (Oct. 1, 2005-Oct. 1, 2006) which the Department of Health and Human Services (DHHS) should be mailing out to municipalities in the near future, this year there is also an available updated MMA model ordinance (revision date of August 2005). Municipalities are strongly encouraged to adopt this new version as it contains revisions and updates to state law, case law in addition to DHHS regulation. The ordinance can be obtained free of charge from MMA's website (www.memun.org) or, for a charge, municipalities may call MMA's Publications Dept. (1-800-452-8786) to order a hard copy.

Because summarizing all the changes to the ordinance would not be practical, for those municipalities wanting to compare the changes to the last version (October 1998), I have made available a PDF document of a working draft with tracking (deletion marks and underscoring) which will illustrate the majority of changes. This PDF document will be available digitally. Please call the Resource Center staff at MMA for questions you might have regarding accessing this document.

Specific areas which have been changed and require special attention on the part of those adopting the new ordinance include:

- Statement of Policy
- Definition of Income (items not to be considered as income)
- Definition of Lump-Sum Payment
- Definition of Misconduct
- Resources (discretion provided to GA administrators to allow minimum balances in checking accounts in order for clients to maintain one free checking account. Also clarified is the use of "private" charities)
- New definition/category for "Unforeseen Repeat Applicants"
- Mandatory application information
- Temporary Refusal to Accept Application (addition of paragraph B regarding safety concerns)
- Imminent Emergency language added to "Emergencies"
- Automobile Ownership (discretion given to the GA administrator to not count certain costs as "misspent" income)
- Workfare (subtracting value of workfare performed from client's GA debt)

- Verification (the creation of a new category of applicants “Unforeseen Repeat Applicants”)
- New Lump-Sum Calculation
- New Appendix format (all GA maximums are now located at the end of the document in way of Appendixes A-I)
- Liens (it has been determined that although the municipal officers must give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment, this is not the case for the imposition of interest as had been so stated in earlier versions of the ordinance)
- Telephone Charges

Note: Again, this is only a partial list of the relevant changes. Municipalities should review the entire 2005 ordinance and compare it to the 1998 version for a complete review of all the changes.

Filing of GA Ordinance

Please remember that General Assistance law requires municipalities to send DHHS a copy of its ordinance once adopted. *(For a copy of the GA model ordinance, please call MMA's Publication Department or, visit our web site www.memun.org).* DHHS will accept the “adoption sheet” as proof that a municipality has adopted the current ordinance.

DHHS's GA Unit address is:

The Department of Health and Human Services
 General Assistance Unit
 #11 State House Station
 Whitten Road
 Augusta, Maine 04333

Telephone: 1-800-442-6003

To: Municipal Officials/Welfare Directors/General Assistance Administrators

From: Antoinette Mancusi, Technical Advisor

Re: 2005-2006 General Assistance Ordinance Appendixes A, B & C

Date: September 9, 2005

Enclosed please find the following items:

- MMA's new (October 1, 2005–October 1, 2006) **“General Assistance Ordinance Appendixes”** (A, B and C).
- **“GA Maximums Summary Sheet”** which consolidates GA maximums into one document. Municipalities do have to insert individual locality maximums from Appendix A and C in the summary sheet where indicated in order to complete the information. The “summary” does not have to be adopted, as it is not an Appendix but a tool for municipal officials administering GA.
- **“GA maximums adoption form”** which was developed so that municipalities could easily send DHHS proof of GA maximums adoption. Once the selectpersons adopt the new maximums, the enclosed form should be signed and submitted to DHHS in the self-addressed envelope provided with this packet (*see “Filing of GA Ordinance and/or Appendixes” below for further information*).
- **Federal Fair Market Rents (FMR) rates**

Appendixes A, B & C

The enclosed Appendixes A, B and C have been revised for your municipality’s General Assistance Ordinance. These new Appendixes, **once adopted**, should replace the existing Appendixes dated October 1, 2004–October 1, 2005. Even if you have already adopted MMA's model General Assistance Ordinance, **the municipal officers must approve/adopt the new Appendixes yearly.**

The various maximum levels of General Assistance that are controlled by these values are established as a matter of state law based on certain federal values that are made effective on the first day of October each year.

Note: This year there is also an updated MMA model ordinance (revision date of Sept. 2005). Municipalities are strongly encouraged to adopt this new version as it contains revisions and updates to state law, case law in addition to DHHS regulation. The ordinance can be obtained free of charge from MMA’s website or, for a charge, municipalities may call MMA’s Publications Dept. to order a copy.

Appendix A

Appendix A is a listing of the overall maximum levels of assistance pertaining to all municipalities in Maine. These new overall maximum levels of assistance have been calculated on the basis of the 2005-2006 HUD Fair Market Rent (FMR) values that will become effective on October 1, 2005. These maximum levels of assistance are established by Maine General Assistance law (22 MRSA (4305(3-B))) and **cannot** be altered by action of the municipal officers.

Unlike past years, there are substantial changes to both the federal FMR methodology and to the GA statute's formula used to calculate the overall maximum (Appendix A). With only a few exceptions, the changes in formulas have not resulted in major increases to the maximums. However, many municipal locations have changed relative to their placement in the FMR list. As a result, municipalities (especially those in metropolitan areas) should exercise caution prior to adopting the following maximums.

Because HUD has reorganized certain localities, municipalities should first check to see in which locality they have been placed. For example, the locality of "Androscoggin Non-SMSA" no longer exists. Instead, the federal government has placed all the municipalities that were once a part of that locality under the new locality called "Lewiston-Auburn MSA." Another notable change has been the addition of new locality categories such as the Penobscot County HMFA, Sagadahoc HMFA, York-Kittery-S.Berwick HMFA and York County HMFA.

The following abbreviations may assist in your review of the enclosed FMRs:

Abbreviations:

Department of Housing and Urban Development (HUD)

Fair Market Rent (FMR)

HUD Metro FMR (HMFA)

Metropolitan Statistical Area (MSA)

Appendix B

Appendix B is a listing of the maximum levels of assistance for food. These maximum levels are the same as the USDA 2005-2006 Thrifty Food Plan, which are presumed to be reasonable by regulation of the Department of Health and Human Services (DHHS). If the municipal officers wish to amend these maximum levels of food assistance, a local survey must be developed and provided to DHHS to justify the proposed alterations.

Appendix C

Appendix C is a listing of the maximum levels of assistance for housing (both heated and unheated). These maximum levels were developed by MMA using 2005-2006 HUD Fair Market Rent values that include utility costs. Because the FMR numbers include utility and heating costs, the applicable average utility and heating allowances, as developed by the Maine State Housing Authority (MSHA), are "backed out" or subtracted from the FMR in order to obtain a pure "housing" cost.

What should your municipality do if the housing maximums contained in this packet are unreasonably low (or high) given the rental rates in your area? First, the preferred option is to conduct a local rental survey. A local rental survey can be developed fairly easily, and municipalities should explore this option by contacting DHHS for guidance on conducting such a survey.

Another option is to forego adopting housing maximums (the law does not actually require housing maximums—the other two maximums, i.e., Appendix A and B, are required). If you are a municipality that has to perform “emergency analysis” each and every time an applicant requests housing assistance and you are not planning to perform a market survey (although you probably should), then perhaps working without housing maximums is an option.

Emergency analysis should be an exception, not “the rule.” If it has become the rule in your municipality, then the adoption of artificially low housing maximums is of no service to you (or your clients) and you might be better off with no housing maximums. Municipalities choosing to forego housing maximums must still adhere to the overall maximum and work an applicant’s budget accordingly. Such municipalities might choose to utilize the actual FMR provided by the federal government as a guide (*enclosed for your convenience*).

The Adoption Process

With regard to the adoption process, the **municipal officers (i.e., selectpersons/council) adopt the local General Assistance Ordinance and yearly Appendixes**, even in town meeting communities. The law, however, requires that the *municipal officers adopt the ordinance and/or Appendixes after notice and hearing*. Seven days posted notice is recommended, unless local law (or practice) provides otherwise.

At the hearing, the municipal officers should:

- 1) Allow all interested members of the public an opportunity to comment on the proposed ordinance;
- 2) End public discussion, close the hearing; and
- 3) Move and vote to adopt the ordinance either in its posted form or as amended in light of public discussion.

