

# Town of Wiscasset Ordinances



**November 2008 Edition**

Cost:	Resident	\$10.00
	Non-Resident	\$12.00
	Mailed	\$16.00

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This booklet includes: the Ordinances of the Town of Wiscasset; the Zoning Map for the Town of Wiscasset; and an index to the Ordinances.

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## ARTICLE I - TOWN OFFICIALS

### 1. GENERAL GOVERNMENT

- 1.1 The provisions of 30-A MRSA Section 2528, as heretofore accepted by the Town shall govern the election of Town officers, and the following officers shall be elected by secret ballot: five people to be Selectmen, Assessors and Overseers of the Poor, who shall serve terms of two years, with two Selectmen to be elected in odd years and three in even years; a member(s) of the Superintending School Committee, who shall serve for three years, and the members of the Budget Committee who shall be elected for three years. [3-46, 3-48, 1-52, 2-53, 3-76, 3-81, 11-02, 06-04, 01-05]
- 1.2 In accordance with MRSA 30-A section 2631 et seq. the Selectmen shall hire a Town Manager to conduct the Town's business. [11-02]
- 1.3 Effective as of the 2003 Annual Town Meeting until the Town votes otherwise, the Town Manager shall annually appoint the following: Town Clerk, Town Treasurer, Tax Collector, and Excise Tax Collector. [11-02, 06-04, 01-05, 6-05]
- 1.4 Robert's Rules of Order shall govern all meetings except when in conflict with these Ordinances or unless alternative procedures have been established. [3-97]
- 1.5 The Town may disburse money only on the authority of a warrant drawn for the purpose and which has been (1) affirmatively voted and signed by a majority of the Selectmen at a duly called public meeting, (2) seen and signed by a majority of Selectmen acting individually and separately, or (3) signed as otherwise provided by law for the disbursement of employees' wages and benefits and/or payment of municipal education costs. [3-04]

### 2. BUDGET COMMITTEE

The Town shall have a Budget Committee. Its By-laws are as follows: [3-46, 3-65]

- 2.1 The Wiscasset Budget Committee (hereinafter "the Committee") shall be composed of nine members who are residents of Wiscasset, each serving a three year term, three of whom shall be elected each year. In the event of a vacancy in the membership or if any member of the Committee during his term of office shall die, become incapacitated, resign, cease to be a resident of Wiscasset, or fail to serve, such failure to be determined by decision of the Board of Selectmen upon report of 4 members of the Committee, the Selectmen shall promptly appoint a person to serve until the next Annual Town Meeting, and the vacancy shall then be filled by election of a candidate for the remainder of the term. [3-77]

- 2.2 The Committee shall convene at a convenient and public place within two weeks following the Annual Town Meeting to elect its Chairman and Clerk. The Committee shall hold public meetings from time to time to conduct business. [3-77, 6-80, 3-98, 6-07]
- 2.3 The Chairman shall preside at all meetings of the Committee when he is in attendance, and he shall convene the Committee by notice through the Clerk to all members as to the time and place of meeting. A special meeting of the Committee shall convene upon request of any 4 members of the Committee or by the Board of Selectmen in case of an emergency provided that 3 days notice is given to all other members as to the time and place of such special meeting. The chairman shall appoint such subcommittees and sub-committee chairmen as the Budget Committee may, from time to time, approve. Every such sub-committee shall expire no later than the conclusion of the next Annual Town Meeting following its approval. The Chairman shall be entitled to vote as any other member of the Committee. [3-77, 6-80]
- 2.4 The Clerk shall record the actions taken by the Committee at each meeting and shall duly notify each member as to the time and place of each meeting convened by the Chairman. In absence of the Chairman at any meeting, the Clerk shall either serve as the Chairman or shall appoint a Chairman *pro tem* from members in attendance. [3-77]
- 2.5 In the event of a vacancy in the office of Chairman or Clerk, the Committee shall elect a successor from among its members for the remainder of the term of office vacated. In the absence of both the Chairman and the Clerk, the members attending any meeting shall elect a Chairman and a Clerk, *pro tem*, from the members in attendance. [3-77]
- 2.6 Five members in attendance shall constitute a quorum at any meeting of the Committee, and no official action can be taken without a quorum being then present. In the event of one or more vacancies in the Committee membership, 4 members shall constitute a quorum. Proxies for attendance or voting shall not be accepted. In the event of a tie vote, the motion voted upon shall be deemed not to have passed. [3-77]
- 2.7 The Committee shall meet with the Selectmen at least once in every year on or before April 15, in order to determine the adequacy of appropriated funds and other revenues for current year departmental operations. [3-77, 6-07]
- 2.8 The Committee shall inquire into and consider every article to be submitted before any annual or special town meeting which provides for the borrowing, raising, transferring, and/or appropriation of any sum of money and shall make its recommendation to the town in regard thereto or shall report specific reasons for making no recommendation. The Board of Selectmen shall provide a copy of any warrant dealing with borrowing, raising, transferring and/or appropriation of any

sum of money at least ten business days before the day of posting for any town meeting to the Chairman or Clerk of the Committee. [3-77, 3-78, 6-80, 3-98, 6-07]

- 2.9 These by-laws may be amended by the town at any annual town meeting. [3-77, 3-78, 6-80]

### 3. BUILDING INSPECTOR

- 3.1 The Town shall have a Building Inspector who shall be appointed by the Selectmen as mandated by State Law. [3-86, 3-02]
- 3.2 The Building Inspector shall file a copy of Building Permits issued with the Planning Board and the Clerk's office within seven working days of granting the permit, and shall retain a copy of the permit for his own records. [3-86, 3-02]
- 3.3 The Inspector shall examine all buildings in the course of erection or alteration or repair as required by and for the purposes set forth in 25 MRSA Sections 2531 - 2361 and 30-A MRSA Sections 4101 - 4104 and shall make a record of all violations of this law and of any of the provisions of these ordinances with the street and location where such violations are found with the name of the owner, and/or builder and architect and all other matters relating thereto and shall make immediate report to the Selectmen. [3-46, 3-02]

### 4. PLANNING BOARD

- 4.1 Pursuant to MRSA Const. Art. VIII-A and 30-A MRSA Sec. 3001, the Town of Wiscasset, Maine, hereby establishes the Wiscasset Planning Board. [3-75]

#### 4.2 APPOINTMENT AND DISMISSAL

- 4.2.1 Appointments to the Board shall be made by the Selectmen.
- 4.2.2 The Board shall consist of nine (9) members. [3-99, 3-01]
- 4.2.3 The term of each member shall be three (3) years. [3-99]
- 4.2.4 When there is a vacancy, the Selectmen shall within 30 days of its occurrence appoint a person to serve for the unexpired term.
- 4.2.5 Neither a Municipal Officer nor his or her spouse may serve as a member.
- 4.2.6 Not more than one (1) non-resident of the Town of Wiscasset may serve as a member.



- 4.2.7 A member of the Board may be dismissed for cause by the Selectmen upon written notice of charges and after public hearing. Seven days' notice of said hearing shall be given to the person so dismissed.

#### 4.3 OFFICERS AND TERMS OF OFFICE

- 4.3.1 The Board shall elect a Chairperson and a Secretary from among its members and a Recording Secretary who need not be a member, and create and fill such other offices as it may determine. The term of all offices shall be one (1) year, or until a successor is elected, with eligibility for re-election. [3-99]
- 4.3.2 Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.
- 4.3.3 The chairperson shall call at least one regular meeting of the Board each month. Special meetings may be called with 3 days' notice to members.
- 4.3.4 No action of the Board shall be taken without a quorum consisting of five (5) members.
- 4.3.5 The Board shall adopt all internal rules for transaction of business, and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public, and may be inspected at reasonable times.

#### 4.4 DUTIES AND POWERS [3-99]

- 4.4.1 The Board shall perform such duties and exercise such powers as provided by Wiscasset ordinance and the laws of the State of Maine.
- 4.4.2 The Board may obtain goods and services necessary to its proper function within the limits of appropriations made for this purpose.
- 4.4.3 The Board shall have power to establish by rules and regulations procedural requirements related to duties imposed upon it by Section 4.4.2 of this ordinance. The public shall be given an opportunity to review such rules and regulations at a public hearing held with seven (7) days' notice prior to the establishment of such rules and regulations.
- 4.4.4 In the absence of the Chairman, an Acting Chairman will be elected by a majority vote of the members of the Planning Board in attendance. The Acting Chairman will preside over business of the Planning Board with the full authority of the Chairman. [3-81]

- 4.4.5 In the absence of the Board Secretary, the Chairman or Acting Chairman will appoint a member of the Planning Board, in attendance, to act as Acting Secretary. The Acting Secretary will make a record of all business coming before the Planning Board and cause such to be distributed in the manner described below: [3-81]
- 4.4.6 The minutes of all business coming before the Planning Board shall be recorded by the Secretary or Acting Secretary and shall be distributed in the manner described below: Planning Board members, Selectmen, Town Engineer, Plumbing and Building Inspectors, Planning Board File, and others including but not limited to Local Newspapers, parties affected by Planning Board decisions, parties under contract to the Town or Planning Board, interested Town officials, Code Enforcement Officer and others affected by Planning Board decisions or requesting copies of Planning Board Minutes. [3-81]
- 4.4.7 Applications for Planning Board action shall be on such form(s) or in such form as required by the Planning Board or applicable ordinance. [3-81, 3-01]
- 4.5 An appeal may be taken with 30 days after a decision is rendered to the Board of Appeals from any order, relief, or denial issued by the Planning Board.
- 4.6 The invalidity of any section or provision of the ordinance shall not invalidate any other section or provision hereof.
- 5. BOARD OF APPEALS [3-99]
  - 5.1 ESTABLISHMENT

Pursuant to MRSA Const Art VIII-A Sections 3001 and 2691 the Town of Wiscasset, Maine, hereby establishes the Wiscasset Board of Appeals. [3-75,3-99]
  - 5.2 APPOINTMENT AND COMPOSITION
    - 5.2.1 The Board of Appeals shall be appointed by the Board of Selectmen and shall consist of five (5) members and two (2) alternate members, all of whom shall be legal residents of Wiscasset serving staggered terms of three (3) years. Alternate members shall attend all meetings. The Board shall elect annually a Chairperson and Secretary from its membership. The Secretary shall keep the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum shall consist of four (4) members. [3-75, 3-86, 3-99]

5.2.2 Neither a Municipal Officer nor his or her spouse may serve as a member or alternate member.

5.2.3 Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

5.2.4 A member of the Board may be dismissed for cause by the Selectmen.

### 5.3 POWERS AND DUTIES

#### 5.3.1 APPEALS

The Board of Appeals shall have the power to hear any appeal by any person with legal standing from any decision, order, rule or failure to act by the Planning Board, the Sign Control Officer, the Building Inspector, the Plumbing Inspector, the Electrical Inspector, the Harbor Master, or the Health Officer. However, the Board of Appeals shall not have authority to hear an appeal pertaining to enforcement or non-enforcement of a law or ordinance; any such appeal shall instead be directly to Superior Court. The Board of Appeals shall also hear any appeal where a Statute so directs. Any action or failure to act of any of the above may be modified or reversed by the Board of Appeals by concurring vote of at least four (4) members of the Board.

#### 5.3.2 VARIANCE REQUESTS

- a. The Board of Appeals may grant a variance only when strict application of Wiscasset ordinances would cause undue hardship. A financial hardship shall not constitute grounds for granting a variance.
- b. Undue Hardship as used herein shall mean:
  - That the land in question cannot yield a reasonable return unless a variance is granted; and,
  - That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
  - That the granting of a variance will not alter the essential character of the locality; and
  - That the hardship is not the result of action taken by the applicant or a prior owner. [3-81]

- c. When considering a request for a variance from any zoning ordinance, a variance is authorized only for height, area, and size of structure or size of yards or open places. Establishment or expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining Zoning Districts. The Board of Appeals shall grant a variance only by concurring vote of at least four (4) members and in so doing, may prescribe conditions and safeguards as are appropriate under this Ordinance.

#### 5.3.3 DISABILITY VARIANCE [3-97]

The Board of Appeals may grant a variance to an owner of a dwelling for the purpose of making that property accessible to a person with a disability who resides in or regularly uses the dwelling. Such variance shall be limited to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability.

The following conditions shall be met:

- the access structure is necessary to create an accessible route; and
- the access structure cannot be reasonably created without infringing on the standards otherwise established in these ordinances; and
- the design of the access structure conforms to the ADA Accessibility Guidelines; and
- the design of the access structure minimizes encroachment on or other variation to the standards otherwise established in these ordinances.

For purposes of this subsection, a disability has the same meaning as a physical or mental handicap under 5 MRSA Section 4553 as it may be amended, and the term ‘structures necessary for access to or egress from the dwelling’ is defined to include railing, wall, or roof systems necessary for the safety or effectiveness of the structure.

- 5.3.4 Variances may be issued by a community for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a state inventory of historic places, without regard to the procedures set forth in Section 5.3.2. [3-01]

#### 5.4 APPEAL PROCEDURE

- 5.4.1 In all cases, an aggrieved person shall commence his appeal within 30 days after proper notice of a decision. The appeal shall be filed with the

Board of Appeals on forms approved by the Board, and the aggrieved person shall specifically set forth on the form the grounds for the appeal.

- 5.4.2 Following the filing of an appeal, and before taking action on any appeal, the Board of Appeals shall hold a public hearing on the appeal within 30 days. The Board of Appeals shall notify the appellant and the board or person whose action or non-action is being appealed at least 10 days in advance of the time and place of the hearing, and shall publish notice of the hearing at least 10 days in advance in a newspaper of general circulation in the area. [3-97, 3-99]
- 5.4.3 The Board may provide, by regulation, which shall be recorded by the secretary, for any matter relating to the conduct of any hearing, providing that the chair may waive any regulation upon good cause shown.
- 5.4.4 The board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party has the right to present the party's case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct any cross-examination through the chair that is required for a full and true disclosure of the facts.
- 5.4.5 The board may reconsider any decision reached under this section within 30 days of its prior decision. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 30 days of the vote on the original decision.
- 5.4.6 Any party may take an appeal, within 45 days of the date of the vote on the original decision to Superior Court from any order of relief or denial in accordance with the Maine Rules of Civil Procedure Rule 80-B.

## 5.5 VARIANCE PROCEDURE

- 5.5.1. In requests for variances, the Board of Appeals shall notify by first class mail the appellant and owners of all property within 500 feet of the property involved at least 10 days in advance of the hearing, of the nature of the request and of the time and place of the public hearing. For the purpose of this section, abutting properties shall include properties directly across a street or water body from the property for which the appeal is made. [3-97, 3-99]
- 5.5.2 The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.

- 5.5.3 At any hearing, a party may be represented by an agent or attorney. Hearings shall not be continued to other times except for good cause. A letter authorizing an agent or attorney to speak or act for the party must be submitted prior to the hearing. [3-99]
- 5.5.4 Within 20 days of the public hearing, the Board of Appeals shall reach a decision on a request for a variance and shall inform, in writing, the appellant, and the appropriate Officer, Agency, Board or other body of the municipality of its decision and its reasons therefore.
- 5.5.5 A variance granted under the provision of this Ordinance by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one year of the date on which the appeal is granted, and if the work or change is not substantially completed within two years.

## 5.6 SEVERABILITY

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision hereof.

## 6. FIRE DEPARTMENT

- 6.1 The Selectmen shall maintain the fire department in Wiscasset, consisting of a Chief, a First Assistant Chief, a Second Assistant Chief, and as many members as they deem necessary. They shall have general control of the firehouse. [3-46]
- 6.2 The Selectmen shall determine the salary of the Chief, Assistant Chief, and the compensation of the members of the department shall be fixed in the Annual Town Meeting, unless the voters otherwise direct. [3-46]
- 6.3 The Selectmen, at their first meeting following the Annual Town Meeting, shall appoint a Chief who shall hold office during their pleasure, not exceeding one year, from April 1st following date of appointment. [3-46]
- 6.4 The Chief of the Fire Department shall have full and complete charge of the men and equipment of the department; he shall further have all the authority of Fire Wards and Fire Inspectors under 25 MRSA Sections 2391-2401. He shall appoint the Assistant Chief who shall serve during his pleasure. If the Office of Chief shall become vacant for any cause, the First Assistant Chief shall become acting chief until the appointment of a new Chief. He shall give the Selectmen each year a report of the work of the Department with a complete inventory of the equipment together with his recommendations. [3-46]
- 6.5 The Fire Chief shall examine all buildings reported dangerous or damaged by fire or accident and make a record of such examinations stating the nature and amount of such damage, the name of the street and the number or location of the building,

with the names of the owner and occupant, and the purpose for which it is occupied, and in case of fire, the probable cause thereof, shall examine all buildings for which applications have been made for permits to raise, enlarge, alter, build upon or tear down and make a record of such examinations and report to the Selectmen. The records required by this section shall always be open to the officers of the Fire Department or any officer of the town and to any other parties, the value of whose property may be affected by the matters to which such records relate. [3-46, 3-02]

- 6.6 It shall be the duty of the Fire Chief to examine premises where fire is at any time used and where danger is apprehended there from to examine all places where ashes may be collected or deposited and to direct such alterations, repairs or removal to be made in such cases as may be required if in his opinion he may consider it dangerous to the security of the village from fire. And in case of the neglect or refusal of the owner or occupant of such building to make or commence to make such alterations, repairs or removals within forty eight hours after notice, the Fire Chief may cause the same to be done at the expense of said owner or occupant. [3-46, 3-02]

## 7. AIRPORT COMMITTEE [3-98]

### 7.1 MEMBERSHIP

- 7.1.1 The Wiscasset Airport Committee (hereafter referred to as the Committee) shall consist of five members who shall be Wiscasset citizens.
- 7.1.2 Appointments to the Committee shall be made by the Selectmen.
- 7.1.3 The term of each member shall be three years, except the initial appointments, which shall be two for one year, two for two years and one for three years.
- 7.1.4 Members shall serve at the pleasure of the Selectmen.

### 7.2 ORGANIZATION

- 7.2.1 The Committee shall annually elect a Chairman and a Secretary from its membership.
- 7.2.2 The Chairman shall moderate the meetings and shall represent the membership as necessary unless another representative has been designated.
- 7.2.3 The Secretary shall keep the minutes, prepare correspondence as necessary, and maintain the Committee records in such place in the Town Office as the Selectmen or their staff shall designate.

7.2.4 A quorum shall consist of three members.

### 7.3 DUTIES

7.3.1 The Committee shall meet at least once a month to review general operations and conditions at the airport.

7.3.2 The Committee shall annually present a recommended operational budget for the airport to the Selectmen and Budget Committee.

7.3.3 The Committee shall from time to time make recommendations to the Selectmen regarding airport operations and conditions.