Filing of GA Ordinance and/or Appendixes

Please remember that General Assistance law requires municipalities to send DHHS a copy of its ordinance once adopted. (*For a copy of the GA model ordinance, please call MMA’s Publication Department, or visit our web site www.memun.org*). In addition, any changes—amendments—such as new Appendixes must also be submitted to DHHS. This year DHHS has made it easier by enclosing a self-addressed envelope for your use. DHHS will accept the enclosed “adoption sheet” as proof that a municipality has adopted the current GA maximums.

Finally, all general assistance forms and notices that the municipality intends to use must also be submitted to DHHS. If it is your intention to use MMA forms, and you have not already done so, simply state that intention to the Department when you submit your ordinance for DHHS filing. Remember, if you intend to use locally developed forms or notices, those forms should be submitted with your adopted ordinance. DHHS’s GA Unit address is:

The Department of Health and Human Services
General Assistance Unit
#11 State House Station (Whitten Road)
Augusta, Maine 04333

In way of a reminder, municipalities that have not already seen or used MMA's "interactive" GA forms on MMA's web site are strongly encouraged to visit our site. GA forms (including MMA's new model GA ordinance) and other materials are all available online at www.memun.org.

Farewell

After almost eight and one-half years with the MMA, I bid you all "farewell." I am leaving MMA and will be joining Coastal Counties Workforce, Inc. in Topsham, Maine as Director of Operations. I feel privileged for having had the opportunity to serve so many wonderful and committed municipal officials/officers. I will truly miss such fine clients. Since I will not be here to answer questions on the enclosed maximums (or the new ordinance), please call Cindy Boyd, DHHS, GA Program Manager at 1 (800) 442-6003 with any follow-up questions you might have.

Appendix A

Effective: 10/01/05-10/1/06

GA Overall Maximums

Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Bangor HMFA: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	495	569	706	906	981
Penobscot County HMFA: Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	503	504	606	763	930
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	407	510	636	897	974
Portland HMFA: Cape Elizabeth, Casco, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth	667	792	1026	1294	1386
Buxton, Hollis, Limington, Old Orchard Beach	667	792	1026	1294	1386
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	864	869	1042	1517	1653
Cumberland County HMFA: Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	584	627	809	1076	1238

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

Appendix A

Effective: 10/01/05-10/1/06

Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Sagadahoc HMFA: Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	634	642	793	1055	1317
York County HMFA: Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells	579	601	765	945	1058

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

Non-Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Aroostook County	398	473	600	763	879
Franklin County	477	515	627	763	972
Hancock County	521	601	700	985	1014
Kennebec County	415	519	622	840	898
Knox County	472	624	712	964	1112
Lincoln County	570	612	738	913	1076
Oxford County	398	528	608	811	1016
Piscataquis County	495	564	699	887	948
Somerset County	418	491	600	822	902
Waldo County	554	595	717	856	935
Washington County	477	515	615	763	879

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

Food Maximums

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. Through October 1, 2006, those amounts are:

Number in Household	Weekly Maximum	Monthly Maximum
1	35.35	152
2	64.65	278
3	92.79	399
4	117.67	506
5	139.77	601
6	167.91	722
7	185.58	798
8	212.09	912

Note: For each additional person add \$114 per month.

Appendix C

Effective: 10/01/05-10/1/06

GA Housing Maximums (Heated & Unheated Rents)

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

Non-Metropolitan FMR Areas

<u>Aroostook County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		59	253	69	301
1		67	289	81	371
2		84	363	103	445
3		108	465	132	580
4		121	521	150	624
<u>Franklin County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		80	342	91	390
1		82	351	96	413
2		96	412	116	499
3		113	485	138	595
4		149	642	180	775
<u>Hancock County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		88	380	98	423
1		99	425	112	482
2		110	474	129	553
3		162	695	185	794
4		162	695	185	794
<u>Kennebec County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		68	292	77	330
1		80	345	92	395
2		97	419	114	489
3		137	589	158	678
4		140	600	164	707

Appendix C

Effective: 10/01/05-10/1/06

Non-Metropolitan FMR Areas

<u>Knox County</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	80	344	89	382		
1	107	459	118	508		
2	117	503	133	572		
3	162	697	182	784		
4	184	790	208	896		
<u>Lincoln County</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	101	433	109	471		
1	104	448	116	497		
2	122	527	139	596		
3	147	632	167	719		
4	147	632	167	720		
<u>Oxford County</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	65	278	74	316		
1	87	375	99	425		
2	96	412	112	482		
3	131	562	151	651		
4	165	708	189	815		
<u>Piscataquis County</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	80	345	92	394		
1	88	377	103	442		
2	106	454	127	545		
3	135	581	162	695		
4	136	585	168	723		
<u>Somerset County</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	62	268	73	316		
1	77	329	91	391		
2	86	371	107	458		
3	128	551	154	661		
4	128	551	159	683		

Appendix C
Effective: 10/01/05-10/1/06

Non-Metropolitan FMR Areas

<u>Waldo County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		97	419	106	457
1		101	433	112	482
2		118	508	134	577
3		144	620	164	707
4		146	630	171	735
<u>Washington County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		79	340	89	383
1		81	347	94	404
2		92	397	111	476
3		115	493	138	592
4		118	507	146	627

Metropolitan FMR Areas

<u>Bangor HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		79	338	90	387
1		87	373	102	438
2		105	451	126	541
3		136	587	163	701
4		139	599	171	737
<u>Penobscot County HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		80	345	92	394
1		80	345	88	379
2		84	360	105	450
3		105	452	132	566
4		128	552	160	690
<u>Lewiston/Auburn MSA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		67	287	76	325
1		83	359	95	409
2		99	426	115	496
3		126	543	147	632
4		135	580	160	687

Appendix C
Effective: 10/01/05-10/1/06

Metropolitan FMR Areas

<u>Portland HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	121	521	130	559		
1	142	612	154	661		
2	183	789	199	858		
3	232	997	252	1084		
4	242	1040	266	1145		
<u>York/Kittery/S. Berwick HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	161	693	171	733		
1	161	693	170	733		
2	184	792	201	866		
3	276	1187	298	1280		
4	294	1265	320	1378		
<u>Cumberland County HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	91	393	100	431		
1	107	462	119	511		
2	137	591	153	660		
3	163	699	183	786		
4	210	904	235	1010		
<u>Sagadahoc County HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	114	491	123	528		
1	114	491	143	616		
2	127	546	173	742		
3	152	655	265	1140		
4	227	977	252	1082		
<u>York County HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	101	434	110	474		
1	101	434	112	483		
2	126	540	143	614		
3	149	639	170	732		
4	156	670	182	783		

GA MAXIMUMS SUMMARY SHEET
(Oct. 1, 2005-Oct. 1, 2006)

APPENDIX A
OVERALL MAXIMUMS

<u>County</u>	<u>Persons in Household</u>					
	1	2	3	4	5	6
<p>NOTE: For each additional person add \$75 per month.</p> <p>(The applicable figures from Appendix A, <i>once adopted</i>, should be inserted here.)</p>						

APPENDIX B
FOOD MAXIMUMS

<u>Number in Household</u>	<u>Weekly Maximum</u>	<u>Monthly Maximum</u>
1	35.35	152
2	64.65	278
3	92.79	399
4	117.67	506
5	139.77	601
6	167.91	722
7	185.58	798
8	212.09	912
<p>NOTE: For each additional person add \$114 per month.</p>		

APPENDIX C
HOUSING MAXIMUMS

<u>Number of Bedrooms</u>	<u>Unheated</u>		<u>Heated</u>	
	<u>Weekly</u>	<u>Monthly</u>	<u>Weekly</u>	<u>Monthly</u>
0				
1				
2				
3				
4				
<p>(The applicable figures from Appendix C, <i>once adopted</i>, should be inserted here.)</p>				

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UTILITIES

ELECTRIC

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

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

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.20	\$82.50
5	\$21.00	\$90.00
6	\$22.70	\$97.50

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

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

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$16.30	\$70.00
2	\$18.60	\$80.00
3	\$21.00	\$90.00
4	\$23.30	\$100.00
5	\$25.60	\$110.00
6	\$27.90	\$120.00

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

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

HEATING FUEL

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

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

PERSONAL CARE & HOUSEHOLD SUPPLIES

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$8.20	\$35.00
3-4	\$9.30	\$40.00
5-6	\$10.50	\$45.00
7-8	\$11.60	\$50.00

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

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

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

<u>Number of Children</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1	\$10.50	\$45.00
2	\$15.10	\$65.00
3	\$20.90	\$90.00
4	\$25.60	\$110.00

FOR MUNICIPAL USE ONLY

ARTICLE I

Statement of Policy

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

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

The general assistance program will place no unreasonable restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, religion, ~~disability, sexual orientation or disability or political affiliation.~~ The municipality is committed to including qualified individuals with disabilities, in municipal services, programs, and activities. As a result, the municipality will promote a GA program that when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. GA applicants with physical or mental disabilities that require a reasonable accommodation in order to access and/or utilize the municipal GA program are encouraged to provide the municipality with advance notice regarding the accommodation request.

~~The applicant or recipient will be informed of his/her his or her rights and responsibilities under the general assistance program.~~

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

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

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

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

ARTICLE II

Definitions

Section 2.1—Common Meaning of Words

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

Section 2.2—Special Definitions

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

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

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

-“Basic necessities” do not include:

- Phone bills
- Cable or satellite dish television
- Mail orders
- Vehicle payments
- Credit card debt
- Furniture
- Loan re-payments
- Cigarettes
- Alcohol
- Pet care costs
- Vacation costs
- Legal fees

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

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

Categorical Assistance. All state and federal income maintenance programs.

Claimant. A person who has requested a fair hearing.

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

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

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

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

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

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

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

Household. "Household" means an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The income of household members not legally liable ~~or otherwise responsible for supporting the household~~ shall be considered as available to the applicant only when there is a pooling of income (22 M.R.S.A. § 4301(6)).

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

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

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

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

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

4) Certain public benefit programs are specifically exempt from being counted as income for purposes of GA. These programs include:

- Food Stamps (7 USCS § 2017(b))
- Li-Heap (42 USCS § 8624)
- Family Development Accounts (22 M.R.S. § 3762)
- Americorp VISTA program benefits (42 USCS § 5044 (f))
- Property tax rebates issued under the Maine Residents Property Tax Program (~~so-~~
~~called~~AKA "Circuitbreaker" ~~p~~Program) (36 M.R.S.A. § 6216)
- Aspire Support Service Payments (10-144 CMR Chapter 323)

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

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

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

~~"Lump sum payment" means a one-time or typically nonrecurring sum of money issued to an applicant or recipient after an initial application. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the~~

~~applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a nonliquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. The term "conversion of a non-liquid resource to a liquid resource" refers, in general, to a settlement of an insurance claim filed as a result of damaged or destroyed property (22 M.R.S.A. § 4301(8-A)).~~

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

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

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

~~"Misconduct" means conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violations or disregard of standards of behavior which the employer has a right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his or her employer (26 M.R.S.A. § 1043(23)).~~

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

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

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

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

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

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

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

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

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

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

Resources. Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources; "available" and "potential". Potential resources are programs, services, non-liquid assets, or trusts that typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released.

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

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

The municipal GA administrator reserves the right to inform GA clients of services, commodities or facilities made available by private organizations or charities. Although GA applicants/recipients may be informed of the existence of a charitable resource and/or organization, GA eligibility shall not be based or conditioned on the use of a private charitable resource(s). ~~Available resources also include the services, commodities or facilities made available by private organizations when 1) the applicant voluntarily agrees to utilize such services, 2) the municipality has established a contractual relationship with the private organization to provide services or commodities when requested, 3) the municipality is able to secure the services or commodities needed by an applicant from the private organization for any consideration acceptable to both the organization and the municipality, or 4) the service is available and offered at no cost to the applicant, and deemed necessary by a physician, psychologist or other professional retraining or rehabilitation specialist. Charities may be considered private organizations which are available resources only if the charity places no unreasonable requirements on the applicant which are violative of the applicant's fundamental rights.~~

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

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

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

Work Requirements. Work requirements are those obligations the municipal administrator places on applicants for general assistance as directed and/or authorized by 22 M.R.S.A. § 4316-A to the extent such obligations ensure a continuing potential eligibility for general assistance when complied with, result in ineligibility when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, maintaining employment, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

ARTICLE III

Administrative Rules and Regulations

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

Section 3.1—Confidentiality of Information

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

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

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

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

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

Section 3.2—Maintenance of Records

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

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

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

- ~~the~~ household's applications;
- budget sheets;
- information concerning the types and amounts of assistance provided;
- narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's mathematical eligibility (i.e., deficit or unmet need, whichever is less);
- written decisions, ~~and any~~
- requests for fair hearings and the fair hearing authority decisions;
- ~~W~~workfare participation records
- ~~will also be recorded, as will any cash r~~epayments to the municipality;
- ~~The record may also include any~~ narrative writings documenting the need for general assistance, the results of home visits, collateral information, referrals, changes in status;
- client authorization(s) for the release of GA information and/or ~~the~~ reason(s) for the release of confidential information;
- adjustments in aid, and suspension or termination of eligibility.
- physician's documentation
- ~~When the applicant expresses intent to apply for Supplemental Security Income (SSI) or is required to apply for SSI, interim assistance reimbursement authorization forms and~~
- vendor forms ~~are to be kept.~~

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

Retention of Records. General assistance records shall be retained for a *minimum of three full years*. The three year period shall coincide with the State's fiscal year which begins July 1 and ends on the following June 30. Records may be destroyed after three years by one of the two preferred

methods of destruction for confidential records, i.e., supervised shredding, ~~or~~ burning or appropriate digital deletion/destruction process. In the event a client's records contain SSI reimbursement forms, the client's records should be maintained so that the municipality may seek reimbursement.

ARTICLE IV

Application Procedure

Section 4.1—Right to Apply

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

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

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

Applications Accepted; Posted Notice. Application forms will be available during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance and

the name of the administrator available to take emergency applications at all other times. In addition, the posted notice shall include the fact that the municipality must issue a written decision on all applications within 24 hours, and the ~~Department of Human Services'~~DHHS toll-free telephone numbers for reporting alleged violations or complaints. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator. In an emergency, however, the administrator or his or her designee will be available to accept applications for assistance whenever necessary (22 M.R.S.A. § 4304).

Section 4.2—Application Interview

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

Section 4.3—Contents of the Application

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

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

In the event an initial applicant is unable to provide identification records (e.g., Social Security card/number) because the record may have been lost, stolen or misplaced, the initial applicant may be provided a reasonable amount of time e.g., five working days, in order to obtain copies of identification records. Provided the initial applicant makes a good faith effort to obtain the item/record

sought, GA required to cure an immediate and/or emergency need shall not be withheld. In such cases the municipality may elect to provide only a prorated amount of GA e.g., five day's worth, while the applicant proceeds to obtain the required information.

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

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

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

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

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

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

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

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

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

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

- Income
- Resources
- Assets
- Household employment
- How the applicant has spent his or her income
- The names and addresses of any relatives legally liable for the applicant's support

- Any change in this information from a previous application that would affect his or her eligibility (22 M.R.S.A. §4309).

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

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

Section 4.6—Action on Applications

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

Content. The written decision will contain the following information:

- a) the type and amount of aid the applicant is being granted or the applicant's ineligibility;
- b) the period of eligibility if the applicant is eligible for assistance;

- c) the specific reasons for the decision;
- d) the applicant's right to a fair hearing; and
- e) the applicant's right to notify the ~~Department of Human Services~~ DHHS if he/she believes the municipality has acted illegally (22 M.R.S.A. § 4321).

Section 4.7—Withdrawal of an Application

An application is considered withdrawn if:

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

Section 4.8—Temporary Refusal to Accept Application

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

- a) ~~when~~ When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will only be accepted when ~~his/her~~ his or her conduct is under control.;
- b) If the administrator believes that an applicant's behavior presents a threat to the health or safety of the public or to a municipal employee, or if such behavior is violent, or if an applicant has engaged in abusive, disruptive or harassing behavior and has been required to leave on more than one occasion, then the applicant may be required to designate a third party to apply for assistance on his or her behalf and the applicant may be prohibited from entering the municipal building;
- ~~b)c)~~ when When a third person applies for assistance on behalf of the applicant. ~~T~~ That person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S.A. § 4308).

Section 4.9—Emergencies

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

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

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

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

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

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

b) the applicant submits documentation when possible, to verify ~~his/her~~his or her need. The administrator may contact at least one other person to confirm the applicant's statements about needing emergency assistance. No further assistance will be authorized until the applicant's eligibility is confirmed -(22 M.R.S.A. § 4310).