7.3.4 The Committee shall assume any other duties as directed by the Selectmen.

## 8. ORDINANCE REVIEW COMMITTEE [6-05]

### 8.1 PURPOSE

The purpose of the Ordinance Review Committee shall, at the request of the Selectmen, provide the Selectmen, Planning Board and Town Planner with advice and recommendations on existing ordinance revisions, ordinance amendments, ordinance adoptions, and rezoning applications. Issues that may be considered include land use, community planning, growth-related matters, general ordinance development, and other issues which may ultimately affect the quality of life for present and future residents of the area.

The objectives of the Committee are: 1) to provide an opportunity for public involvement in the community planning process, 2) to create an open process whereby the public are encouraged to participate, and 3) to provide peer review on general ordinance alterations and proposed land use change related matters.

### 8.2 DUTIES

8.2.1 All requests for proposed ordinance amendments, ordinance adoptions and rezoning applications shall be submitted to the Town Planner, except as noted in 8.2.3. The Town Planner shall notify the Selectmen and Planning Board of requests to amend Town ordinances.

8.2.2 The Committee shall develop, hear and consider representations for proposed ordinance amendments, adoptions and rezoning applications and will provide recommendations to the Selectmen and Planning Board.

8.2.3 The Committee shall also review and advise the Selectmen and Planning Board on existing ordinances and land use matters referred by the



Selectmen and Planning Board and may identify other areas for Selectmen and Planning Board consideration.

### 8.3 MEMBERSHIP

8.3.1 The Committee shall be comprised of six members who shall be Wiscasset citizens. The Committee shall be composed of 3 Planning Board Members, 2 at-large members, and 1 Comprehensive Plan Committee member or 1 additional at-large member.

8.3.2 Appointments to the Committee shall be made by the Selectmen. Membership shall be three-year staggered terms.

### 8.4 OPERATIONS

8.4.1 Meetings of the Committee shall be held as needed to address issues that arise or as referred by the Selectmen, Planning Board or Town Planner. An annual meeting shall be held in September of each year.

8.4.2 The Committee shall elect a Chairperson from its membership at its annual meeting in September.

8.4.3 The Chairperson shall preside, when present, at any Committee meeting and generally shall fulfill all of the duties usually performed by the Chairperson. In the absence of the Chairperson another member may be designated.

8.4.4 A quorum shall consist of four members.

## ARTICLE II - BUILDING LAWS

### 1. BUILDING PERMITS

#### 1.1 PERMITS ARE REQUIRED

1.1.1 Whoever intends to erect a building or structure, or locate a mobile home, or change the outside dimensions of a building or structure, make structural changes or repairs or do other work to a building or structure that requires compliance with specific state or federal codes or town ordinances, shall not begin until the Building Inspector has issued a building permit. The Building Inspector shall issue a building permit only if he has received a building permit application form stating the exact location, dimensions, height and other sufficiently detailed plans and specifications to enable him to determine that the proposed work will comply with applicable town ordinances and building codes and state and federal laws and building codes. Copies of all Building permits shall be on file at the Town Office in the Town Clerk's files and shall be available to the public during the clerk's working hours.[3-02]

1.1.2 No building permit is required for repairs, and/or maintenance, on existing buildings or structures such as, but not limited to: painting; replacement of rotten or weak wood or stonework, brickwork or masonry; replacement of doors or windows; replacement of siding or fire-resistant roofing; replacement of gutters, storm windows or blinds, so long as plumbing is not involved and no building permit is required pursuant to the immediately preceding paragraph. [6-86]

#### 1.2 PERMIT FEES [3-99]

1.2.1 The fees for building permits shall be calculated upon the fair market value of the structure to be placed or erected upon a lot, the fair market value of the mobile home to be placed upon a lot, or the fair market value of the improvement to be made to an existing structure. The fees for building permits shall be:

1.2.1.1 For new non-commercial structures containing one or more residential dwelling units, and for mobile homes containing a dwelling unit, \$100.00 for the first \$1,000.00 of fair market value or part thereof, and \$3.00 for each additional \$1,000.00 of fair market value.[03-03]

1.2.1.2 For new non-commercial structures that do not contain residential dwelling units, and for the expansion of existing non-commercial structures which either do or do not contain residential dwelling units, \$25.00 for the first \$1,000.00 of fair market value or part thereof, and \$3.00 for each additional \$1,000.00 of fair market value. [03-03]

1.2.1.3 For new commercial structures, and for the expansion of existing commercial structures, \$200.00 for the first \$1,000.00 of fair market value or part thereof, and \$3.00 for each additional \$1,000.00 of fair market value. [03-03]

1.2.1.4 If a building permit is obtained after construction has been started or after a structure has been placed upon a lot, the fee shall be as set forth in the preceding subsections PLUS an additional \$300.00.

1.2.2 The fees for plumbing permits shall be those as set by the appropriate State of Maine Department except that the minimum fee for a plumbing permit shall be \$30.00.

1.2.3 The fees for an electrical permit shall be \$25.00 for a new electrical service and \$0.50 for each new electrical outlet. When the work permitted requires a fee of less than \$20.00 the minimum fee shall be \$20.00. Any electrical work which requires a permit and is begun prior to issuance of a permit shall be subject to a fee two times the scheduled fee or \$100.00, which ever is greater. [03-03]

### 1.3 ADDITIONAL REGULATIONS

1.3.1 Advance notice of construction, land modification, waste disposal, underground tank installation or removal, or any other activities regulated by the State under the statutes and regulations listed below shall be made to the Building Inspector, who shall approve such activities on receipt of a copy of the State required permits, registrations, or licenses if Town Ordinances do not apply. If Town Ordinances do apply, necessary Town procedures and approvals shall also be required. [3-90, 3-02]

- \* Site Location Development Act (Title 38, MRSA Sections 481-490).
- \* Natural Resources Protection Act (Title 38, MRSA Sections 480 A-S).
- \* Underground Oil Storage Facilities and Groundwater Protection (Title 38, MRSA Sections 561-570G).
- \* Solid Waste Management Regulations (06-96 CMR Chapters 400-409).

Note: The above statutes and regulations include the latest rules adopted in due course by the appropriate agencies. Especially important are the rules and regulations pertaining to underground tanks, Maine Department of Protection regulation 006-096 Chapter 691 of 16 September 1991 and subsequent revisions as authorized by Title 38, MRSA Section 561 and following. [6-92, 3-02]

1.3.3 All building permits shall be void unless work thereunder is commenced within one year from the date of issue. A building permit is valid for one year and must be renewed by the Building Inspector at the end of one year at no additional cost to the applicant. [3-69, 6-86]

1.3.4 All building permits shall be displayed in a conspicuous place on the premises, and shall not be removed until all work covered by the permit has been approved. [3-69]

## 2. LOT SIZE AND SETBACK REQUIREMENTS

Throughout this section, whenever "mobile home" or "mobile home park" is referred to, also see 30-A MRSA 4358.

2.1 Except in the downtown Business District no single family dwelling unit or multiple family dwelling units shall be built or placed upon any lot with a ratio of less than 43,560 square feet (one acre) per dwelling unit or mobile home unit, except for Elderly Congregate Housing. [3-69, 3-70, 7-73, 6-83, 3-85, 3-86, 12-89, 3-90, 3-01, 3-02]

2.2 No structure situated on a lot will be within ten feet of the adjoining property lines except in the Village Waterfront District and in the downtown village portion of the Business District, Section EE.1 of Article VI. [6-83, 3-98]

2.3 Except in the downtown Business District each lot shall be provided with adequate off street parking. [6-83, 3-90, 3-02]

## 2.4 UNDERSIZED LOTS

2.4.1 A single lot of record, which on June 27, 1983 does not meet the area requirements, may be built upon provided that such a lot adheres to the Maine State Plumbing Code as far as sewage disposal is concerned. [3-70, 6-83, 3-00]

2.4.2 If two or more contiguous lots came into single ownership prior to June 27, 1983, and they continue to be owned by the same person or any of the same persons who owned them on June 27, 1983, then the person or any of the persons who owned them on June 27, 1983, may convey them or retain them in accordance with the original boundary lines notwithstanding that their division would create a lot or lots with dimensions of areas below the requirements of this Section. In order to qualify for the exemption provided for herein, the person or any of the persons who owned the contiguous lots on July 27, 1983 must have continued uninterruptedly to have owned them since June 27, 1983. [6-83, 3-90]

2.4.3 If two or more contiguous lots come into single ownership on or after June 27, 1983, and their subsequent division (whether along the original lot boundary lines or along new lines) would create any dimension or area below the requirements of

this Section, the lands involved shall be considered to be a single parcel for the purpose of this Section. [3-90]

- 2.4.4 an owner of two or more contiguous lots in a subdivision approved by the Wiscasset Planning Board may always convey those lots independently despite the fact that any one or more of the lots might have an area less than the current minimum lot size requirement. [3-90, 3-02]
- 2.4.5 Unless otherwise exempted in this Section 5, no person shall convey a portion of a lot which is subsized prior to the conveyance, nor shall a person convey a portion of a lot if that person's resulting lot is made sub sized by the conveyance. a person may convey portions of a lot without regard for his resulting lot size if the result is to eliminate the lot. For example, a person with a subsized lot may convey it in portions to various neighbors if in doing so he conveys all of the lot. In order to take advantage of this exemption, the grantor must convey away all of the lot in question within a period of ten consecutive days. [3-90, 3-02]
- 2.5 Any structure to be erected along Route One between Route 144 and the Birch Point Road shall be set back 75 feet from the center line of Route One except that stairs, ramps, decks and enclosed porches not greater than 64 square feet in area may be located within said setback zone as long as they are more than 60 feet from the centerline and meet all other sideline setback requirements. Those buildings and structures (established as of the effective date of this ordinance) which are closer to the road and which meet all other sideline setback requirements can be extended along but not closer to the road. [3-85,12-89, 3-97, 3-98]
- 2.6 In the Rural Districts no business shall be built, placed or maintained upon a lot unless there is a ratio of at least 2 acres per business, except that if every business on the lot is served by Town water and Town sewer, the minimum ratio shall be one acre per business. For purposes of this section, each separate business tenant within a single structure shall constitute a separate business. [3-86, 3-98]
- 2.7 In all business districts except for the downtown Business District, no business shall be built, placed or maintained upon a lot unless there is a ratio of at least 43,560 square feet (one acre) per business. For purposes of this section, each separate business tenant within a single structure shall constitute a separate business. [3-86, 3-90]
- 2.8 For the purpose of determining how many units may be placed on any parcel the lot size shall include the total area less any area which encompasses wetlands, 100 year floodplains, State designated wildlife protection areas, access roads, and paved parking areas for public use. [3-90]
- 2.9 For purposes of this Section 2, when two or more uses are made of a particular lot, the lot size requirement for that lot shall equal the sum of the lot size requirements for each use treated individually; for example, the lot size requirement for a business and a single

family dwelling unit on a single lot in the Rural District shall be a minimum of 3 acres of land. [3-87]

2.10 In the downtown Business District any number of uses permitted in the business district may be built, placed, or maintained upon any lot which is of record as of March 10, 1990, whatever the size of this lot, provided that the street-level floor of any structure located on such lot is restricted to business uses and residential use by the owner of the property. [3-90,3-91, 3-98]

2.11 In the downtown Business District, the lot owner is required to provide at least 1.5 on-site off-street parking spaces for each residential unit, unless approved otherwise by the Planning Board. However, this requirement shall not apply to residential units located inside buildings existing as of March 10, 1990, if provision of the required amount of on-site off-street parking is not feasible; in that case, the owner is required to provide as much on-site off-street parking as feasible. [3-90, 3-98]

2.12 The net residential density for Elderly Congregate Housing shall be no more than one elderly housing unit per three thousand (3000) square feet of acreage with a minimum of five acres. The total area of open space shall equal or exceed the area used for the total footprint of all buildings associated with Elderly Congregate Housing. [3-01]

## 2.13 HOOK-UP REQUIREMENT IN THE COMMERCIAL DISTRICT

2.13.1 All Structures built or placed in the Commercial District after August 19, 2003 shall be hooked up to town water if they require water service and shall be hooked up to town sewer if they require sewer service, except that these requirements shall not apply to residential structures which are setback more than 250 feet from the northwesterly sideline of US Route #1.[9-03]

## 2.14 HOTELS AND MOTELS [3-95]

2.14.1 Owners of all hotels and motels shall provide at least one on-premises, off-street parking space per rental unit. Such parking shall conform to the requirements of Article VIII Section 6.8 and shall be approved by the Wiscasset Planning Board. [3-95, 9-03]

## 2.15 HOME OCCUPATIONS [3-95]

2.15.1 A "home occupation" is a business or profession, which is carried on, in a dwelling unit, or other structure accessory to a dwelling unit, by a person residing in the dwelling unit. Home occupations shall not be considered in determining the minimum lot size requirements for the use or uses made of any lot.

2.15.2 Any person may carry on one or more home occupations in any zoning district, provided:

- a. Such use or uses does not involve any modification of the dwelling unit, which will alter its outward appearance as a dwelling unit discernible from a public way;
- b. There is no outside storage of materials used in, or products resulting from, the home occupation discernible from a public way;
- c. The occupation does not generate noise, noxious odors, glare, vibrations, nor electrical interference beyond levels noted before the occupation existed and as discerned from abutting properties or from a public way;
- d. If the home occupation consists of renting rooms, whether as a bed and breakfast or otherwise, the owner must provide at least one off-street parking space on private property per rental unit. If more than seven rooms are rented, the business owner must comply with the requirements for Hotels and Motels.
- e. The occupation is registered with the Town Clerk in accordance with Article X Section 7.

## 2.16 CERTIFICATE OF OCCUPANCY

2.16.1 The Code Enforcement Officer must issue a certificate of occupancy before any non residential structures, buildings, accessory outbuildings or lands which required Planning Board or Appeals Board approval are occupied for that use for which the approval was given. The Code Enforcement Officer shall issue the certificate when the Code Enforcement Officer determines that the structure, building, accessory outbuilding or land, and the occupancy thereof, comply with the provisions of Wiscasset's Ordinances and with all provisions of any order by the Planning Board or Appeals Board. [3-95]

2.16.2 The Code Enforcement Officer may issue a temporary certificate of occupancy for all or part of a nonresidential building or structure, or for one or more nonresidential buildings or structures which are part of a larger development, provided the Code Enforcement Officer determines that such temporary occupancy would not jeopardize life or property. Any temporary certificate of occupancy shall state on its face the date on which the temporary certificate expires. The temporary certificate shall be issued for no longer than twelve months. The temporary certificate may not be renewed. After a temporary certificate expires, the non-residential building or structure for which the temporary certificate was issued shall not be occupied until The Code Enforcement Officer issues a certificate of occupancy. [3-95, 3-97]

2.16.3 The Code Enforcement Officer shall maintain a public record of all certificates of occupancy which the Code Enforcement Officer issues. [3-95]

2.16.4 Failure to obtain a Certificate of Occupancy shall constitute a violation of Wiscasset's Ordinances and shall subject the appropriate persons or entities to all of the provisions of 30-A MRSA 4452 as the same maybe amended from time to time. [3-95]

2.16.5 This provision is in addition to the Certificate of Compliance for special flood hazard areas found in Miscellaneous Ordinances (Article X). [3-95]

## 2.17 TEMPORARY OR SEASONAL BUSINESSES

Temporary or seasonal businesses shall not be considered in determining the minimum lot size requirements for the use or uses made of any lot provided that the temporary or seasonal business:

2.17.1 Complies with all other laws and ordinances (such as, for example, those pertaining to Victualers and to parking); [3-95]

2.17.2 Does not create a traffic hazard by blocking traffic vision; and [3-95]

2.17.3 Has written permission from the landowner. [3-95]

## 3. REQUIREMENTS FOR BUILDING EXTERIORS

### 3.1 SIDING

The exterior walls shall be finished with a covering of clapboard, wood siding, wood or asphalt shingles, masonry or brick or stone, or other materials as approved by the Building Inspector. Such covering shall be completed within six months after the outside studding is in place. Tarred paper or tarred felt, or similar substances shall not be used unless completely hidden from view by the finished exterior wall covering. [3-69, 3-87]

### 3.2 HEIGHT

3.2.1 No building within the limits of the Town of Wiscasset shall exceed a total height of 35 feet, except for Elderly Congregate Housing, which may not exceed 43 feet. This restriction, however, shall not apply to chimneys and to non-building structures such as but not limited to flag poles and radio and television antennas, whether such non-building structures are attached to the building or are free standing. [3-86, 3-01, 12-03]

3.2.2 The height of a habitable structure for industrial use may be increased by one foot for every five feet in excess of ten feet that the structure is set



back from the nearest adjoining property line, to a maximum of 60 feet in height. [6-86, 12-03]

- 3.2.3 The maximum height of a non-habitable structure that transmits electrical power within existing transmission right-of-ways and is owned or operated by a Public Utility Company or Corporation for the sole purpose of providing service to the general public shall not exceed 130 feet in height. The maximum height of all other non-habitable structures, excluding wireless telecommunication facilities as regulated by Article XI and small wind energy conversion systems as regulated by Article X, shall be 60 feet provided that those structures exceeding 35 feet shall be constructed of non-combustible materials as determined in writing by the Fire Chief. [12-03, 11-08]

#### 4. USE OF STREET TO DEPOSIT MATERIALS

- 4.1 When a permit is granted to erect or repair any building on land abutting the street, the Selectmen shall have power and authority to allot such portion on the street thereto adjoining as they shall deem necessary and expedient in which to deposit materials for the work, provided that not more than one-half the street shall be occupied, and no other part of said street shall be used for laying the materials for any such building or repairing, at such convenient time as the Inspector may direct, and in case of neglect or refusal to do so, it shall be removed by the Commissioner of Streets or some person authorized by the said Commissioner or the Selectmen at the expense of the person or persons so building or repairing and in all cases the portion so allotted shall be enclosed and lighted. [3-46]
- 4.2 No person shall place or cause to be placed in any of the streets, alleys, squares or other public places of the village any lumber, stone, or building material of any kind and suffer the same to remain over six hours without the permission of the Selectmen or some person by them authorized. Whenever any permit is granted to occupy any portion of any street it shall be the duty of the holder of the permit to keep the gutters clean of obstructions. [3-46]

#### 5. REQUIREMENTS FOR BUILDING CONSTRUCTION [3-00]

##### 5.1 SUPPORT DURING CONSTRUCTION

Every portion of every structure in process of construction, alteration, repair or removal and every neighboring structure or portion thereof affected by such process or by an excavation shall be properly constructed and sufficiently supported during such process. The Inspector may take such measures as the public safety requires to carry this section into effect, and any expense so incurred may be recovered by the town from the owner of the defective structure. [3-46]

## 5.2 FIRE STOPS

Every wooden building hereafter erected or altered shall at each floor have a sufficient fire stop as the Inspector of Buildings may direct, effectually stopping every air-duct. [3-46]

## 5.3 CHIMNEYS

Chimneys constructed and installed in accordance with the current issue of the National Fire Code shall be deemed to be standard practice for safe installation and use. [3-46, 3-69, 3-93]

## 5.4 WARM AIR PIPES

Warm air pipes leading from warm air furnaces shall be covered with fire retardant non-asbestos containing material where within one inch of any combustible material. [3-46, 3-87]