~~In addition, pursuant to 22 MRSA §4308 (2), the person requesting assistance shall provide evidence of income and resources for the applicable time period.~~

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

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

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

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

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

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

c) The administrator shall calculate all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic necessity or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance. ~~municipality is responsible for providing assistance. If another municipality was responsible, the Department will recover the amount due from the other municipality (22 M.R.S.A. §§ 4307(5), 4307(6)).~~

—d) From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.

—e) The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection (d), even when such a grant will not totally alleviate the emergency situation.

—~~ff~~) The administrator may waive this limitation on emergency assistance in life threatening situations or for ~~first-time~~initial applicants; that is, persons who have never before applied for general assistance.

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

Section 4.10—Residence

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

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

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

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

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

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

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

another municipality was responsible, the ~~Department~~DHHS will recover the amount due from the other municipality. (22 M.R.S.A. § § 4307(5), 4307(6)).

ARTICLE V

Eligibility Factors

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

Section 5.1—Initial Application

Initial Application. For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S.A. § ~~4316-A(1-A)~~¹⁰⁴³ (23)) (*see section 5.5 of this ordinance*). An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S.A. § 4308(1)).

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

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

Section 5.2—Eligibility for Categorical Assistance

Receipt of categorical assistance will not disqualify a person from receiving general assistance if the applicant is otherwise eligible. Benefits received from other assistance programs will be considered

as income when determining need, with the exception of Food Stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. § 2017 (b)).

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

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

Section 5.3—Personal Property

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

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

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

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

c) **Automobile Ownership.** Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment or for seeking employment, obtaining medical care, rehabilitation or training facilities, or if for any other reason the GA administrator determines reasonable ~~it is essential to for~~ the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than \$8000 may be required, with written, ~~30~~7-day notice, to make a good faith effort to trade that automobile ~~in to a reputable automobile dealer~~ for an automobile with a market value of less than \$8000. Any income received by the applicant by virtue of such a trade down must be used for ~~his/her~~his or her basic necessities. Failure to liquidate or trade down the excess value of any automobile asset can result in disqualification (22 M.R.S.A. § 4317).

The municipality will neither pay nor consider as necessary ~~expenses~~ any car payment or vehicle maintenance cost including insurance for which the applicant is responsible. However, provided the vehicle value is \$8000 or less and the applicant is utilizing the vehicle for any of the above mentioned reasons, the municipality in its discretion ~~shall~~may choose to not consider ~~reasonable~~ he-car payments, reasonable car insurance -and reasonable associated costs of maintenance as "misspent" income. General assistance for travel-related needs shall be computed in accordance with section 6.8(F)(6), (7) "*Work Related/Travel Expenses.*"

d) **Insurance.** Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may, at the discretion of the GA administrator, be considered as a tangible asset ~~.when an applicant has received assistance for 4 weeks or more after an application for assistance.~~

e) **Transfer of Property.** Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will issue. There will be a presumption that the applicant transferred ~~his/her~~his or her assets in order to be

eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of a good faith ~~, an arms-length~~ transaction.

Section 5.4—Ownership of Real Estate

a) **Principal Residence.** For purposes of General Assistance solely, the applicant's principal residence, including any adjoining land, is considered an exempt resource, even if temporarily unoccupied because of employment, job training, education, illness or disaster, provided there is demonstrated an intent to return. If the applicant owns land in excess of the minimum lot size for the zone or district in which the home is located, then that land may be considered a potential resource if:

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

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

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

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

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

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

Section 5.5—Work Requirement

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

Employment; Rehabilitation. All unemployed applicants and members of their households who are 16 years of age or older and who are not attending primary or secondary school full-time will be required to accept any suitable job offer and/or meet with job counselors, attend employment workshops and ~~or opportunity for~~ rehabilitative services, except as provided below (*see "Exemptions"*). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

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

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

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

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

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

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

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

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

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

Eligibility Regained. Persons who are disqualified for 120 days because they violated a work requirement may regain their eligibility *if and only* when they become employed or otherwise satisfy

the administrator that they are complying with the work requirement by fulfilling the work requirement or requirements they violated.

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

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

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

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

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

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

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

approved by the Department of Labor or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program operated under the control of the ~~Department of Human Services or~~ Department of Labor.

Section 5.6—Municipal Work Program

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

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

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

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

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

1) No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general

assistance, the value of which is calculated at a rate of *at least* the prevailing minimum wage under state or federal law at the time the workfare was performed.

- 2) No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs.
- 3) In no case shall eligible persons performing work under this subsection replace regular municipal employees.
- 4) In no case will work performed under this subsection interfere with an eligible person's:
 - a) existing employment;
 - b) ability to follow up on a bona fide job offer;
 - c) attendance at an interview for possible employment;
 - d) classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
 - e) classroom or on site participation in a training program which is approved by the Department of Labor or determined by the Department of Labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree-granting program administered by ~~operated under the control of the~~ Department of Human Services DHHS or the Department of Labor.
- 5) In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with ~~his/her~~ his or her regular employment would result in the person working more than 40 hours per week.
- 6) In no case will an eligible person be required to perform work beyond ~~his/her~~ his or her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309).

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

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

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

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

f) any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.

3) As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.

~~44) In addition to any disqualification penalty that may apply, the consequences of refusing to sign the consent form, to partially performing or completely failing to perform the workfare assignment, without just cause, or performing the entire workfare assignment below the average standards that job without just cause, will be the termination of the entire general assistance grant. Notice of the grant termination will be provided to the workfare participant in accordance with section 6.10 of this ordinance.~~

5) 4 If a portion ~~some~~ of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with section 6.10 of this ordinance.

65) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just cause reasons shall be reassigned or excused at the discretion of the GA administrator.

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

Disqualification. Any person who either willfully fails to perform or willfully performs below average standards the work assigned by the municipality, ~~without just cause~~, will be ineligible for assistance

for 120 days (22 M.R.S.A. § 4316-A(1)). As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient in writing that he/she is disqualified for 120 days starting from the last date of authorized assistance unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

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

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

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

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

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

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

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

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

Section 5.7—Use of Resources

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

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

- 1) the minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or
- 2) the minor has no living parent or the whereabouts of the both parents are unknown; or
- 3) no parent will permit the minor to live in the parent's home; or
- 4) the minor has lived apart from both parents for at least one year before the birth of any dependent child; or

- 5) the ~~Department of Human Services~~DHHS determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
- 6) the ~~Department of Human Services~~DHHS determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility (22 M.R.S.A. § 4309(4)).

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

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

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

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

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

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

Section 5.8—Period of Ineligibility

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

Work Requirement. Applicants/recipients who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility) (*see sections 5.5, 5.6*). ~~If an applicant/recipient is provided assistance and once having received and he GA Recipients who the recipient does~~ not comply with the work requirement ~~placed on him or her, associated with their grant of assistance the applicant/recipient and are disqualified before the period covered by the grant of assistance expires,~~ shall be disqualified for 120 days following the end of the period covered by the grant of assistance. ~~grant.~~

~~People who do not comply with a work requirement and are disqualified after the period covered by the grant of assistance expires will be disqualified for 120 days from the date of the written notice of ineligibility.~~ The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of ineligibility.

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

ARTICLE VI

Determination of Eligibility

Section 6.1—Recognition of Dignity and Rights

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

Section 6.2—Determination; Redetermination

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

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

Section 6.3—Verification

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

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

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

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

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

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

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

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

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

Overseer's responsibilities. In order to determine an applicant's eligibility for general assistance, the overseer first must seek information and documentation from the applicant. Once the applicant has presented the necessary information, the overseer is responsible for determining eligibility. The overseer will seek verification necessary to determine eligibility. In order to determine eligibility, the overseer may contact sources other than the applicant for verification only with the specific knowledge and consent of the applicant, except that the overseer may examine public records without the applicant's knowledge and consent.