# 6. REQUIREMENTS FOR STOVES, VENT FLUES, AND BOILERS

6.1 Cooking stoves, laundry stoves, heating stoves and combination coal or oil and gas ranges not on legs hereafter installed in dwellings and in apartments of multifamily houses shall be set on hearths supported by masonry trimmer arches extending not less than six inches on all sides beyond such appliances. No such appliance shall be placed within twelve inches of a wooden stud partition, a wood-furred wall or combustible material unless protected by a shield of metal or other incombustible material so attached as to preserve an open air space behind it and to extend from the floor to one foot above and six inches beyond the sides of such appliance, in which case such appliance shall not be placed within six inches of a wooden stud partition, a wood-furred wall or combustible material. Ranges, candy kettles, cruller furnaces and appliances for the frying of bakery or confectionery products except ranges in dwellings or apartments of multifamily houses shall be provided with ventilating hoods and pipes to take off the smoke, gasses and vapors, unless such appliances are enclosed and vented in an approved manner. [3-46]

6.2 Vent flues or ducts for the removal of foul or vitiated air, in which the temperature of the air cannot exceed that of the rooms, shall be constructed of metal or other incombustible material, and no such flue shall be used for any other purpose. [3-46]

- 6.3 No boiler to be used for steam heat or motive power and no furnace or hot water heater shall be placed on any floor above the cellar floor unless the same is set on noncombustible beams and arches and in no case without a permit from the Building Inspector. No range, stove, oven or boiler shall be used for cooking in a hotel or restaurant or for manufacturing purposes until the same has been examined and approved by the Inspector of Buildings who shall report his findings to the Building Inspector. [3-46, 3-70]

## 7. ADDITIONAL REQUIREMENTS

### 7.1 STORAGE OF EXPLOSIVE, INFLAMMABLE OR COMBUSTIBLE MATERIALS

No explosive or inflammable compound or combustible material shall be stored or placed under any stairway of any building or used in any such place or manner as to obstruct or render egress hazardous in case of fire. [3-46]

### 7.2 CONSTRUCTION FOR PUBLIC SAFETY

Every structure and part thereof and appurtenance thereto shall be so constructed and maintained in such repair as not to be dangerous to public safety, and the owner of any premises upon notice from the Inspector of Buildings that such premises are dangerous shall forthwith remedy the danger by removal or repair. In case public safety requires immediate action, the Inspector of Buildings may forthwith by repair or temporary protection prevent danger or may, subject to appeal as provided for in Title 23, Section 3005, MRSA 1964 of the Revised Statutes of Maine remove the dangerous structure, and his reasonable and necessary expenses may be recovered by the town from the owner. [3-46, 3-70]

### 7.3 ELECTRICAL WIRING

Every corporation or person proposing to place wires designed to carry a current of electricity within a building shall give notice thereof to the Inspector of Buildings before commencing the work and shall not turn the current onto wires that are to be used for electric lighting, heating or power until the permission to do so has been granted by said Inspector. The Inspector shall be governed by the best electrical installation practice. All persons owning buildings containing wiring dangerous to public safety shall immediately have the same changed or have the electric current cut off from their buildings. [3-46]

### 7.4 INFLAMMABLE WASTE

No person shall deposit or leave or cause to be deposited or left any waste, consisting of paper, straw, hay, shavings or other combustible material liable to cause, spread or communicate fire on any premises in the Town of Wiscasset

outside of buildings or suitable receptacles. All persons producing or having in possession waste or other materials as specified shall provide suitable receptacles for same when required to do so by the Building Inspector. All receptacles for ashes, waste or other substances liable, by spontaneous combustion, to cause fire, shall be made of noncombustible material satisfactory to the Building Inspector. Every store, hotel or rooming house shall have a suitable space satisfactory to the Building Inspector for the temporary deposit of garbage, refuse, ashes or waste material. [3-46]

#### 7.5 NIGHT WATCHMAN FOR HOTELS

Every hotel when occupied containing twenty-five or more rooms above the first floor, shall have at least one night watchman, exclusively so employed on duty every night from nine o'clock at night until six o'clock in the morning, making rounds of every floor at least once each hour. [3-46, 3-70]

#### 7.6 OBSTRUCTION OF ANY STREET BY ANY BUILDING PROHIBITED

No person shall obstruct any street or any part thereof by placing therein any house, barn, stable, shop or other building, and no person shall remove or draw through or upon any street any house, barn or other building without first obtaining permission of the Selectmen. [3-46]

#### 7.7 WATER FROM ROOFS TO BE CONTROLLED

All buildings erected within eight feet of any street or traveled way shall be provided with suitable leaders for conducting water from the roof to the ground, and in no case shall the water be allowed to flow upon or across the surface of the sidewalk to the street, street gutter or sewer. [3-46, 3-70]

#### 7.8 PROTECTION FROM FALLING ICE AND SNOW

Buildings erected within ten feet of the line of a street or public way, having a pitched roof sloping towards said street or public way, shall be provided with suitable safeguards to protect pedestrians or travelers from falling ice and snow. [3-46, 3-70]

#### 7.9 STATE LOT SIZE FOR WATER AND SEWER LINES AND DISPOSAL REGULATIONS

No person shall hereafter construct, maintain or occupy a dwelling in the Town of Wiscasset unless situated on a plot of ground the area of which is not less than the requirements of the State of Maine Water and Sewer Lines and sewer disposal regulations, and not less than 100 feet frontage unless setting back 100 feet from the highway. This subparagraph shall not apply to any lots or parcels of land in

existence at the effective date of this subparagraph and which are described in deeds of record in valid and enforceable purchase and sales agreements.

7.10 FIRE RESISTIVE ROOFS

Every building hereafter erected in the town shall have a fire resistive roof. No existing wooden shingle roof, if damaged more than ten percent, shall be repaired or renewed with other than fire resistive material. [3-46]

7.11 HOT WATER TANKS

On all new or replacement installations of hot water tanks there shall be installed a combination temperature and pressure relief valve of a type approved by the Building Inspector. [3-46]

7.12 HANDICAPPED ACCESS

Applicants for public access commercial projects before the Planning Board shall show evidence that applicable federal and state laws for handicapped access are met before building permits are granted. [6-92]

8. PENALTIES [3-95]

Any person, corporation or other entity who violates any provisions of this Article II (Building Laws) shall be subject to the provisions and penalties set forth in 30-A MRSA 4452, as the same may be amended from time to time.

9. VALIDITY/SEVERABILITY CLAUSE

The invalidity of any section of this Ordinance shall not be held to invalidate any other section or provision of this Ordinance. [3-69]

## ARTICLE III - SIGNS

### 1. STATEMENT OF PURPOSE

#### 1.1 In order to:

- \* promote the safety, comfort and well being of the users of streets, roads and highways in the town
- \* reduce distractions and obstructions from signs that may adversely affect traffic safety, and alleviate hazards caused by signs projecting over or encroaching upon public ways
- \* preserve or enhance the natural scenic beauty and other aesthetic features of or attendant to such thoroughfares and
- \* generally create and foster a more stable and attractive roadside environment.

#### 1.2 No person shall erect any outdoor sign that is visible from a public way, other than an official traffic sign, except in conformance with this ordinance.

### 2. SIGN REGULATIONS

The following provisions apply to all new or replacement signs for outdoor display in Wiscasset. Signs relating to goods or services not rendered on the premises are prohibited.

#### 2.1 DIMENSIONS

- 2.1.1 Single signs shall be allowed up to 64 sq. ft. each, if freestanding. Single signs shall be allowed up to 128 sq. ft. each if attached to a structure such that only one side is displayed. The maximum total sign area per lot shall be 128 sq. ft. Mobile signs shall be included in the determination of this area.
- 2.1.2 Double-sided signs with equal and parallel faces may be considered as one sign.
- 2.1.3 Signs larger than those permitted in section 2.1.1 above, may be allowed when they advertise a group of separate business tenants located in a single building, mall, plaza or office park. In such cases, the maximum permitted sign area shall be 32 sq. ft. for the sign bearing the name of the building, mall, plaza or office park, and eight (8) sq. ft. for each business or office located there. In addition to the group sign, each business in the

mall, plaza or office park may have a sign on their premises, up to 64 sq. ft. in area.

- 2.1.4 “A” shaped standing signs are permitted on business premises. Limited to two, not larger than 12 square feet per side. The fee for one “A” sign permit would be \$40. [3-01]

## 2.2 HEIGHT

- 2.2.1 Freestanding signs may be up to 20' high, measured with respect to the average ground grade.
- 2.2.2 Upper edges of roof signs or signs ten feet above peak level of building are not allowed. Signs mounted on the parapet wall, which extends above the eaves, may be permitted, provided their upper edges do not extend above the top of the parapet by more than 10 feet.

## 2.3 LOCATION

- 2.3.1 As required by state law (23 MRSA Sect. 1941), no signs may be located:
- a. Within 33 feet of the center line of any public way if the highway is less than 66 feet in width;
  - b. Within 20 feet from the outside edge of the paved portion of any public way with more than 2 travel lanes and a total paved portion in excess of 24 feet in width; or
  - c. Within the full width of the right-of-way of any public way, whichever is stricter.
- 2.3.2 Signs shall be placed at least ten feet from any side lot line, and shall be placed so as not to obstruct the view of traffic.
- 2.3.3 No sign or temporary sign shall be placed on public utility poles.
- 2.3.4 No sign, except No Hunting or No Trespassing signs, shall be erected or maintained upon trees. No sign shall be painted or drawn upon rocks, trees, or other natural features.
- 2.3.5 Without exceptions, no signs shall be allowed in traffic islands. [3-01]

## 2.4 LIGHTING

- 2.4.1 Flashing, moving, or animated signs are prohibited. (This shall not prohibit signs which swing from hooks or rotating barber poles.)
- 2.4.2 Only steady white lights will be allowed on internally or externally lighted plastic signs. Such signs found to cause roadside glare shall be removed. [3-01]
- 2.4.3 Premises may display a lighted sign during or after business hours. [3-01]

## 2.5 MOBILE SIGNS

- 2.5.1 No more than one mobile sign per business is allowed.

## 2.6 MISCELLANEOUS

- 2.6.1 Strings of light bulbs, pennants, propellers, etc. shall not be permitted, except as part of a holiday celebration.
- 2.6.2 Temporary yard or garage sale signs are permitted without cost only on the day before and the days such sales are held and are limited to four square feet. Such temporary signs may be double-sided. [3-01]

## 2.7 EXCEPTIONS

For the purpose of this Section, the term "sign" shall not include:

- 2.7.1 Signs erected for public safety and welfare or pursuant to any governmental function.
- 2.7.2 Directional signs solely indicating entrance and exit placed at driveway locations, containing no advertising material, and where display area does not exceed three square feet or extend higher than seven feet aboveground level.
- 2.7.3 Signs relating to trespassing or hunting, not exceeding two square feet in area per sign.
- 2.7.4 Signs advertising real estate for lease or sale, not exceeding six square feet in area per lot.
- 2.7.5 Name signs identifying residential occupants, not exceeding one square foot in area per lot.
- 2.7.6 Political campaign signs per State requirements.



## 2.8 NONCONFORMING SIGNS

- 2.8.1 Maintenance: Any lawfully existing sign may be maintained, repaired or repainted, but shall not be enlarged, except in conformance with the provisions of this Section.
- 2.8.2 Replacement: Any new sign replacing a nonconforming sign shall conform to the provisions of this Ordinance, and the nonconforming sign shall not thereafter be displayed.
- 2.8.3 Continuance: All non-conforming signs with permits prior to 1 April 1993 shall be valid until change of ownership.

## 3. SPECIAL REQUIREMENTS FOR BUSINESS DIRECTIONAL SIGNS

- 3.1 A Business Directional Sign is a sign located within the highway right-of-way at an approach to an intersection, and indicating the change of direction required at the intersection to reach the particular business.
- 3.2 All Business Directional Signs in Wiscasset shall conform with the provisions of this ordinance. The Town of Wiscasset shall have the right to remove a Business Directional Sign not in compliance, following thirty days written notice by the Sign Control Officer to its owner.
- 3.3 All Business Directional Signs shall meet the following specifications:
  - \* Size: 31 inches long by 7 inches wide including a top and bottom frame.
  - \* Lettering: Not more than two inches nor less than one inch high in Block, Roman or Old English.
  - \* Base: 1/2 inch or 3/4 inch board or overlaid plywood.
  - \* Color: Black letters on white background.
  - \* Appearance: Neatly lettered and with a professional appearance.
- 3.4 All Business Directional Signs shall comply with the Maine Department of Transportation regulations 17-227-200 pertaining to Official Business Directional Signs and 23 MRSA Sections 1901-1925, as the same may be amended from time to time.

### 3.5 PLACEMENT

- 3.5.1 No business is permitted more than one Business Directional Sign at any one intersection approach.
- 3.5.2 Each place of business is permitted a maximum of two Business Directional Signs. Double-sided signs with equal and parallel faces may be considered as one sign.
- 3.5.3 Business Directional Signs shall be located so as to avoid conflict with other signs, to have the least possible impact on the scenic environment.

### 3.6 INSTALLATION AND MAINTENANCE

- 3.6.1 All Business Directional Signs shall be provided by the business owner or applicant, and shall be installed by the applicant at locations approved by the Board of Selectmen or the Sign Control Officer and on the posts provided by the Town.
- 3.6.2 A sign permit shall be obtained before any Business Directional Sign is installed.
- 3.6.3 Business Directional Signs, which become defaced or damaged, shall be replaced by the owner.
- 3.6.4 Owners of Business Directional Signs which are no longer applicable because of business name changes, business relocations or any other reason shall remove their signs within thirty days from the date at which the sign becomes inapplicable.
- 3.6.5 Any Business Directional Sign which is not properly maintained by the owner, or which is no longer applicable, may be removed by the Town.

## 4. RESTRICTIONS ON SIGNS IN THE VARIOUS DISTRICTS

- 4.1 In the Shoreland Resource Protection and Shoreland Residential Districts and in the Residential Districts:
  - 4.1.1 Signs larger than six sq. ft. are not permitted. (This size limitation does not apply to signs relating to the sale or lease of the property.)
  - 4.1.2 No more than two signs are permitted per property. (Name signs and signs relating to trespassing or hunting and signs relating to the sale or lease of the property are not included in this limit.)

- 4.1.3 Advertising signs in Residential areas shall be in keeping with the character of the neighborhood.
- 4.2 In the other districts, all signs shall comply with the applicable requirements listed elsewhere in this ordinance.
- 4.3 Any sign designating a home occupation in any zoning district:
  - a. May not exceed 6 square feet in total size regardless of shape.
  - b. May have its message on either one or both sides of the sign.
  - c. May be attached to the dwelling or posted on the grounds of the home in accord with Section 2. [3-97]

## 5. ADMINISTRATION

Prior to erecting, changing, relocating, or replacing a sign, owners shall first submit a drawing to the Sign Control Officer showing the dimensions, location, materials, and illumination proposals. The Sign Control Officer shall issue a permit if the application meets all the requirements of this ordinance and conforms with all applicable state laws. Unless exempted above in paragraphs 2.7 or 2.8, no sign may be erected or replaced without a permit. Permits shall be issued in the name of the owner and shall be valid only during continued ownership. The fee for permits shall be \$40.00 for each sign. Fees shall be placed in the town's general fund. [3-01, 3-03]

## 6. ENFORCEMENT AND PENALTIES

- 6.1 This ordinance shall be enforced by the Selectmen or their designated Sign Control Officer.
- 6.2 When any violation of any provision of this ordinance is found to exist, the Selectmen either on their own initiative, or upon notice from the Sign Control Officer, are hereby authorized and directed to institute any action and proceedings that may be appropriate or necessary to enforce the provisions of this ordinance in the name of the Town.
- 6.3 Any person who violates any provision of this ordinance shall be subject to the provisions and penalties set forth in 30-AMRSA 4452, as the same may be amended from time to time.

## 7. VALIDITY/SEVERABILITY

In the event that any section, subsection or portion of this ordinance shall be declared by any competent court to be invalid for any reason, such a decision shall not affect the validity of the other sections, subsections or other portions of this ordinance.

## ARTICLE IV - PORT AND HARBOR

### 1. PURPOSE AND WATERFRONT COMMITTEE

#### 1.1 PURPOSE

It is the Town's policy to make Wiscasset's tidal waters and public launching and docking facilities available to the public for responsible use, economic benefit and general enjoyment. [3-99]

#### 1.2 WATERFRONT COMMITTEE

1.2.1 The Board of Selectmen shall appoint a Waterfront Committee, which shall convene from time to time at the request of the Board of Selectmen, the Harbormaster or the Committee's Chair. The composition of the Committee shall be representative of the varied Town interests as determined by the Board of Selectmen. [3-99]

1.2.2 The Waterfront Committee's duty shall be to advise the Board of Selectmen regarding harbor and waterfront facilities, uses and regulations. [3-99]

1.2.3 The Waterfront Committee shall consist of five members each of whom shall serve at the pleasure of the Board of Selectmen. Unless an appointment is sooner terminated by the Board of Selectmen, each Committee member shall serve for 3 years, and the terms of the members shall be staggered. [3-99]

### 2. HARBORMASTER

#### 2.1 APPOINTMENT AND AUTHORITY

The Selectmen shall appoint a Harbormaster, and as necessary, Deputy Harbormasters, who shall enforce the Port and Harbor Ordinance and exercise the powers granted by 38 MRSA Section 1 - 5 as amended, except that they shall not carry weapons or make arrests. [3-99, 3-01]

#### 2.2 TERM

The Harbormaster and any deputies shall serve one-year terms. [3-99]

#### 2.3 COMPENSATION [3-99]

Compensation of the Harbormaster and any deputies shall be set by the Selectmen.

## 2.4 DUTIES

- 2.4.1 Enforce the harbor rules and the use of town wharves and floats. [3-99, 3-01]
- 2.4.2 Advise the Selectmen on matters affecting tidal waters and related public facilities. [3-99]
- 2.4.3 Assign temporary and permanent berthing and mooring locations within the tidal waters of Wiscasset. [3-99]
- 2.4.4 Place and maintain or cause to be placed and maintained, either on land or water, such signs, notices, signals, buoys, waterway markers, or control devices as he deems necessary to carry out the provisions of this ordinance, or to secure public safety and the orderly and efficient use of the Wiscasset tidal waters and related public facilities. [3-99]
- 2.4.5 Designate, and extend as necessary and practicable, with the approval of the Selectmen, sufficient mooring area to meet the needs of the town. [3-99]
- 2.4.6 Maintain an up-to-date chart of all channels and mooring areas within the tidal waters of Wiscasset. [3-99]
- 2.4.7 Designate sections of floats and docks where: [3-99]
  - a. Boats used as tenders may be tied up on a continuing basis.
  - b. Vessels may be tied up for various purposes, and the length of time such vessels may remain.
  - c. Lobster, crab, or worm cars may be secured or stored. [3-01]
- 2.4.8 Maintain clear approach channels to all town landings and launch facilities.

## 3. MOORINGS

### 3.1 PERMITS

No mooring shall be placed except under the direction of and with a permit from the Harbormaster. Permits are valid for one calendar year, apply only to the assigned vessel, are not transferable to another owner except as provided below, and are renewable annually by application to the Harbormaster before April 1. Mooring assignments may be transferred only at the request or death of the

assignee, only to a member of the assignee's family and only if the mooring assignment will continue to be used for commercial fishing purposes. For the purposes of this section, "member of the assignee's family" means an assignee's parent, child or sibling, by birth or by adoption, including a relation of the half blood, or an assignee's spouse. Any mooring without a permit is subject to removal by the Harbormaster at the owner's expense (see section 3.8). Any change of vessel requires a new or amended permit. A new permit at another location may be issued provided space is available. [3-99, 3-01, 6-08]

### 3.2 MOORING BUOYS

Mooring buoys shall be white with a horizontal blue stripe. The Harbormaster shall assign a identifications number to each mooring to be placed by the owner on the mooring buoy. Identification numbers must be at least three inches high and clearly visible at all times. Any mooring not having an identification number is subject to removal by the Harbormaster at the owner's expense. (see section 3.8) [3-99, 3-01]

### 3.3 TEMPORARY USE

A mooring permit holder may allow the use of his mooring by a boat other than his own for not more than 7 calendar days in one calendar year, provided the boat is of the same size (or smaller) and type as the vessel listed on the mooring permit, and provided he notifies the Harbormaster of such temporary use. [3-01]

### 3.4 UNAUTHORIZED USE

No person shall tie a vessel to a mooring owned by someone else without permission of the owner. Enforcement of this section is by civil complaint, not by the Harbormaster. [3-01]

### 3.5 REGISTER AND MOORING CHART

The Harbormaster shall maintain a public register listing for each mooring: owner's name, residency status, address, and telephone number; the name, length and type of vessel, and whether it is commercial or non-commercial; the type of mooring; and the vessel's registration number and its issuance date. The Harbormaster shall also maintain a mooring chart for each mooring area on which each mooring is indicated by its identification number. [3-99]

### 3.6 FEES

Annual mooring fees shall be \$50 for residents, \$200 for corporations, and \$150 for non-residents. For purposes of this section a resident is a person who resides at least part of the year in Wiscasset, and who pays the boat excise tax in Wiscasset. [3-99, 3-01]

### 3.7 REVOCATION

The Harbormaster may revoke or suspend in writing, giving his reasons, any mooring permit for violations of this ordinance, or in the interest of public safety, or to relieve congestion. [3-99]

### 3.8 MOORING CONFLICTS

If a conflict develops such that two vessels swinging on their moorings strike each other, the Harbormaster shall direct that one or both of the moorings be removed or moved to a designated location at owner's expense within ten days after the owner receives notification by the Harbormaster, which notice shall be deemed to have been given when the Harbormaster posts, by first class U.S. Mail, a notice to the owner's registered address. In the interest of preserving property the Harbormaster may relocate a vessel on an emergency basis without the owner's permission to another mooring or dock. [3-99, 3-01]

### 3.9 WAITING LIST

Whenever there are more applicants for a mooring assignment than there are mooring spaces available, the Harbormaster shall create a waiting list in chronological order of application receipt. When a space becomes available it shall be offered to the first applicant on the list for the configuration and size of whose vessel the space would be suitable except that: [3-99]

3.9.1 If less than 10% of all moorings are currently assigned to non-resident commercial applicants, then the next available space, if suitable, shall be offered to the first such applicant on the list; [3-99]

3.9.2 If less than 10% of all moorings are currently assigned to non-resident non-commercial applicants, then the next available space, if suitable, shall be offered to the first such applicant on the list; [3-99]

3.9.3 If neither non-resident commercial or non-resident non-commercial applicants currently constitute 10% of moorings assigned, then whichever has the lowest percent shall be offered the first available and suitable space; and [3-99]

3.9.4 Littoral owners with at least 100 feet of shore frontage who are applying for a mooring in front of their property shall not be placed on a waiting list but assigned a mooring space, based only on the suitability of the location, the ownership of a vessel and payment of the fee. If space fronting their property is not suitable they may apply in the usual manner for mooring space in the designated mooring areas. [3-99]

Applicants may decline a space when offered without losing their position on the list. Waiting list positions may be retained from one year to the next by submitting a new application before April 1st. Applications not renewed shall be removed from the waiting list on that date. [3-99]

### 3.10 REMOVAL OF MOORING

In case of the neglect or refusal of the master or owner of any boat or vessel to remove his mooring or to replace it by one of different character, when so directed by the Harbormaster, the Harbormaster shall cause the entire mooring to be removed and collect from the master or owner of that boat or vessel the sum of \$100 and the necessary expenses. [3-99, 3-01]

Before removing a permitted mooring or a buoy, the Harbormaster shall notify the owner by mail at his last known address of the action desired of him [3-99, 3-01]

### 3.11 REMOVAL OF VESSELS

A Harbormaster, upon receiving complaint from the master, owner or agent of any vessel, shall cause any other vessel or vessels obstructing the free movement or safe anchorage of that vessel to remove to a position to be designated by the Harbormaster and shall cause, without any complaint being made to the Harbormaster, any vessels anchoring within the channel line as established by the municipal authorities, as provided in MRSA 38 Section 2, to remove to such anchorage as the Harbormaster may designate.

If that vessel has no crew aboard or if the master or other person in charge neglects or refuses to move such vessel as directed by the Harbormaster, the Harbormaster may put a suitable crew on board and move that vessel to a suitable berth at a wharf or anchorage at the cost and risk of the owners of the vessel and shall charge \$100. to be paid by the master or owner of that vessel, which charge, together with the cost of the crew for removing that vessel the Harbormaster may collect by civil action.

## 4. HARBOR RULES

- 4.1 No vessel shall be operated within any designated mooring area or approach channel to public launching area or docking facilities at a speed which exceeds five miles per hour or which produces a wash or wake which visibly and unnecessarily disturbs anchored or moored vessels or floats, or endangers or disturbs a person on or near the water. This shall be described as "no wake speed". [3-99]



- 4.2 No person shall use or operate any boat floatplane or other watercraft while under the influence of alcohol or drugs; or recklessly; or so as to cause danger, annoyance or inconvenience to the public anywhere within the tidal waters of Wiscasset. [3-99]
- 4.3 No water skiing shall be allowed within the mooring areas or approach channels.
- 4.4 No pot buoys or other objects or buoys other than mooring buoys may be placed in the mooring areas. [3-99, 3-01]
- 4.5 No pot buoys or any other objects or obstructions may be placed in designated approach channels. [3-99, 3-01]
- 4.6 Vessels anchoring in Wiscasset waters for more than 7 calendar days shall obtain a permit from the Harbormaster, and shall be limited to 14 calendar days in any calendar year. The permit fee shall be \$10 per calendar day and shall be inclusive of all 14 days allowed under this subsection. [3-01]

## 5. USE OF TOWN WHARVES AND FLOATS

- 5.1 To insure that the Town Landing Facilities are available for use by the general public, the town wharves and floats shall be used only for loading and unloading, with a maximum time limit set by the Harbormaster. Extension of this time limit for reasons of safety or hardship requires written permission from the Harbormaster. [3-99]
- 5.2 Boats less than 15 ft. in length and used specifically as tenders to vessels moored or anchored in the harbor may tie-up on a continuing basis at specific sides of certain floats designated by the Harbormaster for that purpose. [3-99]
- 5.3 Swimming and recreational fishing from the Town landings are permitted provided they do not cause litter, disturb the peace, or interfere with the docking or loading or unloading of vessels. [3-99]
- 5.4 No person shall place or maintain on the Town landing facilities any boats, barrels, boxes, gear, traps, pots, nets, sails, equipment, or other materials longer than is necessary for the prompt loading or unloading of the same. [3-99]
- 5.5 No person shall deposit or leave rubbish, garbage, or litter of any kind on the Town landings or launching facilities. [3-99]
- 5.6 The following uses require payment of fees as follows: [3-01]
  - 1. Use of designated floats for commercial fishing \$50 annually
  - 2. Use of designated floats for commercial fishing

including use of the mast and boom \$200 annually

3. Securing lobster, crab or worm cars to designated floats  
\$20 annually

4. Overnight tie-up of recreational vessels when permitted  
\$1 per foot of boat length

6. POLLUTION OF WATERS

No person shall deposit or sweep or cause to be deposited or swept into the tidal or fresh waters of the Town of Wiscasset any gas, oil, bilge water containing gas or oil, ashes, dirt, stones, gravel, mud, logs, brush, planks, building materials, shells, bait, dead fish, bottles, cans, paint, chemicals, or any other liquid or solid waste or rubbish that floats on dissolves in, or otherwise pollutes the water, obstructs navigation, or decreases water depth. [3-99]

7. ABANDONMENT OF WATERCRAFT

No person may bring into or maintain in the harbor any derelict watercraft, watercraft for salvage, or abandon any watercraft in the harbor without a permit from the Harbormaster. Whoever does so without permit is guilty of a Class E crime. Watercraft, which is to be salvaged by firms licensed by the State to do salvage work, shall be excluded from this section. The Harbormaster shall be the sole determiner as to what constitutes a watercraft that is derelict and what constitutes a watercraft that is abandoned. [3-99]

8. TOWN RESPONSIBILITY FOR BOATS

The Town accepts no responsibility for preventing damage to boats moving, drifting, anchored, or moored in the harbor or using the Town Landing facilities or launching facilities. Responsibility for the safety of any boat in the harbor lies with its owner or master or his representative. [3-99]

9. PENALTIES

In addition to any penalties imposed by State Law, any person, firm, corporation or other entity who violates any section of this Port and Harbor Ordinance, or who fails to obey lawful orders of the Harbormaster, shall be subject to a fine of \$50.00 (fifty dollars) for each offense. Each day in which a violation is proved to exist shall constitute a separate offense under this Section. [3-99]

10. VALIDITY/SEVERABILITY CLAUSE

If any part of this Ordinance is held to be invalid or unconstitutional, such decision shall not affect the validity of the remainder of this Ordinance. [3-99]

## ARTICLE V - SOLID WASTE [3-94]

### 1. GENERAL PROVISIONS

- 1.1 No person shall accumulate or permit to accumulate on private property or on any public way in the Town of Wiscasset garbage, rubbish or other waste materials except earth fill material. Except, however, it is permissible to accumulate garbage, rubbish and other waste materials upon private property in such limited quantities and for such limited periods of time as shall insure that no annoyance, nuisance, health or fire hazard is created thereby. Compost piles or covered subsurface packaged garbage decomposing units are permitted so long as no annoyance, nuisance, ground or surface water pollution or any other health hazard is created thereby. Any unauthorized accumulation of garbage, refuse, rubbish, or other waste materials within thirty days after the effective date of this Ordinance shall be deemed a violation of this Ordinance.
- 1.2 No person shall dump or dispose of any refuse or garbage upon any shore or in any harbor or upon any waters within or adjacent to the Town of Wiscasset providing that this Section shall not apply to licensed sewage systems.
- 1.3 No person shall allow any refuse or garbage to be scattered from any vehicle onto any public way.
- 1.4 It shall be unlawful for any person to burn or incinerate any garbage or refuse within the Town of Wiscasset. However, this Section does not forbid the burning of any materials being used as fuel in a furnace, boiler, fireplace, stove or cooking device. This Section shall not apply to burning authorized by the Fire Chief and at any town solid waste facility, nor to any burning conducted under the direction of, or permit granted by, the fire department of the Town of Wiscasset.

### 2. TOWN SOLID WASTE FACILITIES

- 2.1 The Selectmen shall designate one or more suitable places as town solid waste facilities, but no place shall be designated as a town solid waste facility, the location of which has been disapproved by the inhabitants in a town meeting.
- 2.2 The Selectmen shall appoint and supervise a superintendent of solid waste for the Town of Wiscasset who shall, in turn, be responsible to supervise all personnel assigned to any solid waste facility in the Town of Wiscasset.
- 2.3 The Selectmen shall see that all town solid waste facilities are treated, when needed, with proper pest exterminating agents.

- 2.4 No person shall deposit any materials at the town solid waste facilities except in compliance with this Ordinance and pursuant to the instructions of the Selectmen or the attendant in charge.
- 2.5 No person may deposit at the town solid waste facilities automobile bodies or any bulky wastes, which may require special processing prior to disposal.
- 2.6 The town solid waste facilities shall be available only to persons residing within the limits of the Town of Wiscasset, or other municipalities authorized by contract, commercial establishments located within those towns, and haulers licensed by the Town of Wiscasset pursuant to this Ordinance.
- 2.7 No person shall dispose at the town solid waste facilities any garbage, rubbish, waste materials or other substances brought from outside the boundaries of the Town of Wiscasset or other municipalities authorized by contract.
- 2.8 The Selectmen shall designate, by the posting of suitable signs, areas of the solid waste facilities where different kinds of waste materials shall be deposited.
- 2.9 The Selectmen shall designate the hours for refuse disposal and shall post the hours at the town solid waste facilities.
- 2.10 Deposit of dead animals is prohibited in any solid waste facility.

### 3. PERMITS

- 3.1 All persons using the town solid waste facilities must display valid permits affixed to their vehicles. Permits will be issued at the solid waste facility on proof of residency or ownership of a commercial establishment. The resident or commercial establishment to whom the permit is issued is the permit holder.
- 3.2 Any permit holder who loses or misplaces a permit must report the same immediately to the solid waste facility.
- 3.3 If a vehicle displaying a permit or the occupants thereof violate this Ordinance, regardless of whether the permit holder consented or knew of the violation, the permit holder is in violation of this Ordinance, unless the permit holder had previously reported the loss of his permit to the solid waste facility.

### 4. HAULERS

- 4.1 No person shall, for hire, collect, haul, transport or dispose of waste materials for disposal at the Town of Wiscasset solid waste facilities without first obtaining a license therefor from the Selectmen. Such licenses shall be issued for a period of not more than one year.

- 4.2 Any person or commercial establishment desiring a hauling license shall submit to the Town Office a written application by May 1 each year. Licenses shall be valid from June 1 to May 31 the following year. The Wiscasset Board of Selectmen shall set resident and non-resident fees and charges for hauling licenses each April. The Selectmen may conduct an investigation of the applicant. The Selectmen, after notice to the applicant, shall hold a public hearing for new applicants. Licenses maybe refused, and the Selectmen reserve the right to limit the number of licenses issued. [6-06]
- 4.3 The Selectmen may revoke the license of any hauler who fails to comply with any provision of this Ordinance. No license shall be revoked until the Selectmen, after reasonable notice to the hauler, hold a public hearing on the matter.

5. PENALTIES AND REPEAL

- 5.1 Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not less than \$50 and not more than \$200 plus costs of prosecution, which fine shall be recovered on complaint to the use of the Town of Wiscasset, or by imprisonment for not more than three months. In addition, such person shall reimburse the Town for all expenses incurred by the Town as a result of the violation.
- 5.2 Any licensed hauler who violates any provision of this Ordinance shall be subject to revocation of his license.
- 5.3 Any permit holder who violates any provision of this Ordinance shall be subject to revocation of his permit.
- 5.4 The Selectmen are authorized to prosecute violations of the preceding regulations, and are hereby authorized to remove at the expense of the owner of the property any pile of garbage, refuse or waste matter, accumulated on any property which after 24 hours notice has not been removed.

6. VALIDITY/SEVERABILITY CLAUSE

If any part of this Ordinance is held to be invalid or unconstitutional, such decision shall not affect the validity of the remainder of this Ordinance.

## ARTICLE VI - ZONING

### 1. STATEMENT OF PURPOSE

The purpose of this Ordinance is to further the rights of each and every person to life, liberty and the pursuit of happiness; to promote the general health and safety of the community; to provide the greatest possible latitude of individual choice for land use while maintaining the character and objectives of the community as determined by its citizens and outlined in its Comprehensive Plan, to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish aquatic life, bird and other wildlife habitat; control building sites, placement of structures and land uses; conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty; and finally to protect the community as a whole and the individual persons therein from unreasonable acts by others. [6/74, 6/88]

### 2. GENERAL PROVISIONS

2.1 This ordinance separates patterns of land use into several Districts. It outlines the types of land use permitted in each District and pertains to all of the land area within the jurisdiction of the Town of Wiscasset. [6/74, 6/88]

2.2 The effective date of this ordinance is June 27, 1991, and as amended. [6-91]

2.3 That part of the ordinance relative to the 250 foot Shoreland District, which was adopted at the June 27, 1991, Town Meeting shall not be effective unless approved by the Department of Environmental Protection. A certified copy of that portion of the ordinance, attested and signed by the Town Clerk shall be forwarded to the Department of Environmental Protection for approval. If the Department of Environmental Protection fails to act on the ordinance with forty-five (45) days of the Board's receipt of the ordinance it shall be deemed approved. Upon approval of the 250 foot Shoreland District portion of the ordinance the Shoreland Zoning Ordinance previously adopted at the June 1988 Town Meeting is repealed. [3-92]

2.4 Any application for a permit in the 250 foot Shoreland District submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this ordinance if the ordinance is approved by the Department of Environmental Protection. [3-92]

#### 2.5 APPLICABILITY OF SHORELAND ZONING

Those portions of this article relating to shoreland apply to all land areas within 250 feet, horizontal distance, of the normal high-water line of Gardiner Pond, the Sheepscot River or any salt water body; within 250 feet, horizontal distance of the upland edge of a coastal or freshwater wetland; and within 75 feet horizontal

distance, of the normal high-waterline of a stream. This ordinance also applies to any structure built on, over or abutting a dock, wharf, pier or other structure extending beyond the normal high-water line of a water body or within a wetland. [3-92]

## 2.6 VALIDITY/SEVERABILITY CLAUSE

The invalidity of any provision of this ordinance shall not invalidate any other part. When in conflict with any other previous ordinance, this ordinance shall prevail. [6-74,6-91]

## 3. AMENDMENTS

3.1 This ordinance may be amended by a majority vote of the governing body at any town meeting. [6-74, 3-81]

3.2 In the case of amendment involving the 250 foot Shoreland District a copy of such amendment, attested and signed by the Town Clerk shall be submitted to the Department of Environmental Protection following adoption at any town meeting and shall not be effective unless approved by the Department of Environmental Protection. If the Department of Environmental Protection fails to act on any amendment within forty-five (45) days of the Board's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five(45) day period shall be governed by the terms of the amendment if such amendment is approved by the Board. [3-92]

3.3 Amendment procedures shall always include a public hearing to be held by the Board of Selectmen at least 30 days prior to a town meeting, with a notice thereof posted and published by the Planning Board as required by 30-A M.R.S.A. 4352 as the same may be amended from time to time. [3-81, 9-03]

3.4 Amendment procedures shall further include a scaled map showing any proposed change or creation of zoning together with a written description. [3-81]