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

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

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

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

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

~~**Applicant's Responsibility.** Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her his or her need, income, use of income, expenses, and any~~

~~changes in information previously reported on the application. The administrator will require documentation of the applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities that are reasonably obtainable. When documentation required by the overseer is unavailable the overseer must accept alternative available information. The recipient is responsible for notifying the administrator of any changes in his/herhis or her household or income that may affect his/herhis or her eligibility.~~

~~When determining an applicant's eligibility, the administrator will seek all necessary information first from the applicant. Information needed from other sources, with the exception of public records, will be gathered *only with the knowledge and consent of the applicant* (22 M.R.S.A. § 4309(1-B)).~~

~~Decision. If an applicant does not have the necessary information at the time of application, the administrator will give the applicant the opportunity to provide the information prior to the expiration of the 24 hour24-hour period within which the administrator must act on the application. Except when assistance is conditionally granted pursuant to this municipality's workfare-first policy (*see section 5.6*), if all the necessary information has been provided and the applicant is eligible, assistance will be granted. If the applicant does not provide the required information needed within the 24 hour24-hour period, and the administrator cannot determine the applicant's eligibility, the applicant will be denied assistance (in writing) for that reason (22 M.R.S.A. § 4309(1-B)).~~

~~Denial of Assistance. The administrator will not grant assistance to any applicant who refuses to supply necessary information and documentation concerning his/herhis or her needs, income and other resources, or who refuses to grant permission for the administrator to contact other persons to verify the information. If the administrator has attempted to verify the information but is unable to determine if the applicant is eligible because the applicant has refused to provide or allow the administrator to verify the necessary information, the applicant will be denied assistance until the necessary verification has been accomplished (22 M.R.S.A. § 4309(1-B)).~~

~~Right to Verify. It is the administrator's responsibility to determine and verify the eligibility of each applicant. The administrator may seek and verify information from all appropriate sources including, but not limited to: the Department of Human ServicesDHHS and any other department of the state having information that has a bearing on an applicant's eligibility, financial institutions, employers,~~

~~landlords, physicians, persons with whom he or she is a cohabitant, and legally liable relatives. The administrator will request the applicant's written consent authorizing the administrator to receive the necessary information (22 M.R.S.A. § 4314).~~

Section 6.4—Fraud

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

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

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

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

The notification of ineligibility issued by the administrator shall inform the applicant of ~~his/her~~ his or her right to appeal the administrator's decision to the fair hearing authority (FHA) within 5 working days of receipt. The period of ineligibility shall commence on the day following the end of the period covered

by the grant of assistance fraudulently received or upon the date of notification of ineligibility, whichever is later.

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

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

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

Section 6.5—Period of Eligibility

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

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

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

Section 6.6—Determination of Need

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

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

Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity ~~listed in section 6.8~~ (see Appendixes A-H of this ordinance) shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S.A. § 4305(3-A)).

Income for Basic Necessities. Applicants are *required* to use their income for *basic necessities*. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to an application for assistance on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income

for the purposes of computing eligibility (22 M.R.S.A. § 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities *will not* be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum level of assistance.

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

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

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

- | | |
|---|---|
| • <u>Internet services,</u> G | • <u>Paid</u> court fines paid, |
| • <u>eCable</u> television <u>or satellite</u> | • r <u>Repayments</u> of unsecured |
| <u>television,</u> | loans |
| • <u>eCellular phones,</u> | • <u>Legal fees</u> |
| • <u>eCigarettes/alcohol,</u> g | • <u>Late fees</u> and, |
| • <u>Gifts purchased,</u> e | • <u>eCredit card debt,</u> costs |
| • <u>Pet care costs</u> | associated with pet care, etc., |
| • <u>Costs of trips or vacations,</u> p | are not considered basic |

~~necessities and will not be
included in the budget~~

~~computation.~~

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

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

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

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

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

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

Section 6.7—Income

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

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

Exceptions will be made in emergency ~~situations which~~situations, which may necessitate that the maximum levels be exceeded (22 M.R.S.A. § 4308) (*see section 4.9 of this ordinance*). To calculate

weekly income and expenses, the administrator will use actual income received or actual anticipated income. ~~divide the applicants' monthly income and expenses by 4.3. use actual income received or actual anticipated income.~~

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

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

***Note:** Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will ~~not be considered available income and will be deducted~~ from an applicant's income (22 M.R.S.A. § 4301(7)).*

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

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

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

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

- Family Development Accounts (22 M.R.S. § 3762)
- Americorp VISTA program benefits (42 USCS § 5044 (f))
- Property tax rebates issued under the Maine Residents Property Tax Program (so-called "Circuitbreaker" program) (36 M.R.S.A. § 6216)

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

d) **Income from Other Sources.** Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.A. § 4301(7)).

e) **Earnings of a Son or Daughter.** Earned income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.

f) **Income from Household Members.** Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool or share their income and expenses as a family or intermingle their funds so as to provide support to one another.

g) **The Pooling or Non-Pooling of Income.** When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income (22 M.R.S.A. § 4301(12-A)).

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

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

h) **Lump Sum Income.**

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

~~In the case w~~Where a lump sum payment was received by a householdhousehold receives a lump sum payment at any time prior to the date of application for general assistance, the administrator will assess the need for prorating an applicant's eligibility for general assistance

according to the following criteria

(22 M.R.S.A. § 4301(7), (8-A)):

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

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

The household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance to meet an immediate need solely on the basis of the proration of a

lump sum payment. (22 MRSA § 4308)~~The dividend remaining after following the above guidelines represents the number of months from the receipt of the lump sum payment during which an income level equivalent to the maximum monthly allocation of general assistance for the household will be deemed available to that household. No proration of lump sum income can extend longer than 12 months from the date of application. Applicants who have been declared ineligible for reasons of lump sum proration will not be eligible for emergency general assistance during the period of proration unless additional eligibility can be established.~~

Section 6.8—Basic Necessities; Maximum Levels of Assistance

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

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

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

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

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

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

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

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

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

B) Housing. The administrator will provide assistance with rent or mortgage payments that are reasonable and/or -within the allowed maximum levels. ~~-below-~~[See Appendix C of this ordinance for](#)

the current year's housing maximums. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in ~~his/her~~his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed.

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

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

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

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

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

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

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

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

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

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

~~then the administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance.~~

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

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

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

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

increased because of an additional mortgage payment ~~or the imposition of interest.~~ This notice must include the same information that appeared on the original intent-to-file notice sent to the recipient.

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

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

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

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

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

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

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

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

-Applicants have the burden of providing evidence of their income and use of income for the applicable time period (22 M.R.S.A. § 4308(2)) (*see section 4.9 and 6.3*). The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

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

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

Non-Electric Utilities. The allowed amount for water and sewer utility service will be budgeted at a 30-day reasonable usage rate. ~~the actual 30-day cost for those services.~~

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

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

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

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

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

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

2) **Medical.** The municipality will pay for essential medical expenses, other than hospital bills (*see below*), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments, or services that are determined to be 'medically necessary' by a licensed physician. The municipality will grant assistance for medical services only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish ~~his/her~~his or her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential. Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

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

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

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

Any person who cannot pay ~~his/her~~his or her hospital bill must apply to the hospital for consideration under the *Hospital's Free Care Program* as provided in Title 22 M.R.S.A. § 396-F(1). Anyone who is

not eligible for the hospital's free care program may apply for general assistance. Applicants must apply for assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that they are not eligible for the hospital's free care program.

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

4) Dental. The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.

5) Eye Care. In order to be eligible to receive general assistance for eyeglasses, an applicant must have ~~his/her~~his or her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources and generally only at the Medicaid rate.

6) Telephone Charge payment for basic telephone e.g., Lifeline-service will only be allowed if a telephone is necessary for medical reasons as verified by a physician. At the discretion of the GA administrator, minimum/basic telephone services may be allowed for households with children, for households where job search or job related reasons exist and/or for any other reasons the administrator deems necessary.

67) Work-Related Expenses. In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include childcare costs, work clothes, supplies and transportation at the actual costs not to exceed the ordinance maximum (see Appendix G for this year's maximum mileage allotment). The applicant is required to provide documentation substantiating the costs and that the expenses were necessary. ~~\$.28 per mile, child care costs, work clothes and supplies. The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.~~

78) Travel Expenses. In determining need, necessary travel which is not work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. See Appendix G for the current rate at which such necessary travel will be budgeted. This rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc. ~~is \$.28/mile, and this rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.~~

89) Burials, Cremations. Under the circumstances and in accordance with the procedures and limitations described below (*see section 6.9*), the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons. . See Appendix H for the current maximums.

910) Capital Improvements. The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when:

- 1) the failure to do so would place the applicant(s) in emergency circumstances;
- 2) there are no other resources available to effect the capital repair; and

3) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation.