## 4. DISTRICTS AND ZONING MAP (also see DEFINITION OF DISTRICTS, at end of this Article)

4.1 The Town is hereby divided into the following districts as shown on the official Zoning Map: [3-92]

- A. Shoreland Resource Protection District
- B. Shoreland Residential District
- C. Shoreland Business District
- D. Residential District

- E. Business District
- F. Village Waterfront District
- G. Commercial District
- H. Nequasset Watershed District
- J. Rural District
- K. Shoreland Business II District
- L. Marine Overlay District

- 4.2 The official Zoning Map and all future amendments thereto are hereby made a part of and incorporated into this ordinance.
- 4.3 District boundary lines are property lines, the center lines of streets, roads and rights-of-way, and the boundaries of the Shoreland Area as defined herein: however, if a district boundary is specifically and clearly described in another manner such description shall be used. Where uncertainty exists as to exact location of District boundary lines, the Appeals Board shall be the final authority as to location. Shoreland applies to all land within 250 feet, horizontal distance, of the normal high water line of the Sheepscot River, Gardiner Pond and any tidal water; within 250 feet, horizontal distance of the upland edge of a coastal or freshwater wetland; and within 75 feet, horizontal distance, of the normal high water line of a stream. [6-91]
- 4.4 If amendments are made in the District Boundaries or other matter portrayed on the Official Zoning Map such changes shall be made on the Official Zoning Map within thirty days after the amendment has been adopted by the Town or in the event of shoreland areas after approval by the Department of Environmental Protection. [3-92]

## 5. NON-CONFORMING USES OUTSIDE THE SHORELAND DISTRICTS

- 5.1 A non-conforming use is a use of premises, parcel of land or structure which was in lawful existence at the effective date of the adoption or amendment of this ordinance but which currently does not comply with the applicable use regulations of the zoning district in which it is located.
- 5.2 A non-conforming use may continue and may be maintained and repaired. A non-conforming use may not be expanded. A non-conforming use may not be renewed after it has been changed to a conforming use or after it has been discontinued for a period of 12 consecutive months.
- 5.3 A non-conforming use may be changed to another non-conforming use only with a permit from the Board of Appeals. The Board of Appeals shall issue such a permit only upon a finding that all the following are met:
  - a. The new use will not generate more vehicular traffic in the immediate area surrounding the premises than the former use: and



- b. There will be no additional structures, or expansion of existing structures, to accommodate the new use; and
- c. There will be a minimum of 3 off-street parking spaces for each conforming and non-conforming use on the lot; and
- d. The daily hours of operation of the new use will be no earlier than 8:00 a.m. and no later than 7:00 p.m.; and
- e. The new use will have no more and no larger signs than the former use, and all signs will comply with the current sign ordinance requirements; and
- f. There will be no outside storage of materials used by, or products produced by, or goods offered for sale by the new use; and
- g. The lot is connected to Town water and sewer. [9-02]

## 6. NON-CONFORMANCE IN THE SHORELAND DISTRICTS [3-91, 9-03]

- 6.1 Intent: This Ordinance is intended to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section. (See Glossary for the definitions of shoreland non-conforming structures, non-conforming uses and non-conforming lots.)
- 6.2 Transfer of Ownership: Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- 6.3 Repair and Maintenance: This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use of structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.
- 6.4 Expansion of non-conforming structures

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure. Any such expansion must comply with the following requirements:

- 6.4.1 After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure.
- 6.4.2 Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure, provided: that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in the subsection 6.5. (Relocation), below; that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three additional feet. [3-92]
- 6.4.3 No structure, which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, shall be expanded toward the water body, tributary stream, or wetland.
- 6.5 Relocation of non-conforming structures
  - 6.5.1 A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that anew system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.
  - 6.5.2 In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.
- 6.6 Reconstruction or Replacement of non-conforming structures
  - 6.6.1 Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced

provided that a permit is obtained within one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

6.6.2 Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, maybe reconstructed in place with a permit, from the code enforcement officer.

6.6.3 In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in paragraph 6.5 above, the physical condition and type of foundation present, if any.

#### 6.7 Changes of use of a non-conforming structure

6.7.1 The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on adjacent water body or wetland, or on the subject or adjacent properties and resources than the existing use.

6.7.2 In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

#### 6.8 Non-conforming uses

6.8.1 Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in Section 6.4 above.

6.8.2 Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or

maintained for residential purposes during the preceding five (5) year period.

- 6.8.3 Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 6.7 above.

6.9 Non-conforming lots

- 6.9.1 Non-conforming Lots: A non-conforming lot of record in the shoreland zone as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.
- 6.9.2 Contiguous Built Lots: If two or more contiguous lots of parcels within a shoreline zone are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

- 6.9.3 Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels in the shoreland zone are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements. [3-91]

- \* Existing lots of record as of June 27, 1983, which have at least 100 feet of shore frontage, 20,000 square feet of lot area, and can meet State plumbing code requirements for on-site sewage disposal need

not be combined with adjoining lots in the same ownership in order to meet revised shoreland lot standards. [3-92]

- \* The law allows existing adjoining lots in the same ownership, which do not individually meet the above standards, to be combined and redivided consistent with the above standards. [3-92]

## 7. BUFFER STRIP APPLICATION

The Planning Board may require a buffer strip when a zoning boundary is located adjacent to a different type of zoning area where separation is desirable. [3-81, 3-97]

## 8. ADMINISTRATION

### 8.1 VARIANCES AND APPEALS

8.1.1 The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of this Ordinance for lot area, coverage by structure, and setback. A variance shall not be granted to permit a use or structure otherwise prohibited. [3-81]

8.1.2 Appeals from the decision of the Planning Board may be made to the Appeals Board as provided for by 30-A MRSA Section 2691(4) and acts amendatory or supplemental thereto.

### 8.2 ENFORCEMENT

8.2.1 It shall be the duty of the Building Inspector to enforce the provisions of this Ordinance unless the Town of Wiscasset Ordinances specifically designate otherwise. If the Building Inspector shall find that any provision of this Ordinance is being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. A copy of such notice shall be maintained by the Building Inspector with copies forwarded within 10 days to the Planning Board and Selectmen. [3-92]

8.2.2 When the above action does not result in the correction or abatement of the violation, the Selectmen are hereby authorized and directed to institute any and all actions necessary, including seeking injunctions of violations and the imposition of fines, to enforce the provisions of this Ordinance in the name of the Municipality.

8.2.3 Any person who continues to violate any provision of this Ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine of not less than \$5.00 nor more than \$100.00 for each violation.

However, in the shoreland zone these fines are not less than \$100.00 or more than \$2,500.00 for each violation. Each day such a violation is continued is a separate offense. [6-91]

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## SUMMARY OF PERMITTED USES

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### A. SHORELAND RESOURCE PROTECTION DISTRICT

#### A.1 Permitted Uses:

- A.1.1 Harvesting a wild crop such as salt marsh hay or berries.
- A.1.2 Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking.
- A.1.3 Wildlife management practices.
- A.1.4 Motorized vehicular traffic on roads and trails, and snowmobiling. [6-74, 6-78]
- A.1.5 Forest management activities: timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, regeneration of forest stands, and other similar associated activities, but not the construction or creation of roads. [6-74, 6-88]
- A.1.6 Fire prevention activities. [6-88]
- A.1.7 Soil and water conservation practices and archaeological sites. [3-92]
  - a. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts including severe erosion, mass soil movement, improper drainage, and water pollution whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soils Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, an other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist. These requirements shall include the procedures of Article VII Section 2.3.3 g and h. [3-91]

b. No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body. [3-91]

c. Any proposed land use activity involving structural development or soil disturbance on or adjacent to land sites listed or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision to the applicant. [3-92]

A.1.8 Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimum disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed area and to protect the public health and safety. [3-91]

A.1.9 Surveying and resource analysis. [6-88]

A.1.10 Emergency operations, which shall include operations conducted for the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury. [6-88]

A.1.11 Essential Services. Where feasible, the installation of essential services shall be limited to public ways and existing service corridors. The installation of essential services is not permitted in a Resource Protection District except to provide services to a permitted use within said district, or where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources including visual impacts. [3-91]

A.1.12 Signs, with a permit from the Sign Control Officer of Wiscasset, subject to the provisions set forth in Article III of the Town Ordinances.

A.2 After review and approval of the Planning Board on finding that the proposed use is not incompatible with use of the surrounding area; the proposed use is not



harmful to natural resources or scenic values in the area of proposed use; and the proposed use will not degrade the air, water or soil, the following uses may be permitted by Special Exception Permit:

A.2.1 Agriculture and Aquaculture in Shoreland Areas. [3-91]

a. All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine Soil and Water Conservation Commission in July, 1972.

b. Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance of water bodies, tributary streams, or wetlands. Within five (5) years of the effective date of this ordinance all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five (5) year period.

c. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance. Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.

d. There shall be no tilling of soil within seventy-five (75) feet, horizontal distance, from water bodies; nor within twenty-five feet, horizontal distance, of tributary streams, and wetlands Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

e. After the effective date of this Ordinance, newly established livestock grazing area shall not be permitted within seventy-five (75) feet horizontal distance of water bodies, nor; within twenty-five (25) feet horizontal distance, of tributary streams, and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan. [3-91]

A.2.2 Roads and Driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features. [3-91]

a. Roads and driveways shall be set back at least seventy-five (75) feet from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body.

- \* On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent.
- \* This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located near to the shoreline due to an operational necessity.

b. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body. [3-93]

c. New permanent roads are not permitted within the shoreland zone along Significant River Segments except:

- \* To provide access to structures or facilities within the zone; or
- \* The applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they should be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

d. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary Stream, upland edge of a wetland.

e. Road banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the

provisions for erosion and sedimentation control contained in subsection Q.

f. Road grades shall be no greater than ten (10) percent except for short segments less than two hundred (200) feet. [3-93]

g. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which directed to a unscarified buffer strip shall be diffused or spread out to prompt infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip. [3-93]

h. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strip before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

\* Ditch relief culverts, drainage dips and associated water turnouts shall be spanned along the road at intervals no greater than indicated in the following table:

<u>Road Grade (Percent)</u>	<u>Spacing (Feet)</u>
0- 2	250
3- 5	200-135
6-10	100- 80
11-15	80- 60
16-20	60- 45
21+	40

\* Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.

\* On road sections having slopes greater than ten (10) percent, ditch relief culvert shall be placed across the road at approximately a thirty(30) degree angle downslope from a line perpendicular to the centerline of the road.

\* Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

i. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning. [3-91]

A.2.3 Public facilities for educational, scientific or nature study purposes. Such facilities must be nonresidential and designed for low-intensity use.

A.2.4 Nonresidential structures, accessory to permitted uses, such as boathouses. [3-93]

A.2.5 Public and private parks and recreation areas involving minimal structural development. Within the Shoreland Zone adjacent to tidal and non-tidal areas the minimum lot area shall be 40,000 sq. ft. and the minimum shore frontage shall be 200 feet. [3-91]

A.2.6 Permanent (remain in the water for 7 months or more in any year) piers, docks, floats, wharves, breakwaters, causeways, marinas, bridges over 20 feet in length, and uses projecting into water bodies, which in addition to federal or state permits which may be required, shall conform to the following: [6-88]

a. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion. [6-88]

b. The location shall not interfere with developed or natural beach areas. [3-91]

c. The facility shall be located so as to minimize adverse effects on fisheries. [6-88]

d. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area. [6-88]

e. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity. [3-91]

f. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water

body or within a wetland shall be converted to residential dwelling units in any district. [3-91]

g. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure. [3-92]

h. Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C. [3-91]

A.2.7 Public utilities, including sewage collection and treatment facilities. [6-88]

A.2.8 Filling or other earth-moving activity of more than 10 cubic yards, which shall be conducted in such manner to prevent to the maximum extent possible erosion and sedimentation of surface waters. On slopes greater than 25% there shall be no grading or filling within 100 feet of the normal high water mark except to protect the shoreline and prevent erosion. [6-88]

a. A person performing any dredging, bulldozing, removal or displacing soil, sand, vegetation or other materials shall require a permit from the Department of Environmental Protection pursuant to Title 38 MRSA, Section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them. [3-91, 3-93]

b. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for: [3-91]

- \* Mulching and revegetation of disturbed soil.
- \* Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- \* Permanent stabilization structures such as retaining walls or riprap.

c. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided

wherever possible, and natural contours shall be followed as closely as possible. [3-91]

d. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion. [3-91]

e. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition: [3-91]

- \* Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
- \* Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
- \* Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

f. Natural and manmade drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater and shall be stabilized with vegetation or lined with rip-rap. [3-91]

A.3 The following uses only are permitted with a permit from the Code Enforcement Officer: [6-88]

A.3.1 Timber harvesting. [3-91]

a. Within the strip of land extending 100 feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting Gardiner Pond there shall be no timber harvesting, except to remove safety hazards. [3-92]

b. Except in areas as described in Paragraph "a" above, timber harvesting shall conform with the following provisions:

c. Each tree removed is to be marked for cutting by either a private consulting forester or a State forester who will supervise the cutting and removal of same.

d. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

- \* Within seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
- \* At distances greater than seventy-five (75) feet, horizontal distance, of the normal high-waterline of water bodies or the upland edge of a wetland harvesting operations shall not create single clear-cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.
- \* The Planning Board may approve timber harvesting in excess of the 40% limitation upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such exemption is necessary for good forest management and is carried out in accordance with the purposes of the Act. The planning board must also notify the Department of Environmental Protection of any permits issued for timber harvesting in excess of 40 percent. [3-92]

e. Areas in the Shoreland Resource Protection District beyond 250 feet from the high water mark will not require a permit by the Code Enforcement Officer, but each tree removed is to be marked for cutting by either a private consulting forester or a State forester who will supervise their removal and see that all slash is disposed of in accordance with existing State laws.[3-93]

f. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part there extends more than four (4) feet above the ground.

Any debris that falls below the normal high-water line of a water body shall be removed.

g. Timber harvesting equipment shall not use stream channels as travel routes except when:

- \* Surface waters are frozen; and

- \* The activity will not result in any ground disturbance.

h. All crossings of flowing water shall require abridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

i. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

j. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of water body or upland edge of a wetland.

k. Timber harvesting operations not in conformance with Section A.3.1 a. & b. above may be allowed by the Planning Board upon approval of a permit granted upon a clear showing by the applicant that such an exception is necessary for proper timber management.

A.3.2 Structures accessory to permitted uses, shall be setback at least 75 feet from the normal high water line of water bodies, tributary streams, or the upland edge of wetland, except that in the Village Waterfront Zone the setback from the normal high-water line shall be at least twenty-five (25) feet. [3-91]

a. The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational



necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses. [3-91]

b. Principal or accessory structures and expansions of existing structures shall be governed by the provisions of the Building Laws, Article II, Section 3, Requirements for Building Exteriors. [3-93]

c. The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by some types identified as recent flood plain soils. [3-91]

d. The total area of all structures, parking lots and other non-vegetated surfaces within the shoreland zone shall not exceed (20) percent of the lot or portion there of, located within the shoreland zone including land area previously developed. [3-91]

e. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreland access in areas of steep slopes or unstable soils provided; that the structure limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property. [3-91]

#### A.3.3 Clearing of Vegetation for Development [3-91]

a. Within a shoreland area zoned for Resource Protection abutting Gardiner Pond, there shall be no cutting of vegetation within the strip of land extending 75 feet horizontal distance, inland from the normal high-water line, except to remove safety hazards.

b. Elsewhere, in any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

c. Except in areas as described in A.3.3.a, above, and except to allow for the development of permitted uses, within a strip of land extending to a great pond and seventy-five (75) feet, horizontal distance, from any water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- \* There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.
- \* Selective cutting of trees within the buffer strip is permitted provided that well distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" adjacent to water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 8 per 25-foot square area.

Note: As an example, adjacent to water bodies, tributary streams and wetlands, if a 25' x 25' plot contains 3 trees between 2" and 4" in diameter, 3 trees between 4" and 12" in diameter, and 3 trees over 12" in diameter the rating score is:

$$(3 \times 1) + (3 \times 2) + (3 \times 4) = 21 \text{ points.}$$

Thus, the 25' x 25' plot contains trees worth 21 points. Trees totaling 13 points (21-8=13) may be removed from the plot provided that no cleared openings are created.

- \* Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.
- \* Pruning of tree branches on the bottom 1/3 of the tree is permitted.
- \* In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

d. The provisions contained in A.3.3.c, above, shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas however, shall be limited to the minimum area necessary.

e. At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of any water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year

period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet aboveground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

f. In no event shall cleared openings for development, including but not limited to principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the General Development or Commercial Fisheries/Maritime Activities District.

g. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.

h. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

A.3.4 Temporary (remaining in the water less than 7 months in any year) piers, docks, floats, wharves, breakwaters, causeways, marinas, bridges over 20 feet in length and uses projecting into water bodies provided that, in addition to federal or state permits which maybe required they shall conform to A.2.6 a-h above. [6-88, 3-91]

A.3.5 Filling or other earth-moving activity of less than 10 cubic yards, subject to the provisions in A.2.8 above. [6-88]

#### A.4 Individual Private Campsites [3-91]

A.4.1 Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

a. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever less, may be permitted.

b. Campsite placement on any lot, including the area intended for a recreation vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

c. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.

d. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.

e. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner is required.

f. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

A.5 The following are not permitted in the Shoreland Resource Protection Districts:

A.5.1 Residential structures unless excepted by Paragraph A.6 [3-96]

A.5.2 Commercial structures

A.5.3 Industrial structures

A.5.4 Government structures

A.5.5 Institutional structures

A.5.6 Campgrounds

A.5.7 Private sewage disposal systems

A.5.8 Structures not accessory to permitted uses

A.5.9 Professional buildings

A.5.10 Outdoor advertising

A.6 Special Exception to Permit Residential Structures [3-96]

A.6.1 The Planning Board may issue a permit for construction of a single-family residence in a Resource Protection District if the applicant demonstrates that all of the following conditions are met. [3-96]

a. There is no location on the property, other than a location within the Resource Protection District where the structure can be built.

b. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District which defined such areas in March, 1993.

c. The proposed location of all buildings, sewage disposal systems and other improvements are:

- \* Located on natural ground slopes of less than 20; and
- \* Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance. If the floodway is not shown on the Federal Emergency Management Agency maps, it is deemed to be 1/2 the width of the 100-year floodplain. For purposes of this subparagraph, "floodway" means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot in height and "velocity zone" means an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

d. The total ground-floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet.

e. All structures, except functionally water dependent structures, are set back from the normal high-waterline or upland edge of a wetland to the greatest practical extent, but not less than 75 feet. In determining the greatest practical extent, the planning board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain and its proximity to moderate-value and high-value wetlands.

## B. SHORELAND RESIDENTIAL DISTRICT.

B.1 The following are permitted without permit from either the Planning Board or Code Enforcement Officer.

B.1.1 Any use permitted in the Resource Protection District without permit. [3-93]

- B.1.2 Small nonresidential facilities for educational, scientific or nature interpretation purposes. [6-88]
- B.1.3 Public and private parks and recreation areas involving minimal structural development. [6-88]
- B.2 The following are permitted with permit from the Planning Board: [6-88]
  - B.2.1 Residential dwelling unit. [6-88]
  - B.2.2 Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:
    - a. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site. [3-91]
    - b. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be back a minimum of one hundred (100) feet from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. [3-91]
  - B.2.3 Permanent piers, docks, wharves, breakwaters, causeways, marinas, bridges over 20 feet in length and uses projecting into water bodies provided that, in addition to Federal or State permits which may be required, they shall conform to the criteria listed in A.2.6 a-h above. [6-88, 3-91]
  - B.2.4 Public utilities, including sewage collection and treatment facilities. [6-88]
  - B.2.5 Government structures. [6-88]
- B.3 The following only are permitted with a permit from the Code Enforcement Officer: [6-88]
  - B.3.1 Structures accessory to permitted uses are subject to the provisions of A.3.2, a-f. [3-91]
  - B.3.2 Temporary (remaining in the water less than 7 months in any year) piers, docks, floats, wharves, breakwaters, causeways, marinas, bridges over 20 feet in length and uses projecting into water bodies provided that, in

addition to federal or state permits which may be required they shall conform to A.2.6 a-h above. [6-88,3-91]

B.3.3 Filling or other earth-moving activity of more than 10 cubic yards subject to the provisions in A.2.8 above.[6-88]

B.4 The following is allowed only with a permit from a Licensed Plumbing Inspector: [6-88]

Private sewage disposal systems, provided that all subsurface sewage disposal systems shall be located in areas of suitable soil of at least 1,000 square feet in size and shall be setback no less than 100 horizontal feet from the normal high water mark of a water body. This requirement shall not be reduced by variance. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules. Subsurface waste disposal systems shall require a soils report, prepared by a State-Certified soil scientist or geologist based on on-site investigation. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal. [6-88]

B.5 The following are not permitted in the Shoreland Residential Districts:

B.5.1 Commercial structures. [6-88]

B.5.2 Multifamily dwelling units, municipal use, charitable or educational institutions, convalescent or rest homes, nursing homes, day nurseries, and professional buildings or Elderly Congregate Housing. [3-01]

B.5.3 Industrial structures. [6-88]

B.5.4 Institutional structures. [6-88]

B.5.5 Structures within 75 feet of normal high water mark, except those permitted within the Shoreland Resource Protection District or those which require direct access to the water as an operational necessity, such as piers, docks and retaining walls. [6-74, 6-88]

B.5.6 Timber Harvesting, except that authorized by Section A.3.1. [3-91]

B.5.7 Dwelling units in Shoreland area on lots of less than 150 feet shore frontage, measured in a straight line between the points of intersection of the side lot lines with the shoreline at the normal high water elevation; excepting those Lots or Deeds or Plans of Record on the effective date of this ordinance.

B.5.8 Structures covering more than 20% of the area of any lot in the Shoreland area, excepting those Lots or Deeds or Plans of Record on the effective date of this Ordinance.

B.5.9 Residential, governmental, institutional, commercial, and industrial structures in the Shoreland Zone will conform to the following Land Use Standards. [3-91]

a. Minimum Lot Standards within the Shoreland Zone

	Lot Area (sq.ft.)	Shore Front. (ft.)
<u>Residential (per dwelling unit)</u>		
Adjacent to Tidal Areas	43,560	150
Adjacent to Non-Tidal Areas	43,560	200
<u>Governmental, Institutional, Commercial or Industrial (per principal structure)</u>		
Adjacent to Tidal Areas Exclusive of Those Areas Zones for Commercial Fisheries and Maritime Activities	43,560	200
Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
Adjacent to Non-tidal Areas	60,000	300

**Public and Private Recreational Facilities**

Adjacent to Tidal and Non-tidal Areas	43,560	200
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b. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

c. Lots located on opposite sides of a public or private road shall be considered each a separate tractor parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.



d. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

e. If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

f. Clustered housing is permitted within the shoreland zone provided that the overall dimensional requirements, including frontage and lot area per dwelling unit are met. When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered. [3-91]

## C. SHORELAND BUSINESS DISTRICT.

C.1 The following uses are allowed without permit from the Planning Board or the Code Enforcement Officer.

C.1.1 Any use permitted in the Shoreland Resource Protection District or in the Shoreland Residential District without permit.

C.1.2 Structures accessory to permitted uses, provided all such structures shall conform to the criteria set forth in A.3.2 above. [6-88, 3-93]

C.2 The following are permitted with Planning Board permit and must conform to land use standards set forth in B.5.9 above. [3-91]

C.2.1 Residential dwelling units. [6-88]

C.2.2 Commercial structures. [6-88]

C.2.3 Industrial structures. [6-88]

C.2.4 Government structures. [6-88]

C.2.5 Institutional structures. [6-88]

C.2.6 Campground, provided they conform to B.2.2 above.[3-91]

C.2.7 Permanent piers, docks, wharves, breakwaters, causeways, marinas, bridges over 20 feet in length and uses projecting into water bodies provided that, in addition to Federal or State permits which may be

required, they shall conform to the criteria listed in A.2.6 a-h above. [6-88, 3-91]

C.2.8 Public utilities, including sewage collection and treatment facilities. [6-88]

C.3 The following uses are permitted with a permit from the Code Enforcement Officer: [6-88]

C.3.1 Temporary (remaining in the water less than 7 months in any year) piers, docks, floats, wharves, breakwaters, causeways, marinas, bridges over 20 feet in length and uses projecting into water bodies provided that, in addition to federal or state permits which may be required they shall conform to A.2.6 a-h above. [3-91]

C.3.2 Filling or other earth-moving activity of more than 10 cubic yards subject to the provisions in A.2.8 above.[6-88]

## D. RESIDENTIAL DISTRICT

### D.1 PERMITTED USES

D.1.1 Any use permitted in the Resource Protection District.

D.1.2 Single family dwelling unit.

D.1.3 Multifamily dwelling unit with not more than 2 families.

D.1.4 Church, parish house.

D.1.5 Renting of rooms in a private dwelling unit.

D.1.6 Park, playground.

D.1.7 Garden, greenhouse, nursery or similar agricultural use.

D.2 The following are permitted uses provided buildings are not more than 3 stories in height, and are of the same general architectural appearance as existing buildings in the immediate neighborhood, and provided there are adequate off-street parking areas for the normal amount of vehicles expected to be used by inhabitants, clients and employees:

D.2.1 Municipal use.

D.2.2 Multifamily dwelling unit with 3 or more families.

D.2.3 Charitable or educational institution.

D.2.4 Convalescent or rest home, or nursing home or Elderly Congregate Housing. [3-01]

D.2.5 Day nursery.

D.2.6 Professional building.

E. BUSINESS DISTRICT

E.1 The following uses, and building or use customarily accessory, are permitted:

E.1.1 Any building or use permitted in the Resource Protection or Residential District.

E.1.2 Parking lot.

E.1.3 Eating place.

E.1.4 Clinic, medical or dental.

E.1.5 Retail and wholesale outlet.

E.1.6 Service establishment such as bank, barbershop, tailor, laundromat.

E.1.7 Recreational use such as bowling, theater, dance hall.

E.1.8 Funeral home.

E.1.9 Office building.

E.1.10 Any retail business or service involving manufacturing on the premises, and employing not more than 4 persons, the products of which are principally for sale at retail on the premises.

E.1.11 Antique shop.

F. VILLAGE WATERFRONT DISTRICT

The Village Waterfront District as defined in this ordinance, although within the Shoreland General Development District, shall nevertheless be governed by the following limitations:

F.1 PERMITTED USES

F.1.1 Any use permitted in the Shoreland Resource Protection District.

- F.1.2 Single family detached residential dwellings provided that 2 spaces of off-street parking per residence is provided on the premises.
- F.1.3 Renting of rooms in a private dwelling unit provided that one space per rental unit of off-street parking is provided on the premises, and that no more than three rooms shall be so rented.
- F.1.4 Public parks.
- F.1.5 Retail shops, art galleries, restaurants and professional offices provided that one space per each employee of off-street parking is provided on the premises. Further parking requirements subject to Site Review.
- F.1.6 Marinas and Boatyards.
- F.1.7 Marine research facilities.
- F.1.8 Public utility installations, including power substations, pumping stations and waste treatment facilities.

F.2 All structures shall be set back 100 feet from mean high tidemark.

#### G. COMMERCIAL DISTRICTS

G.1 The following uses, and building or use customarily accessory, are permitted:

- G.1.1 Any building or use permitted in the Business District.
- G.1.2 Hotels or Motels not exceeding thirty units.
- G.1.3 Any retail business.
- G.1.4 Any service involving manufacturing on the premises. [9-91]

#### H. NEQUASSET WATERSHED DISTRICT [3-92]

H.1 Special Requirements in the Nequasset Lake Watershed

All streams in the Nequasset Lake watershed shall be protected by state shoreland regulations extended to the uppermost source of each stream.

H.2 Permitted Uses

The following uses are permitted in the Nequasset Watershed District.

H.2.1 Any use permitted in the Residential and Rural Districts; except for public sewer lines, public waterlines, and municipal sewage treatment plants.

H.2.2 Gravel pits are permitted per State Regulations.

H.2.3 Notwithstanding the above, timber harvesting is permitted only in accordance with the standards established in Article VI Section A.3.[3-92]

## J. RURAL DISTRICTS

The following uses, and building or use customarily accessory, are permitted:

J.1 Any use permitted in the Resource Protection, Residential or Business Districts.

J.2 Any other building or use, unrestricted.

## K. SHORELAND BUSINESS II/ MARINE OVERLAY DISTRICTS

### **K.1.0.0 Purpose**

The purpose of the Shoreland Business II and Marine Overlay Zoning Districts, hereinafter referred to as the Districts, is to provide geographic areas on the +/- 33.19-acre Birch Point peninsula (which was formerly used as an industrial site) where a mixture of uses, including residential, marine, commercial, related ancillary business, and low-impact industrial is encouraged. The Districts are designed to provide and maintain safe and healthy living conditions; prevent degradation of the natural environment; protect and promote marine industries; conserve shoreland vegetation and harmonize commercial, marine business, low-impact industrial and residential uses with the surrounding built and natural environment. The Districts are also intended to allow uses that provide housing and services for their residents and opportunities for economic growth. In addition, the Districts are designed to co-exist with the existing Electric Utility Substation and Facilities located adjacent to and within the Districts.

The Shoreland Business II and Marine Overlay Zoning Districts, as of the effective date of this ordinance, are characterized by an existing, heavily-developed lot with potential for high density, clustered housing, marina facilities, mixed-use development as well as the environmentally-friendly reuse of existing land and buildings. Any mixed use development shall rely on shared infrastructure systems including electrical, telecommunications, water and sewer services, parking lots, transportation facilities, stormwater management, and driveways.

**The Special Setback Area is bounded and described as follows:** A tract of land at Birch Point in the Town of Wiscasset, being a part of the former Mason Station Property shown on a plan entitled “Shoreland Business District II & Marine Overlay Districts Zoning Map” dated February 28, 2005 bounded and described as follows: Beginning at

an iron rod set labeled “F” on the above mentioned Zoning Map on the northerly line of the land now or formerly of Central Maine Power Company; thence N 51°24'15" W along the northerly line of the land of Central Maine Power Company 51.79' to an unmonumented point at the high water mark of Hilton Cove labeled “A” on the above mentioned Zoning Map; thence northeasterly, easterly, and southeasterly by the high water mark of Hilton Cove and Sheepscot River to an unmonumented point that lies S 86°04'44" W 13.94' from a drill hole in ledge set labeled “H” on the above mentioned Zoning Map; thence S 86°04'44" W 126.43' to an unmonumented point; thence S 41°13'35" W 198.61' to an unmonumented point; thence S 06°32'42" W 55.56' to an unmonumented point; thence S 16°01'17" E 32.63' to an unmonumented point at the center of the railroad spur; thence S 73°50'02" W along the center of the railroad spur 151.17' to an unmonumented point; thence S 72°46'31" W along the center of the railroad spur 53.16' to an unmonumented point; thence S 69°51'14" W along the center of the railroad spur 60.04' to an unmonumented point; thence S 66°48'56" W along the center of the railroad spur 74.39' to an unmonumented point; thence S 57°32'59" W along the center of the railroad spur 12.06' to an unmonumented point on the northerly line of the land of Central Maine Power Company; thence N 51°24'15" W along the northerly line of the land of Central Maine Power Company 284.64' to the point of beginning

**The Impervious Surface Ninety Percent (90%) Area is bounded and described as follows:** A tract of land at Birch Point in the Town of Wiscasset, being a part of the former Mason Station Property shown on a plan entitled “Shoreland Business District II & Marine Overlay Districts Zoning Map” dated February 28, 2005 bounded and described as follows: Beginning at an unmonumented point on the northerly line of the land now or formerly of Central Maine Power Company at the center of a railroad spur; said point lying S 51°24'15" E, a distance of 284.64 from a rebar set at the top of the bank of Hilton Cove; said rebar being labeled “F” on said Zoning Map; thence N 57°32'59" E along the center of the railroad spur 12.06' to an unmonumented point; thence N 66°48'56" E along the center of the railroad spur 74.39' to an unmonumented point; thence N 69°51'14" E along the center of the railroad spur 60.04' to an unmonumented point; thence N 72°46'31" E along the center of the railroad spur 53.16' to an unmonumented point; thence N 73°50'02" E along the center of the railroad spur 151.17' to an unmonumented point; thence N 16°01'17" W 32.63' to an unmonumented point; thence N 06°32'42" E 55.56' to an unmonumented point; thence N 41°13'35" E 198.61' to an unmonumented point; thence N 86°04'44" E 101.43' to an unmonumented point that lies S 86°04'44" W 38.94' from a drill hole in ledge set labeled “H” on the above mentioned Zoning Map; thence southerly along the westerly boundary of the Marine Overlay District by a line that is 25' from (on the landward side) and parallel to the high water mark of Sheepscot River to a point that lies N 64°11'45" W from an unmonumented point labeled “J” as shown on the above mentioned Zoning Map; thence S 64°11'45" E along the southerly boundary of the Marine Overlay District 25.00' to an unmonumented point at the high water mark of Sheepscot River labeled “J” on the above mentioned Zoning Map; thence southwesterly by the high water mark of the Sheepscot River to the center of the old dam at the outlet of the ice pond; thence southwesterly along the high water mark of the ice pond to an unmonumented point labeled “K” on the above mentioned Zoning Map; thence N 05°57'43" W 388.19' to an unmonumented point

on the northerly side of the access road at the southwest corner of the land now or formerly of Central Maine Power Company; thence N 84°02'17" E partly along the northerly edge of the access road 398.71' to an unmonumented point; thence N 05°57'43" W along the land now or formerly of Central Maine Power Company 97.21' to an unmonumented point; thence N 24°23'29" E along the land now or formerly of Central Maine Power Company 200.41' to an unmonumented point; thence N 65°16'49" W along the land now or formerly of Central Maine Power Company 31.33' to an unmonumented point; thence N 11°18'11" E along the land now or formerly of Central Maine Power Company 36.34' to an unmonumented point; thence N 32°23'50" W along the land now or formerly of Central Maine Power Company 110.13' to an unmonumented point; thence N 23°54'42" E along the land now or formerly of Central Maine Power Company 33.76' to an unmonumented point; thence N 65°49'25" W along the land now or formerly of Central Maine Power Company 58.04' to an unmonumented point; thence N 51°24'15" W along the land now or formerly of Central Maine Power Company 47.86' to the point of beginning. Bearings mentioned above are oriented towards Grid North (NAD 83) as shown on the above mentioned Zoning Map.

**Impervious Surface Fifty Percent (50%) Area:** All areas of the Shoreland Business II and Marine Overlay Districts not included in the Impervious Surface Ninety Percent (90%) Area.

**K.2.0.0 Definitions** – The following definitions apply only to the Shoreland Business II District and the Marine Overlay District. All other definitions contained in Wiscasset Ordinances, to the extent they are not in conflict with the following definitions, also apply to the Shoreland Business II District and the Marine Overlay District.

**Aquaculture:** The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**Business service:** A service provided to other business establishments on a fee or contract basis such as advertising, mailing services, building maintenance services, employment services, management and consulting services, protective services, personnel services and similar services.

**Clinic:** An establishment where patients are admitted for examination and treatment by one (1) or more professionals including, but not limited to, physicians, dentists, psychologists or social workers.

**Community Center:** A building used for recreational, social, educational, health, culture, or similar activities and services, usually owned and operated by a public or nonprofit group or agency.

**Community Hall:** A building or portion of a building, used for social, recreational, artistic, civic, or educational community functions. Such a facility would be open to the

public for such functions, which, for example, could include but not be limited to performances, dances, exhibitions, cultural exchange, training programs and workshops, neighborhood meetings or gatherings. As part of these functions and activities, it shall be permissible to serve food, subject to other applicable codes and ordinances.

Convenience store: A retail establishment offering for sale a limited line of groceries and household items intended for convenience of the neighborhood.

Day care facility: A facility which, for consideration, provides regular care and protection for children under the age of sixteen (16) for any part of the day and is required to be licensed by the state.

Drinking establishments: An establishment required to be licensed to sell alcoholic beverages for on-premises consumption, and which is not regularly used for the purpose of providing full-course meals on the premises, as defined in Title 28-A of the Maine Revised Statutes.

Earth moving activity: Any removal, placement, excavation, filling, stockpiling or grading of soil, earth, loam, sand, gravel, rock, or other natural mineral deposits.

Eating establishment: An establishment that prepares and serves food and beverages intended for immediate consumption in consideration of payment.

Electric Utility Substation and Facilities: Any electrical power transmission or distribution substations and associated equipment and operations including, but not limited to, communications equipment, portable generation, overhead and underground electrical transmission and distribution lines, cables and towers and associated utility corridors, electric distribution line extensions as defined under Chapter 395 of the Maine Public Utilities Commission Rules, and electric utility service centers and equipment.

Facility: A structure, open area, or other physical contrivance or object.

Family: One person, or a group of people living together as a single housekeeping unit, together with incidental domestic servants and temporary nonpaying guests.

Family amusement center: Any structure, open to the public, which may contain coin-operated games and similar entertainment and amusement devices.

Fill: Soil, earth, loam, sand, gravel, rock and other similar deposits.

Filling: The placement of soil, earth, loam, sand, gravel, rock and other mineral deposits.

Impervious surface area: Any surface area which does not absorb rain and includes the footprint of all buildings, roads, sidewalks, parking areas, and any area paved with bricks, gravel, concrete or asphalt.



**Intermodal Transportation Facility:** A facility which accommodates the change from one mode of transportation to another such as docks, park and ride lots, bus stops and railroad stations.

**Low-impact industrial uses:** Facilities and/or industrial activity involving the manufacturing, packaging, assembly or distribution of products from previously prepared materials including, but not limited to, the following: bakeries, breweries, bottling, printing and publishing, machine shops, assembly of electronic components, tool and die shops and the packaging of foods; and/or, the manufacturing of: precision instruments, watches, musical instruments, toys and sporting goods, pottery and ceramics using only previously pulverized clay, wood products, jewelry. Low-impact industrial uses do not include salvaging operations.