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

Section 6.9—Burials; Cremations

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

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

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

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will *not* be construed as an application for general

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

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

Consideration of the Financial Responsibility of Family Members. Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

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

Under these circumstances, each legally liable relative is considered to be responsible for his or her pro rata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit the aggregate of all pro rata

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

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

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

Burial Expenses. The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. See Appendix H for the ~~The~~ maximum levels of assistance granted for the purpose of burials. ~~amount of general assistance is \$1,125, with additional payments, where there is an actual cost, for:~~

- ~~(1) the wholesale cost of a cement liner if the cemetery by laws require one;~~
- ~~(2) the opening and closing of the grave site; and~~

~~(3) a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally-owned cemetery or in a cemetery under municipal control, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.~~

~~The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to: removal of the body from a local residence or institution; a secured death certificate or obituary; embalming; a minimum casket; a reasonable cost for necessary transportation; and other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.~~

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

~~The maximum amount of assistance granted for a cremation shall be \$785, with additional payments, where there is an actual cost, for a cremation lot in the least expensive section of the cemetery, a reasonable cost for a burial urn not to exceed \$50, and transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.~~

Section 6.10—Notice of Decision

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

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

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

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

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

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

ARTICLE VII

The Fair Hearing

Section 7.1—Right to a Fair Hearing

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

Section 7.2—Method of Obtaining a Fair Hearing

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

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

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

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

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

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

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

Section 7.3—The Fair Hearing Authority

The municipal officers will appoint a fair hearing authority (FHA) that will determine, based on all the evidence presented at the fair hearing, whether the claimant(s) were eligible to receive assistance at

the time they applied for GA. The FHA is charged with the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance.

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

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

Section 7.4—Fair Hearing Procedure

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

- a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, ~~his/her~~his or her agents, counsel and witnesses;
- b) be opened with a presentation of the issue by the fair hearing authority;
- c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;
- d) allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;
- e) give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses presented at the hearing; and examine all evidence presented at the hearing;
- f) result in a decision, based exclusively on evidence or testimony presented at the hearing; and

g) be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or ~~his/her~~his or her representative. The claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

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

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

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

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

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

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

Section 7.5—The Fair Hearing Decision

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

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

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

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

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

ARTICLE VIII

Recovery of Expenses

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

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

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

The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who *has applied for or is receiving Workers' Compensation*. Any general assistance applicant who has applied for or who is receiving Workers' Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he or she provides the required signature. The municipality shall also send a photocopy of that filing to the recipient's Worker's Compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the Workers' Compensation Board. The lien shall be enforced at the time any lump sum Workers' Compensation benefit is issued.

~~Offsetting Workfare Performed from Workers' Compensation Liens. The municipality shall "offset" the value of any workfare performed by a GA recipient, at a rate not less than minimum wage, from the recipient's Workers' Compensation Lien.~~

Recipients of SSI. All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the ~~Department of Human Services~~ DHHS that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317, and who refuses to sign the Interim Agreement SSI authorization form will be found ineligible to receive general assistance until he or she provides the required signature (22 M.R.S.A. § 4318).

Relatives. The spouse of an applicant, and the parents of any applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A. § 4319). In addition, grandchildren, children,

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

ARTICLE IX

Severability

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

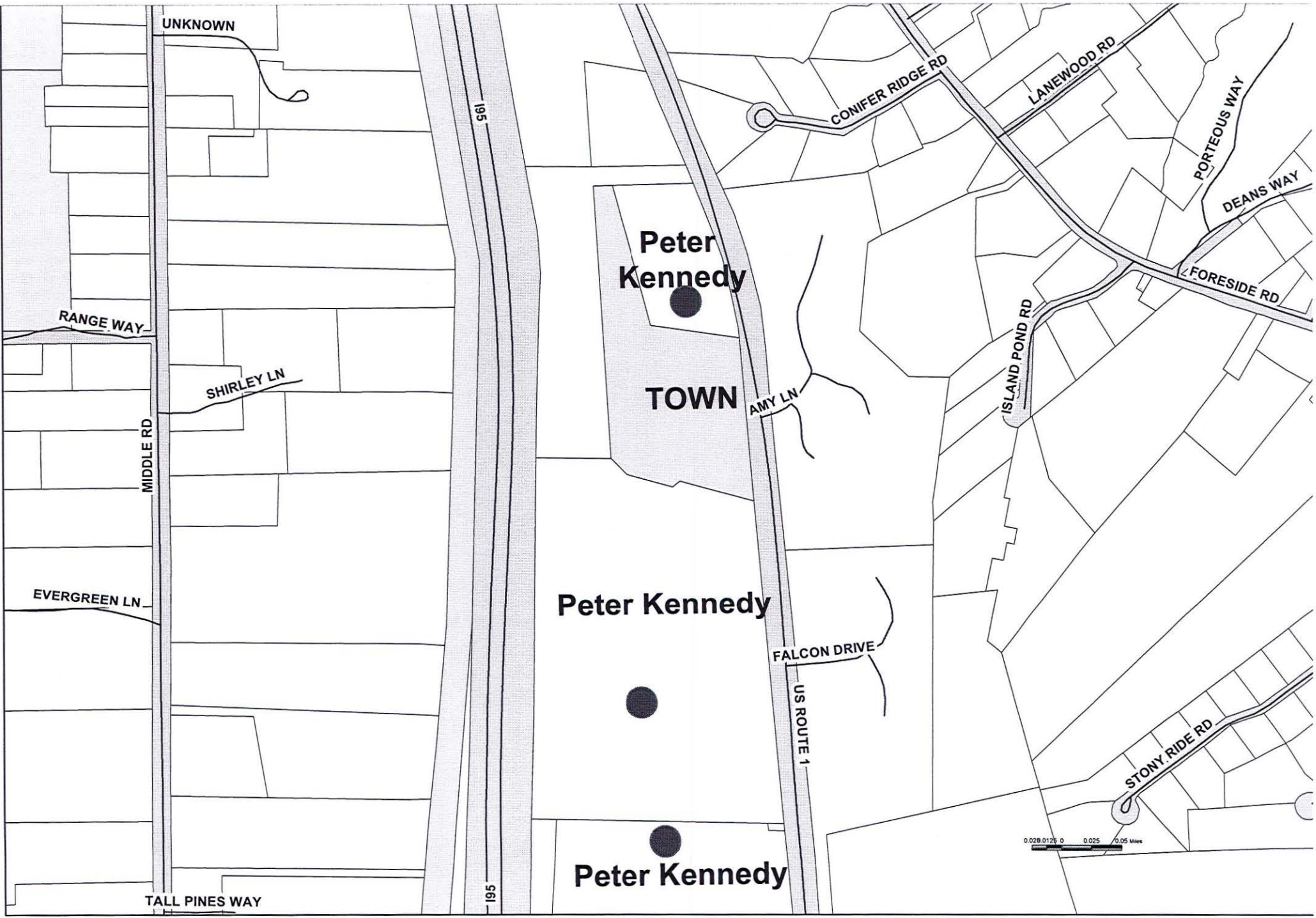
Item 05-178

Set a Public Hearing Date Peter Kennedy Contract Zone

Peter will be conveying the property and requests transfer of the Contract Zone Agreement to David Chase

The Transfer of the Contract Zone agreement is subject to you're approval.

Staff Recommends a November 14, 2005 Public Hearing Date



Kennedy Land- Contract Zone

Impact of Proposed Secession on Property Taxes, Cumberland and the Secession Territory

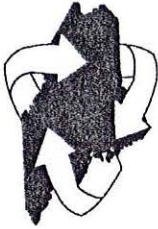
Pursuant to, and as required by, Maine Statute, Title 30-A, Chapter 113, Section 2171-C.2, the following constitutes the written report to be submitted at the initial public hearing that "... describes the impact of the proposed secession on property taxes in the municipality as well as in the secession territory."

Impacts on the Secession Territory are very simple to analyze; taxes will neither decline nor rise. This is an integral part of the underlying assumption by the five Secession Territory Representatives, as embodied in the proposed Town of Chebeague Island's Preliminary Budget, that there will be no immediate changes in the level of either taxation or provision of municipal and educational services.

Impacts on the municipality, the Town of Cumberland, are far more complicated to derive, especially as they are heavily contingent on calculations of the State's Essential Programs and Services (EPS) allocation/cost sharing formula for education. Analysis is made more difficult by Cumberland's involvement with SAD51, as the funding formula must be applied across two towns. A further obstacle has been the regrettable illness of the Department of Education's Jim Rier who has primary responsibility for calculating EPS funding. The analysis below is based on runs of the model received immediately prior to the initial public hearing, leaving insufficient time to analyze the results and prepare an impact statement. The results of the analysis performed between September 15 and October 18, 2005 are presented below. The analysis shows that Cumberland would receive a significant increase in state funding and an associated lower required town allocation under EPS because secession would dramatically reduce total town valuation while only slightly reducing the district's student population.

The analysis is based on DOE's EPS financial calculations, Chebeague Island municipal cost estimates as provided by Town Manager William Shane, and necessary elements of the proposed Town of Chebeague Island's Preliminary Budget (particularly school costs and debt service assumptions). The analysis assumes that SAD51 will remain a two-town district, would no longer financially support the Island School or transportation costs, and that Chebeague would tuition its secondary students in to the district. The resulting shares of the district budget's town allocations, based on valuation after secession, would be 72.7% for Cumberland and 27.3% for North Yarmouth.

The analysis does not include any favorable impacts on the Town of Cumberland that would be derived from municipal service contract agreements with the proposed Town of Chebeague Island.



Maine Recycles Week 2005

c/o Maine State Planning Office
38 State House Station
Augusta, ME 04333-0038
(p) 207-287-8053
www.recyclemaine.com

received
10/17/05

Dear Municipal Official,

In just about a month's time, November 8 to 15, 2005, the municipalities of the State of Maine will celebrate their recycling efforts in their communities. 2005 is the seventh year of Maine Recycles Week. Enclosed you will please find two posters that we ask that you please display in a prominent location.

We ask that you also take a moment to view the Maine Recycles Week page at our web site –

www.recyclemaine.com

Please use this time to draw attention to your recycling efforts.

- Involve businesses in promoting their recycling efforts and contributions to your community efforts.
- Encourage schools to enter their plans to recognize and draw attention to recycling in their community into competition with other schools. Posters are being sent to schools in your district and teachers are being encouraged to support efforts in your community.

Please remember that everyone wins when we recycle. Help us promote recycling and the purchase of products made from recycled materials. In the year 2005, we want to reach a statewide recycling goal of 50%. If we all chip in, we can reach this milestone. Our municipal offices, local businesses, and schools must work together to make this happen though. Please plan this year and every year to include recycling your every day routine and join the state in celebrating Maine Recycles Week.

We thank you for your support and efforts in recycling.

Sincerely,
The Maine Recycles Week 2005
Steering Committee

CHAPTER 1

H.P. 224 - L.D. 299

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Permit the Legislature To Allow the Current Use Valuation of Waterfront Land Used for or That Supports Commercial Fishing Activities

Constitutional amendment. Resolved: Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

Constitution, Art. IX, §8, sub-§2 is amended to read:

2. Assessment of certain lands based on current use; penalty on change to higher use. The Legislature shall have power to provide for the assessment of the following types of real estate whenever situated in accordance with a valuation based upon the current use thereof and in accordance with such conditions as the Legislature may enact:

- A. Farms and agricultural lands, timberlands and woodlands;
- B. Open space lands which are used for recreation or the enjoyment of scenic natural beauty; ~~and~~
- C. Lands used for game management or wildlife sanctuaries; and
- D. Waterfront land that is used for or that supports commercial fishing activities.

In implementing paragraphs A, B ~~and~~, C and D, the Legislature shall provide that any change of use higher than those set forth in paragraphs A, B ~~and~~, C and D, except when the

change is occasioned by a transfer resulting from the exercise or threatened exercise of the power of eminent domain, shall result in the imposition of a minimum penalty equal to the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest, upon such reasonable and equitable basis as the Legislature shall determine. Any statutory or constitutional penalty imposed as a result of a change of use, whether imposed before or after the approval of this subsection, shall be determined without regard to the presence of minerals, provided that, when payment of the penalty is made or demanded, whichever occurs first, there is in effect a state excise tax which applies or would apply to the mining of those minerals.

; and be it further

Constitutional referendum procedure; form of question; effective date. Resolved:

That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a statewide election, on the Tuesday following the first Monday of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

"Do you favor amending the Constitution of Maine to permit the Legislature to authorize waterfront land used for commercial fishing activities to be assessed based on the land's current use in a manner similar to treatment now available for farms, open space and forestland?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within the corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution of Maine on the date of the proclamation; and be it further

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purposes of this referendum.

Effective pending referendum.

Workshop

Working Waterfront

Question 7

C Hebeagwe Isimn



Campaign To Save Working Waterfront Jobs

Vote YES on Question 7!

To our friends in the town of Cumberland,

October 7th, 2005

We need your help.

OFFICERS

Patrice McCarron,
Chair
*Maine Lobstermen's
Assoc.*

Roger Berle, Treasurer
Maine Islands Coalition

Sebastian Belle
*Maine Aquaculture
Association*

Stephen Bowen
Representative

Merry Chapin
*Phippsburg School
Teacher*

Hugh Cowperthwaite
Coastal Enterprises, Inc.

Dennis Damon
Senator

Joey Donnelly
Sewall's Bridge Dock

Maggie Drummond
GrowSmart Maine

Richard Leigh
Harbor Hill

Jennifer Litteral
Island Institute

Leila Percy
Representative

Hannah Pingree
Representative

John Piotti
Maine Farms Project

Kevin Raye
Senator

Rob Snyder
Island Institute

Ethan Strimling
Senator

Susan Swanton
*Maine Marine Trade
Assoc.*

This November 8th, you can help save Maine's fishing heritage by working to ensure that **Maine votes YES on Question 7.**

One of the pressures on our fishing families today is the high tax on waterfront property. Lobstermen and fishermen up and down the coast are selling their property to out-of-state developers because they can't afford the taxes, which only make it harder for everyone else as access to open shoreline continues to disappear.

Question 7 will allow communities to assess property used for commercial fishing at its "current use," rather than its higher development value as the law now requires. It will help lower the tax burden on commercial fishermen and save hundreds of jobs by keeping our waterfront working.

Question 7 is about fairness. Currently, farmers and foresters have similar programs that allow their land to be valued and taxed at its "current use" rather than the value it would fetch if it were sold on the open market. These programs have kept Maine farms and woodlots in business, preserved open space, and allowed family-owned farms to be passed down to succeeding generations.

It's only fair that Maine's fishermen have the same option that's available to farmers and foresters. Otherwise, another major Maine industry – already under pressure from numerous threats – will continue to suffer and decline, and maybe disappear altogether.

That's why we need your help.

Here's what the people of Cumberland can do:

- Come on board! Add your name to the growing list of individuals and organizations that want to help **Save Working Waterfront Jobs in Maine!**
- Make a statement of public support.
- Send an email update on behalf of the campaign urging folks to Vote YES on 7 too!
- Send your friends, families and co-workers a postcard/letter/mail insert about Question 7. Or, let us mail them directly.
- Ask your citizens to follow your lead- give generously to the campaign so that we can get the word out. A YES vote on 7 will not only help preserve Maine's fishing heritage, it will save thousands of waterfront jobs!

This election year, we have the chance to do something good for Maine's fishing families, and for all of Maine. The fishing industry is very important to Maine's way of life, and we need to do all we can to keep it strong. Please join us and do your part to ensure that **Maine votes YES on Question 7.**

Patrice McCarron,
Chair, Campaign to Save Working Waterfront Jobs

- ❖ Maine's Working Waterfronts are a critical part of Maine's economy as well as its heritage.
- ❖ Voting YES on Question 7 will help protect some 39,000⁺ jobs that rely on access to Maine's working waterfront.
- ❖ These jobs provide \$750 million in state revenue, which is generated from private infrastructure in more than 149 coastal towns.
- ❖ Out of 5,300 total miles of Maine coastline, there are only 25 miles of working waterfront left. That's less than 1% of Maine's total coastline.
- ❖ Maine's working waterfronts should benefit from the same options that have helped preserve jobs in Maine's other natural resource based industries, such as farming and forestry.
- ❖ Adding Working Waterfronts to the list of options for 'current use' valuation would allow property owners to opt in to have their property taxes based upon the current use of the property, a rate that would be lower than the current valuation method of 'highest and best use.'
- ❖ Current property tax valuation of highest and best use can make the property taxes of Working Waterfront properties unaffordable for fishing families, forcing businesses and individuals to sell their property, often to out-of-state developers. When these properties are sold for development they are a lost Working Waterfront resource.
- ❖ Question 7 will provide tax relief to Maine's working waterfront, ensuring the continuation of multi-generation family ownership and commitment to this vital industry.
- ❖ The Campaign to Save Working Waterfront Jobs, YES on 7, has pulled together a diverse coalition of supportive organizations and individuals including:
 - Island Institute, Maine Citizen Leadership Fund, Maine Center for Economic Policy, Maine Municipal Association (Executive Committee voted unanimously to support Question 7), Appalachian Mountain Club, Greater York Region Chamber of Commerce, GrowSmart Maine, Bar Harbor Chamber of Commerce, Northwest Atlantic Marine Alliance, Coastal Enterprises Inc, Maine Islands Coalition, Maine Lobstermen's Association, Maine Aquaculture Association, Maine Marine Trade Association, Maine Coast Heritage Trust, Maine Harbormasters Association, State Senators Dennis Damon, Kevin Raye and Ethan Strimling, State Representatives Leila Percy, Hannah Pingree John Piotti and Steve Bowen, and many many more!