**Personal services:** Services provided to a person such as laundering of apparel, photography, beauty and barber care, but excluding commercial or industrial laundering of apparel and dry cleaning.

**Private club:** A nonprofit social or recreational facility that is open exclusively to members and their guests. It shall be permissible to serve food and meals on such premises provided adequate dining room space and kitchen facilities are available.

**Professional office:** An office maintained by an individual or firm for the practice of a professional such as physician, dentist, lawyer, engineer, architect, teacher, accountant, realtor, insurance broker or other professional.

**Recreational area:** A place designed and equipped for sports, leisure time activities and/or other customary and usual recreational activities.

**Recreational trail:** A trail open to the public, established for walking, hiking, non-motorized biking, snow-shoeing, or cross-country skiing, with a tread path no more than twelve (12) feet in width and an overall width including trail side-slopes of twenty (20) feet or less. No motorized vehicles are permitted on a recreational trail except electrically and solar-operated vehicles and similar transportation-related equipment used by persons with limited physical or mental abilities, and vehicles necessary for trail maintenance and emergency purposes.

**Restaurant:** An establishment with a food preparation area, dining area, and persons to prepare and serve food and drinks to guests in consideration of payment.

**Retail establishment:** Any shop or store offering goods, services or merchandise to the general public for direct consumption and not for resale.

**Service drop:** Any utility service to a customer provided that:

1. in the case of electrical service

- a. A “service drop” is the service cable or other conductor providing secondary voltage to the customer’s service entrance equipment from a transformer or from a secondary conductor located on the utility’s distribution system or on a privately owned line extension.

2. in the case of telecommunication service

- a. the extension, regardless of the length, will be made by the installation of telecommunication wires to existing utility poles, or
- b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Studios for artists and craftspeople:** A facility for the production of arts and crafts products such as paintings, sculpture or other arts, or the practice of arts such as music or dance, or the production of custom handcrafted work.

**Theater:** An establishment devoted to showing motion pictures, or used for dramatic, musical or other live performances.

**Use:** The purpose for which land or structures thereon is designed, arranged or intended to be occupied or utilized, or for which it is occupied, maintained, owned, rented or leased.

**Utility substation:** A sewage- or water-pumping station, telecommunications equipment enclosures, or other similar structures owned or operated by a public utility, **excluding any Electric Utility Substation and Facilities.**

**Warehousing:** Storage of goods, wares and merchandise in a structure in consideration of payment.

**Water-dependent uses:** Uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and which cannot be located away from these waters.

**Wholesale business:** A business primarily engaged in the selling of merchandise to retailers or to industrial, commercial, institutional, or professional business users, or to wholesalers; or, a wholesale business is a business that acts as agent or broker and buys merchandise for, or sells merchandise to, such individuals or companies.

### **K.3.0.0 Permitted Uses**

**K.3.1.0** Except to the extent permits may be specifically required by the Shoreland Business II / Marine Overlay Districts ordinance, the following uses are allowed without a permit from the Planning Board or the Code Enforcement Officer in the Shoreland

Business II and Marine Overlay Districts, provided development is in compliance with all applicable laws, rules and regulations:

- (a) The permitted uses in the Shoreland Resource Protection District as set out in the following subsections: A.1.1, A.1.2, A.1.3, A.1.6, A.1.9 and A.1.10;
- (b) Filling and earthwork of less than ten (10) cubic yards of soil;
- (c) Filling and earthwork of more than ten (10) cubic yards of soil if required by state or federal governmental agency order;
- (d) Routine maintenance operations;
- (e) Emergency operations; and,
- (f) Electric Utility Substation and Facilities existing as of the effective date of this ordinance.

**K.3.2.0** The following uses are permitted with Code Enforcement Officer approval in the Shoreland Business II District, provided development is in compliance with all applicable laws, rules and regulations:

- (a) Accessory uses and structures except for those that are accessory to uses and structures requiring Planning Board approval;
- (b) Structures for any use permitted in the Shoreland Business II District which remain for less than seven months in any period of twelve consecutive months;
- (c) Service drops, as defined, to approved development;
- (d) Signs subject to applicable sign ordinances;
- (e) Structural development not exceeding 500 sq. ft. that is accessory to and located within a recreational area approved by the Planning Board;
- (f) Non-residential facilities for educational, scientific, or nature interpretation purposes not exceeding 500 sq. ft., provided facility is accessory to development approved by the Planning Board;
- (g) Retaining walls set back a minimum of twenty-five (25) feet from the upland edge of a coastal wetland or the normal high water line of Hilton Pond;
- (h) Driveways; and,
- (i) Clearing of vegetation for development that does not require Planning Board approval.

**K.3.3.0** The following uses are permitted with Planning Board approval in the Shoreland Business II District, provided development is in compliance with all applicable laws, rules and regulations:

*Commercial:*

- (a) Professional, business and general offices;
- (b) Restaurants, eating establishments and drinking establishments;
- (c) Meeting and convention halls;
- (d) Hotels and motels and ancillary services customary to the primary use;
- (e) Low-impact industrial uses;

- (f) Retail and service establishments, but excepting establishments with automobile gas pumps;
- (g) Theaters;
- (h) Banking and financial services;
- (i) Laundry services ancillary to the primary use of another permitted use such as hotel and/or marina, but excluding independent commercial laundry facilities and dry cleaning facilities;
- (j) Indoor recreation and family amusement establishments;
- (k) Intermodal transportation facilities;
- (l) Off-street parking lots and garages;
- (m) Personal services;
- (n) Business services;
- (o) Communication studios, broadcast and receiving facilities;
- (p) Self-storage facilities, only within buildings or structures existing on the date of the adoption of this Article;
- (q) Community center;
- (r) Community hall;
- (s) Spa, health club or similar facility;
- (t) Museum art gallery or similar facility; and,
- (u) Warehousing and wholesaling.

*Marine:*

- (a) Marine products wholesaling and retailing;
- (b) Marine repair services and machine shops;
- (c) Harbor and marine supplies and services and ship supply;
- (d) Boatbuilding and facilities for construction, maintenance and repair of vessels;
- (e) Marinas with ancillary services customary to the primary use;
- (f) Marine museums and aquariums;
- (g) Indoor and/or outdoor boat storage facilities;
- (h) Permanent piers, docks, wharfs, bridges and other structures and uses extending over or below the upland edge of a coastal wetland or within a wetland; and,
- (i) Aquaculture.

*Residential:*

- (a) Single-family, two-family and multifamily dwelling units.

*Institutional:*

- (a) Public or private schools of any type with ancillary services including dormitories, customary to primary use;
- (b) Clinics;
- (c) Churches;

- (d) Private clubs or fraternal organizations;
- (e) Colleges, universities or trade schools with ancillary services including dormitories, customary to primary use; and,
- (f) Nursery schools, kindergartens, and day care facilities.

*Public:*

- (a) Government buildings and uses;
- (b) Utility substations including sewage collection and pumping stations and water pumping stations; and,
- (c) Public parks and recreational areas.

*Other:*

- (a) Studios for artists and craftspeople;
- (b) Accessory uses or structures customarily incidental and subordinate to the location, function and operation of uses or structures permitted by the Planning Board;
- (c) Parking areas;
- (d) Roads;
- (e) Essential Services;
- (f) Recreational trails;
- (g) Recreational areas;
- (h) Structural development exceeding 500 sq. ft. in a recreational area;
- (i) Principal non-residential facilities for educational, scientific, or nature interpretation purposes;
- (j) Non-residential facilities for educational, scientific, or nature interpretation purposes exceeding 500 sq. ft;
- (k) Retaining walls within twenty-five (25) feet of the upland edge of a coastal wetland or the normal high-water line of Hilton Pond;
- (l) Filling or earth-moving activity of more than ten (10) cubic yards;
- (m) Electric distribution facilities, telecommunication facilities, including but not limited to, communications equipment, overhead and underground distribution lines, cables and poles; and,
- (n) Clearing of vegetation for development uses requiring Planning Board approval.

**K.3.4.0** The following uses are permitted with Code Enforcement Officer approval in the Marine Overlay District, provided development is in compliance with all applicable laws, rules and regulations:

- (a) Signs, subject to applicable sign ordinances;
- (b) Structures for any use permitted in the Marine Overlay District which remain for less than seven (7) months in any period of twelve(12) consecutive months;

- (c) Service drops;
- (d) Structural development not exceeding 500 sq. ft. that is ancillary to functionally water-dependent recreational areas; and,
- (e) Driveways to permitted uses.

**K.3.5.0** The following uses are permitted with Planning Board approval in the Marine Overlay District provided development is in compliance with all applicable laws, rules and regulations:

- (a) Marinas with ancillary services customary to primary use;
- (b) Marine repair services;
- (c) Boatbuilding and facilities for construction, maintenance and repair of vessels;
- (d) Boat storage facilities;
- (e) Functionally water-dependent structures permitted in the Shoreland Business II District or the Marine Overlay District which remain for seven (7) or more months in any period of twelve (12) consecutive months;
- (f) Essential services;
- (g) Commercial marine transport and excursion services including ferries, captained chartered services, sport fishing and water taxis;
- (h) Warehousing and cargo handling facilities that are:
  - (i) Temporary in nature (i.e. not to remain for more than 12 consecutive months) and not of a size and scale to permit use as a warehouse meant to serve as a distribution, or wholesale center; or,
  - (ii) Storage facilities particular to the marina service businesses including, but not limited to, storage facilities for the fuel and petroleum products or repair parts used in the routine servicing of marina customers and storage facilities for consumer waste or consumer retail products normally associated with a full-service, waterfront marina and boatyard.
- (i) Fishing, recreational and commercial berthing;
- (j) Public landings;
- (k) Commercial fisheries activities excluding fish processing plants;
- (l) Marine and marine-related uses and activities;
- (m) Electric distribution facilities, telecommunication facilities, including but not limited to, communications equipment, overhead and underground distribution lines, cables and poles;
- (n) Utility substations including sewage collection and pumping stations and water pumping stations;
- (o) Recreational trails;
- (p) Accessory uses or structures;

- (q) Professional offices that support marine-related activities, marine research, education and laboratory facilities, restaurants and other eating and drinking establishments provided the use shall have no adverse impact on any adjacent water body or wetland. In determining that no adverse impact will occur, the Planning Board shall require proof from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, access to water, flood plain management, archaeological and historic resources and functionally water-dependent uses. Any use permitted in this section may only be established within buildings or structures existing as of the effective date of this ordinance;
- (r) Filling or earth-moving activity of more than ten (10) cubic yards; and,
- (s) Retaining walls.

#### **K.4.0.0 Prohibited Uses**

Uses which are not enumerated in sections K.3.1.0 – K.3.5.0 as permitted uses are prohibited in the Shoreland Business II and Marine Overlay Zoning Districts.

#### **K.5.0.0 Dimensional Requirements**

The following dimensional requirements shall apply within the Shoreland Business II and Marine Overlay Zoning Districts provided development is in compliance with all applicable laws, rules and regulations:

- (a) Minimum lot size: None.
- (b) Minimum frontage: None.
- (c) Minimum setback requirements:
  - 1. Front setback: None required;
  - 2. Side setback: None required; and,
  - 3. Rear setback: None required.
- (d) Minimum water body setback:
  - 1. Shoreland Business II District:
    - i. There shall be no minimum setback for roads or structures that require direct water access as an operational necessity including, but not limited to, piers, docks, wharfs and bridges, or for buildings in existence as of the effective date of this ordinance. Any enlargement of these existing buildings must comply

with all applicable setback requirements in this ordinance;

- ii. In the Special Setback Area, there shall be a minimum setback of fifty (50) feet from the upland edge of a coastal wetland for one- and two-family dwelling units and their accessory structures, for parking areas and driveways, for structures in a recreational area, for educational, scientific, or nature interpretation non-residential facilities, for clearing of vegetation for approved development, and for signs and service drops. For all other structures located in the Special Setback Area, there shall be a minimum setback of seventy five (75) feet from the upland edge of a coastal wetland; and,
  - iii. In all other portions of the Shoreland Business II District, there shall be a minimum setback of twenty five (25) feet from the upland edge of a coastal wetland, or the normal high-water line of Hilton Pond, for all residential structures (including hotels and motels) and their accessory structures, parking areas, driveways and roads, and fifty (50) feet for all non-residential structures and their accessory structures.
2. Marine Overlay District: There shall be no setback for permitted structures and uses.

(e) Maximum lot coverage: The total of all impervious surface areas shall be:

1. No more than ninety percent (90%) of the Impervious Surface Ninety Percent (90%) Area ; and,
2. No more than 50% for all remaining land in the Shoreland Business II and Marine Overlay Districts.

#### **K.6.0.0 Maximum Height of Structures**

(a) Shoreland Business II District

1. The existing Mason Station building shall not exceed the height of the building as of the effective date of this ordinance;
2. Each non-habitable structure existing as of the effective date of this ordinance that exceeds an applicable height restriction shall not exceed its height as of the effective date of this ordinance;
3. In the Special Setback Area, all one- and two-family dwelling units and their accessory structures within 250 feet of the upland edge of a coastal wetland shall not exceed a maximum height of thirty five (35) feet;



4. In all other portions of the Shoreland Business II District, one and two family dwelling units and their accessory structures shall not exceed a maximum height of thirty five (35) feet; and,
5. All other structures shall not exceed a maximum height of seventy five (75) feet.

(b) Marine Overlay District

1. All habitable structures shall not exceed forty (40) feet in height; and,
2. All non-habitable structures shall comply with applicable Wiscasset ordinances.

**K.6.1.0 General Land Use Standards**

All land use activities in the Shoreland Business II and Marine Overlay Districts shall conform to the following standards, if applicable.

- (a) The first floor elevation or openings of all buildings and structures including basements constructed after the effective date of this ordinance shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.
- (b) No structures shall be constructed on slopes greater than 20% within seventy-five (75) feet from the upland edge of a water body unless they are permissible functionally water-dependent uses or structures or their accessories.
- (c) Notwithstanding the requirements stated above, ramps, stairways, or similar structures may be allowed to provide shoreline access in areas of steep slopes or unstable soils provided:
  1. The structure is limited to the maximum width necessary for proposed use, not to exceed a maximum of six (6) feet in width;
  2. The structure does not extend below or over the upland edge of a coastal wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C), and;
  3. The property owner demonstrates that no reasonable alternative exists on the property within 150 feet of the desired point of access.

**K.6.2.0 Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Upland Edge of a Coastal Wetland or Within a Wetland.**

- (a) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

- (b) The location shall not interfere with existing developed natural beach areas.
- (c) The facility shall be located so as to minimize adverse effects on fisheries.
- (d) The facility shall be no larger in dimension than necessary to carry on permitted land use activities.
- (e) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the upland edge of a coastal wetland or within a wetland unless the structure requires direct access to the water as an operational necessity, or is a functionally water-dependent use or an accessory to a functionally water-dependent use, or as a permitted use under the provisions of K.3.4.0 and K.3.5.0.
- (f) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the upland edge of a coastal wetland of a water body or within a wetland shall be converted to residential dwelling units.

#### **K.6.3.0 Parking Areas**

Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body and, where feasible, to retain all run-off on site.

**K.6.4.0 Roads and Driveways.** The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (a) Roads and driveways shall be set back at least twenty-five (25) feet from the upland edge of a coastal wetland, excepting roads which require access to the shoreline.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent.

This subsection shall apply neither to approaches to water crossings nor to roads or driveways that provide access to permitted structures and uses.

- (b) Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
- (c) Road banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the

provisions for erosion and sedimentation control contained in subsection K.6.7.0

- (d) Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.
- (e) In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained where feasible to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope in width between the outflow point of the ditch or culvert and the upland edge of a coastal wetland or normal high-water line of Hilton Pond. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (f) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:
  - i Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40
  - ii Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.
  - iii On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road.
  - iv Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

- (g) Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

#### **K.6.5.0 Storm Water Runoff**

- (a) All new construction and development shall be designed to manage stormwater runoff on the site in excess of the natural predevelopment conditions. Existing natural runoff-control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (b) Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning

#### **K.6.6.0 Clearing of Vegetation**

- (a) Except to allow for development of permitted uses within a strip of land extending seventy-five (75) feet, horizontal distance, from the upland edge of a coastal wetland, a buffer strip of vegetation shall be preserved as follows:

1. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.
2. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section a “well-distributed stand of trees and other vegetation” adjacent to water bodies and wetlands is defined as maintaining a minimum rating score of 8 per 25-foot x 25-foot square (625 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 – 4 in.	1
> 4 – 12 in.	2
> 12 in.	4

3. Notwithstanding the above provision, no more than 40% of the total volume of trees four (4) inches or more in diameter,

measured at 4 ½ feet above ground level, may be removed in any ten (10) year period.

4. Pruning of tree branches on the bottom 1/3 of the tree is permitted.
- (b) In order to maintain a buffer strip of vegetation when the removal of storm damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these opening shall be replanted with native tree species unless existing new tree growth is present.
  - (c) At distances greater than seventy-five (75) feet, horizontal distance, from the upland edge of a coastal wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.
  - (d) Cleared openings legally in existence on the effective date of this Ordinance may be maintained but shall not be enlarged except as permitted by this Ordinance.
  - (e) Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.
  - (f) In addition to the clearing of vegetation for development standards stated herein, the maintenance of a seventy five-(75) foot vegetated buffer where one currently exists shall be required, except for the area where approved construction occurs.
  - (g) Notwithstanding the above provisions, to the extent a DEP-approved remediation plan requires the removal of vegetation in excess of the limits stated herein, the developer shall submit to the Planning Board and Code Enforcement Officer a plan to re-vegetate the area in a manner consistent with the regulations for the clearing of vegetation for development as stated herein.

#### **K.6.7.0 Erosion and Sedimentation Control**

- (a) All activities which involve filling, grading, excavation or other similar activities which result in unstable soil conditions and which require a permit, shall require a written soil-erosion and sedimentation-

control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

1. Mulching and re-vegetation of disturbed soil;
  2. Temporary runoff-control features such as hay bales, silt fencing or diversion ditches; and,
  3. Permanent stabilization structures such as retaining walls or riprap.
- (b) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes, high cuts and fills shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (c) Erosion and sedimentation-control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (d) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
1. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
  2. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (e) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

#### **K.6.8.0 Soils**

- (a) All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal and commercial or industrial development and other similar intensive land uses shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

#### **K.6.9.0 Water Quality**

- (a) No activity shall deposit on or into the ground or discharge into the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body.

#### **K.6.10.0 Archaeological Site**

- (a) Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the commission before rendering a decision on the application.