Portsmouth Herald - Editorial
10-5-2005

Help give Maine's fishing industry chance to survive

No one who lives on the southern Maine coast needs to be told about the skyrocketing cost of shoreline land. The ocean views that a generation ago could be enjoyed by those of modest means are now the purview only of those who can afford its hefty price tag. Moreover, towns, as is their right, tax waterfront land at a rate much higher than inland property. But an article on the Maine ballot Nov. 8 would give one kind of waterfront property owner a break from these taxes.

Commercial fishing businesses, which supply dockage and services to the state's lobstermen and fishermen, are currently being taxed on their potential as a condominium or waterfront estate. Question 7 on the ballot Nov. 8 would change the Maine Constitution to allow commercial fisheries to be taxed based on their business use

This makes good sense for an industry that is an integral thread in the fabric of Maine, and one that has been fraying significantly in recent years. Not unlike the farmer and the woodlot owner before him, who are now given this tax break, the commercial fisheries owner is being courted by developers throwing large sums of money in anticipation of getting one more wedge on the waterfront.

It's the law of supply and demand. Developers are only acting as they see fit, given the current desire for waterfront homes. And recently history shows this tactic is working, particularly in southern Maine. In York Harbor, for example, where once there were half a dozen commercial fishing docks, there is now one - and that's available only in the off-season.

York Harbor's example is extrapolated up and down the coast. Of the 3,500 miles of coastline in Maine, the working waterfront comprises only 25 miles, or less than 1 percent. Much of that is publicly owned, like Town Dock 1 in York Harbor, maintained by the town. Thus, the commercial docks are an increasingly rare commodity.

The proposed constitutional amendment does not preclude commercial fisheries from being taxed. It provides the mechanism to make the tax more equitable, so that these small-business owners have a chance to continue plying their trade. They should not be penalized for running a business that just happens to vie for space with higher-priced uses such as condominiums.

We are not alone in supporting this question. The Maine Municipal Association, which advises towns and cities throughout the state on matters including property tax structure, has endorsed Question 7. Its executive committee, in making its decision, cited the fact that farmland and forests already receive such tax protection, and commercial fisheries in the committee's estimation fall into that protected category.

Listen to the voice of Tom Flannagan, owner of Seaview Lobster Co. in Kittery: "Our taxes right now are extremely high. Commercial fishing is part of the culture and an important economic element in New England. If we get priced out, the industry would be in big trouble."

Listen to the voice of York lobsterman Mark Sewall: "A lot of people are struggling just to hang on to working waterfront. The problem is now. A lot of harbors, what used to occupy several docks goes down to one or two. They're going into other uses from which they can't return. There's not a lot left to save down this way. The further east you go, there's still time to save some of those properties."

When Maine voters head to the polls Nov. 8, we urge them to vote yes on Question 7.

It's only fair.

- Portsmouth Herald

CHAPTER 1

H.P. 224 - L.D. 299

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Permit the Legislature To Allow the Current Use Valuation of Waterfront Land Used for or That Supports Commercial Fishing Activities

Constitutional amendment. Resolved: Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

Constitution, Art. IX, §8, sub-§2 is amended to read:

2. Assessment of certain lands based on current use; penalty on change to higher use. The Legislature shall have power to provide for the assessment of the following types of real estate whenever situated in accordance with a valuation based upon the current use thereof and in accordance with such conditions as the Legislature may enact:

- A. Farms and agricultural lands, timberlands and woodlands;
- B. Open space lands which are used for recreation or the enjoyment of scenic natural beauty; ~~and~~
- C. Lands used for game management or wildlife sanctuaries; and
- D. Waterfront land that is used for or that supports commercial fishing activities.

In implementing paragraphs A, B ~~and~~, C and D, the Legislature shall provide that any change of use higher than those set forth in paragraphs A, B ~~and~~, C and D, except when the

change is occasioned by a transfer resulting from the exercise or threatened exercise of the power of eminent domain, shall result in the imposition of a minimum penalty equal to the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest, upon such reasonable and equitable basis as the Legislature shall determine. Any statutory or constitutional penalty imposed as a result of a change of use, whether imposed before or after the approval of this subsection, shall be determined without regard to the presence of minerals, provided that, when payment of the penalty is made or demanded, whichever occurs first, there is in effect a state excise tax which applies or would apply to the mining of those minerals.

; and be it further

Constitutional referendum procedure; form of question; effective date. Resolved:

That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a statewide election, on the Tuesday following the first Monday of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

"Do you favor amending the Constitution of Maine to permit the Legislature to authorize waterfront land used for commercial fishing activities to be assessed based on the land's current use in a manner similar to treatment now available for farms, open space and forestland?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within the corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution of Maine on the date of the proclamation; and be it further

Secretary of State shall prepare ballots. Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purposes of this referendum.

Effective pending referendum.



MEMORANDUM CODE ENFORCEMENT OFFICE

To: Town of Cumberland Council
From: William C. Longley Jr. CEO
Subject: Copp Property update
Date: 10-20-05
CC: William Shane, Town Manager
Nadeen Daniels, Clerk

On this date Bill Shane and I conducted inspections of the Copp Properties

1st - Bert and Virginia Copp: This property was substantially cleaned up however still does require additional time to complete the process. We discussed with Virginia Copp and Clayton Copp some of the options: Build a building, seek a permit for "auto graveyard" and the classification of some of the vehicles as a "Hobbyist". It was agreed that small junk parts would be cleaned up over the next 30 days or so and other vehicles can be inventoried and classified later.

2nd Copp heir property: this property is adjacent to the previous parcel and all of the above apply.

3rd Virginia Copp: This property is located off Upper Methodist Road and is the same location as Copp Movers does business. Clayton Copp conducted this tour while I had not been to the property (other than from the road) it also was substantially cleaned up with a new organization that seemed to impress Bill Shane whom had visited the property in the last year. We discussed the items used as part of the business and came to agreement that those are not the subject of the Town's action. We also discussed a general plan to clean up as much small junk as possible over the next 30 days or so. We also discussed the ongoing removal of vehicles and associated parts over a longer period of time so long as progress is being made.

I recommend a re-inspection on or about 11-10-05 to assess that progress is still being made.

CODE ENFORCEMENT

MOTIONS

05 – 172. I move to accept Thomas Drive as a town road and public right-of-way.

05 – 173. I move to accept a public easement on each of the following roads:

**Rock Ridge Run
Russell Road
Lake Road
Windy Hollow Way**

Island Pond Road	Coveside Road
Starboard Lane	Spruce Lane
Forest Avenue	Laurel Lane
Island Avenue (Lake Avenue-Hillside)	

Conditional upon:

- 1) The Easement Deed is in the format approved by the Town Attorney (attached)
- 2) Certification by the Applicant's Attorney that each owner has the authority to convey the easement
- 3) Any identified road defects repaired
- 4) Designation of a primary contact person for the Town
- 5) Designation and inclusion in the easement of a turnaround for winter maintenance vehicles

05 – 174. No action necessary.

05 – 175. I move to authorize an amendment to the Town of Cumberland Traffic Ordinance, Article VII, Section 7-3A, and authorize the Town Manager to place stop signs at the intersection of Highland Road and Old Gray Road.

05 – 176. I move to authorize the Town Manager to solicit and accept bids and to authorize a Release Deed for the sale of tax-acquired property located on Route 100, a/k/a Map U 20, and Lot 57.

05 - 177. I move to adopt the revised MMA Model General Assistance Ordinance and Appendixes A through C for the period of October 1, 2005 through October 1, 2006.

05 – 178. I move to set a public hearing date of November 14, 2005 to consider and act on an amendment to the Contract Zone with Peter Kennedy.