#### **K.7.0.0 Performance Standards**

All uses in the Shoreland Business II/Marine Overlay Districts shall comply with the following standards:

- (a) Outdoor storage of materials: Outdoor storage of materials accessory to normal conduct of business shall be suitably screened from the public way and from abutting properties by a fence at least six (6) feet in height or by a solid evergreen planting strip. All waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container. All food processing waste shall be stored within a completely enclosed structure. Outdoor storage of refuse or debris shall be in an appropriate container or located within a designated, screened area;
- (b) Noise: The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the Shoreland Business II/Marine Overlay Districts shall not exceed seventy (70) decibels on the A scale at the boundaries of any lot between the hours of 7:00 AM and 9:00 PM and fifty (50) decibels between the hours of 9:00 PM and 7:00 AM. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ<sub>1</sub>). The following activities and use shall be exempted from the above-mentioned noise requirements:
1. Construction and maintenance activities between the hours of 7:00 AM and 8:00 PM;
  2. The noises of safety signals, warning devices, emergency pressure relief valves, and other emergency devices;
  3. Traffic noise on public and private roads or noise created by railroads;
  4. Noise created by refuse and solid waste collection, provided that the activity is conducted between 7:00 AM and 6:00 PM;
  5. Emergency construction or repair work by public utilities at any hour including, but not limited to, mobile substations;
  6. Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the town, including but not limited to parades, sporting events, and fireworks displays;



- (c) Vibration: Vibration inherently and recurrently generated, except during periods of construction, shall be imperceptible without instruments at lot boundaries;
- (d) Federal and state environmental regulations: All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air;
- (e) Off-street parking and loading: The applicant and/or property owner shall provide documented proof that proposed use(s) will have adequate, on-site parking spaces, which may include shared parking spaces, to fulfill the needs of the development in accordance with the most recent edition of the Parking Generation Manual published by the Institute of Traffic Engineers;
- (f) Floodplain management regulations: Any lot or portion of a lot located within a flood hazard zone as identified on the most recent version of the Town of Wiscasset Flood Insurance Rate Maps shall be subject to applicable Federal Emergency Management Agency Floodplain Management rules and Town of Wiscasset Floodplain Ordinance;
- (g) Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries, except glare existing before the adoption of this Article and glare generated from sources directly associated with safety and security of the site;
- (h) Lighting: All exterior lighting fixtures, except fixtures existing before the adoption of this Article shall be of such a design to shield the affixed light bulb from sight beyond the property boundaries, and so designed to minimize light emissions visible from adjoining properties except illumination generated from sources directly associated with emergency operations on the site;
- (i) To mitigate potential adverse impacts between the Shoreland Business II District and the existing Utility Substation and Facilities, the Planning Board may require a buffer strip of not more than twenty five (25) feet in width contiguous to that portion of the Rural District and the Shoreland Business District on which the utility substation is located as of the effective date of this ordinance. In the buffer strip, the Planning Board may require non-residential uses, physical barriers or design features that mitigate potentially adverse visual, sound, safety and security impacts. Non-residential uses or physical barriers may include, but are not limited to, vegetation, commercial structures, berms, fences, walls, and other similar structures. The responsibility

for implementing such non-residential uses, physical barriers or design features in the buffer strip shall rest with the owner of the property being developed;

- (j) Road and street construction shall meet the design criteria established by the American Association of State Highway and Transportation Officials based upon projected land uses and traffic volumes;
- (k) Except in the Marine Overlay District, all new electric or telecommunications distribution lines shall be installed underground;
- (l) All structures requiring water and sewer shall be connected to public water and public sewer; and,
- (m) It shall be the responsibility of the property owner, applicant or their representative to demonstrate to the Town that development is in compliance with applicable performance standards. The Planning Board shall have authority to require that any developer bear the expense to investigate and prepare studies deemed necessary by the Planning Board to evaluate impacts and demonstrate compliance with the standards of this Section. If needed, the Planning Board shall have the authority to hire, at the developer's expense, its own consultants to evaluate the developer's plans and studies.

#### **K.8.0.0 Applicability of Article VII – Subdivision Ordinance**

When the Planning Board is reviewing any application for a subdivision in the Shoreland Business II/Marine Overlay Zoning Districts, the Planning Board may modify or waive any Subdivision requirement or performance standard when the applicant clearly establishes and documents that the requirement or standard would not be applicable. Additionally, the following provisions of Article VII – Subdivision Ordinance shall apply as follows:

- (a) Section 2.3.3(n), single-family and multiple family-dwellings minimum lot size requirements do not apply;
- (b) Section 2.3.5, street and road construction requirements shall not apply in its entirety, provided applicant submits documented proof to the Planning Board that all road and street construction meets the design criteria established by the American Association of State Highway and Transportation Officials based upon projected land uses and traffic volumes; and,
- (c) Section 5.2, timing requirements shall apply, except that the subdivider shall have two (2) years to commence construction and ten (10) years to

complete the specifications on the final subdivision and site plan review plans and documents.

#### **K.9.0.0 Applicability of Article VIII – Site Plan Review Ordinance**

When the Planning Board is reviewing a proposal that requires Site Plan Review in the Shoreland Business II/Marine Overlay Districts, the following provisions of Article VIII – Site Plan Review shall apply as follows:

- (a) Section 6.2.3, placement of fill shall not apply if the applicant is conducting such activities in accordance with Department of Environmental Protection approved order, permit, closure or remediation plan;
- (b) Section 6.8.3, minimum parking space requirements shall not apply except that applicant shall clearly establish and document that proposed use(s) will have adequate on-site parking spaces, which may include shared parking spaces, to fulfill the needs of the development in accordance with the most recent edition of the Parking Generation Manual published by the Institute of Traffic Engineers; and,
- (c) Section 7.1, waiver standards shall be replaced with: The Planning Board may modify or waive any Site Plan Review requirement or performance standard when the applicant clearly establishes and documents that the requirement or standard would not be applicable.

#### **K.10.0.0 Applicability of Article II – Building Laws**

When the Planning Board or Code Enforcement Officer is reviewing an application for Subdivision, Site Plan Review or building permit in the Shoreland Business II/Marine Overlay Districts, the following provisions of Article II – Building Laws shall not apply:

- (a) Sections 2.1 – 2.17, lot size and setback requirements.
- (b) Section 3.2, height.
- (c) Section 7.9, State lot size for water and sewer lines and disposal regulations.

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## DEFINITION OF DISTRICTS and ZONING MAP

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The following text defining Districts and Zones are included herein for assistance only. The official Zoning Map is the definitive document delineating Districts and Zones and is incorporated into these Town Ordinances. Where boundaries are shown following property lines, it is intended that the official Zoning Map delineate Districts and Zones precisely along these property lines. However, it is probable that in various instances a property line as depicted on the Zoning Map will not precisely correspond to the property line as determined by a survey or by deed research. Therefore, any inconsistency between the Zoning Map and a property line in effect at the time the Zoning Map was adopted or is amended shall be resolved in favor of the actual property line. In the following definitions of Districts, lots are referred to by Tax Map and Lot number, or by owner. [6-90, 3-92]

### PROCEDURE FOR CONTROL OF THE OFFICIAL ZONING MAP.

The Town Clerk shall maintain a record of changes to the official Zoning Map as voted by the Town starting with town meetings after 1 June 1992; Maps presented to the Town and adopted by the Town shall be attested to by the Town Clerk. A composite map shall be maintained in the Town Office to sum up the display of the latest definitions of districts. A small-scale composite shall be in the town ordinances. A working copy shall be maintained by the Town Clerk to show the latest zoning changes. [6-92]

#### AA. SHORELAND RESOURCE PROTECTION DISTRICT

AA.1 From the northerly Crandall property limit along the Sheepscot River, southerly and westerly along Clark's Point to the southerly property of Kahl.

AA.2 From the northwestern boundary of Tucker where it intersects the continuation of Fore Street (known as Front Street), thence north to the middle of Lee Street and the end of the 250-foot Shoreland Zone; thence westerly and southwesterly to the southeastern end of the Myer property.

AA.3 From the northeasterly line of Stetson, White and Scaife to the end of their property where it meets the Lord property.

AA.4 From the northern property line of Maine Yankee and the Sheepscot River to 30 feet north of the northern side of Old Ferry Road on the property of Maine Yankee.

AA.5 From a line drawn from the cove where Maine Yankee property abuts that of King to the easterly shore of that point of land (Ready Point) owned by Maine Yankee and thence to the property of said King.

AA.6 From the intersection of King and U.S. Gypsum land, northerly along Chewonki Creek and thence southerly to the intersection of the Chewonki and Gould property on said creek.

AA.7 From the southerly property line of Chewonki and Gould, northerly to the property line of Brackett.

AA.8 From a line 130 feet north of the property line of Sewall with Maine Yankee to the southerly center of Gorham Road.

AA.9 One hundred (100) feet around the entire shore of Gardiner Pond, as a possible future source of town water.

AA.10 All islands and ledges lying within the Town of Wiscasset except Foxbird Island and the Town property on Cow Island are Shoreland Resource Protection District.

AA.11 Stream resource protection areas. The following subparagraphs relate to activities in these areas.

- A.2.1 Agricultural activities
- A.2.2 Roads and Driveways
- A.2.8 Filling and earth-moving activities
- A.3.1 Timber harvesting
- A.3.2 Structures
- A.3.3 Clearing of vegetation
- A.4.1 Campsites
- B.2.2 Campgrounds
- B.5 Structures

AA.11.1 Polly Creek Stream Protection. From the point of confluence of two perennial streams located within lot R-5-74, presently owned or previously owned by Brun and lot R-5-76 presently owned or previously owned by J. Sutter thence flowing through the following properties to the point where it joins the existing Shoreland zone at its outlet into the Sheepscot River.

## **0 PRESENTLY OWNED OR**

<u>LOT NUMBER</u>	<u>PREVIOUSLY OWNED BY</u>
R-5-75	Fuegen
crosses Route #218	
R-5-96	Central Maine Power

R-5-95A	Sannella
R-5-92	- - -
R-5-95	Owen
R-5-94	Morrell
R-5-93	Sheldon
R-5-122	Fowles

AA.11.2 Montsweag Brook Stream Protection. From the point of confluence of two perennial streams located within lot R-2-42C presently owned or previously owned by Webber; the westerly branch of Montsweag Brook flows easterly and southerly through the following properties to its point of confluence with the easterly branch in lots R-2-15A and R-2-15B.

# **1 PRESENTLY OWNED OR**

<u>LOT NUMBER</u>	<u>PREVIOUSLY OWNED BY</u>
R-2-42B	Munson
R-2-14A	J. Delano
R-2-12A	Colby
R-2-12	Judkins
R-2-13	Town
R-2-14	Delano
R-2-15D	Nichols
R-2-15	Morton
R-2-15A	McConnell

From the point of confluence of two perennial streams located within lot R-3-23 presently owned or previously owned by Dauplaise; the easterly branch of Montsweag Brook flows southerly through the following properties to its point of confluence with the westerly branch in lot R-2-15A and R-2-15B.

# **2 PRESENTLY OWNED OR**

<u>LOT NUMBER</u>	<u>PREVIOUSLY OWNED BY</u>
R-3-30	Barnes
R-3-28	L. Colby
R-3-29	Craft
R-3-27	Faulkingham

From the point of confluence of its East and West branches located within lots R-2-15A presently owned or previously owned by McConnell and R-2-15B presently owned or previously owned by Soule; Montsweag Brook flows southerly through the following properties to Gorham Road where it joins the previously established Shoreland Zoning.

### 3 PRESENTLY OWNED OR

<u>LOT NUMBER</u>	<u>PREVIOUSLY OWNED BY</u>
R-2-15	Morton
R-2-17C	Applebee
R-2-16	Colby
R-2-17F	Mullins
R-2-17D	Thayer
R-2-17B	Sproul
R-2-17A	Connors
R-2-17E	Delorme
R-2-18A	House
R-2-39	R. & S. Construction
R-2-18	Mank
R-2-19A	T. Barnes
R-2-19B	J. Barnes
R-2-19	F. Barnes
R-2-21	Crocker
R-2-28	Stinson
R-2-22	Hall
R-2-26	Belanger
R-1-12	Amirault
R-1-12A	Delano
R-1-13	Heineck
R-1-9	S. Jones
R-1-14	Leavitt
R-1-15C	Savage
R-1-15E	J. Jones
R-1-16	Ames
R-1-15	Rumrill Pres. Group
R-1-17	Chancellor
R-1-2A	Colby
R-1-1A	C.M.P
R-1-1	L. Colby
R-1-26A	Erskine
R-1-25	Titcomb
R-6-43	Hanson
R-7-87	Maine Yankee
R-7-75-5	Lane
R-7-75-6	Lane
R-7-75-3	Harvey
R-7-74A	Banker
R-7-74	Kinney
R-7-75	Harvey
Gorham Road	

AA.11.3 Nequasset Lake Watershed. All streams and ponds, regardless of size, within the Watershed District.

BB. SHORELAND RESIDENTIAL DISTRICT

- BB.1 From the Alna town line to the southeast to the property of Crandall.
- BB.2 Beginning at the easterly boundary of Kahl property following the shore around Clark's Cove, northerly and southerly, to the southerly boundary of the Ancient Cemetery, being land of the Town of Wiscasset.
- BB.3 Beginning at the southwesterly boundary of the Myer property, following the shore of the Sheepscot River to the property of Central Maine Power Company.
- BB.4 From the westerly boundary of Eastern Realty Sales, Inc. (Lord) around Cushman Point following the shore of the Sheepscot River to the northern boundary of Maine Yankee.
- BB.5 From the westerly boundary of Maine Yankee to the northerly boundary of King.
- BB.6 From the southerly boundary of Brackett by the shore of Montsweag Creek to the southern property line of Sewall.
- BB.7 Along Gardiner Pond from the 100 feet of Shoreland Resource Protection District to the end of the Shoreland Zone.

CC. SHORELAND BUSINESS DISTRICT

- CC.1 From the point of land of Maine Central Railroad and the Town of Wiscasset Sewage Disposal Plant westerly along the cove to the northwesterly extension of the center line of Water Street; thence southwesterly along the center of Water Street to the extension of the Hammond property; thence westerly along the Hammond property to the Ancient Cemetery and the end of the Shoreland Zone; thence southwesterly along the Shoreland Zone to the center line of Big Foot Alley; thence easterly along the center of Big Foot Alley to its intersection with the center of Water Street; thence southwesterly to the end of Water Street at the edge of the Sheepscot River; thence in a northeasterly direction along the shore to the point of beginning.
- CC.2 The property of Central Maine at Mason Station from the property of Lewis south and ending at the Stetson-White-Scaife line excepting the property described in Article VI, Section KK and LL.



- CC.3 From the beginning of the property of Maine Yankee below the Bailey property along the shores of Bailey's Point; thence along the westerly shore of Ready Point to the line described in Shoreland Resource Protection District. (This section from the brook at the head of the cove is to be treated by Maine Yankee as Shoreland Resource Protection District.)
- CC.4 All land lying within 250' of normal high-water mark of any pond, river or saltwater body and not part of the Shoreland Resource Protection District or the Shoreland Residential District.

DD. RESIDENTIAL DISTRICT

- DD.1 Beginning at the Sheepscot River and the southeast corner of land of Gerald Sherman (U-3-30) westerly to its intersection with the property line of R. King (U-3-23), thence northerly to the northeast corner of property of F. Hussey (U-3-22), thence westerly along the Hussey/Sherman property line extended to the center line of Federal Street, thence northwesterly along the center line of Federal Street and Route 218 to its intersection with the center line extended of Langdon Road, thence southwestwesterly along the center line of Langdon Road extended to its intersection with the southern property line of land formerly of L. Shea (R-6-25), thence westerly to the center line of the Gardiner Road; thence southerly along the center line of the Gardiner Road to its intersection with the center line extended of Churchill Street, thence southerly along the center line of Churchill Street to its intersection with the center line of Willow Lane extended; thence westerly along the center line of Willow Lane to the property line extended of K. Bridgham and the New England Forestry Foundation (R-6-36); thence southerly to the western property line of G. Fowles (U-5-9A), thence westerly along G. Fowles property line to its intersection with the E. Johnson (R-6-37), thence southerly to the property line of A. Thompson (U-5-4A), thence southerly along the western property line of P. Groetzinger (U-7-16B), A. Thompson, C. Hurd (U-7-16A), M. Sharrigan(U-7-18), and L. Cloutier (U-7-17), extended across Bradford Road to the joint property line of J. Pendleton (U-7-2) and R. Spinney (U-7-1); thence easterly along the southern boundary of R. Spinney, N. Stone (U-6-6), L. Mihalos (U-6-5), N. Bonang (U-6-4A), G. Dowling (U-6-4), B. Blackman (U-6-3), R. Brewer (U-6-2) J. Rafter (U-6-1), and M. Rafter (U-6-24) extended to its intersection with the center line of Route One, thence southerly to its intersection with the property line extended of Heard (U-6-22), thence westerly and southerly along Heard to the intersection of J. Bruce with Rafter Heirs; thence southerly along J. Bruce, S. Johnson(U-6-20) and D. Holbrook (U-6-19) to its intersection with the northerly property line of Holbrook Heirs (U-9-16) thence westerly along Holbrook Heirs and D. Holbrook (U-9-15) property line to its intersection with M. Rafter property (U-9-14), thence southerly along D. Holbrook extended to the center line of the Old Bath Road,

thence easterly along the center line of Old Bath Road extended to its intersection with the center line of Route One, thence northerly to the southern property line extended of H. Ferne, thence southeasterly along the line of Ferne to the Sheepscot River, thence by the shore of the Sheepscot River to the point of beginning, including all islands and ledges within the Town of Wiscasset which lie within the easterly extensions of the north and south boundary lines of the above described District; excluding, however, from the above those areas designated Commercial as described in Article VI of the Town of Wiscasset Ordinances and Bylaws.

- DD.2 Contained within a line beginning at the intersection of the center line of the northerly end of the Old Bath Road and the westerly line of Curtis (U-9-9), extended, thence southerly along the westerly line of Curtis and Wahlstrom (U-9-8) to its intersection with the northerly line of J. Haggett (U-9-8-2), thence easterly to the westerly line of Nichols (U-9-7), thence southerly along Nichols' westerly line to the southeast corner of C. Haggett (U-9-8-1), thence westerly along the southerly line of C. Haggett to a point 350 feet from the center line of U.S. Route One, thence southerly along a line 350 feet from the center line of U.S. Route One to its intersection with the northerly line of Hill (U-10-29) thence southerly along the westerly line of Hill to the southwest corner of Hill, thence westerly along the southerly line of Hill, extended, to a point 350 feet from the centerline of U.S. Route One, thence southerly along a line 350 feet from the center line of U.S. Route One to its intersection with the center line of the Birch Point Road, (abandoned), thence easterly to the westerly line of Dalton (U-10-26), extended, thence southerly along the westerly line of Dalton, Grover (U-10-25) and G. Huber (U-11-22) to its southwest corner, thence westerly along the northerly line of S. Huber (U-11-21) to a point 350 feet from the center line of U.S. Route One, thence southerly along a line 350 feet from the center line of U.S. Route One to its intersection with the northerly line of Morse (U-11-20), thence easterly to the northwest corner of Brooks (U-11-19), thence southerly along the westerly line of Brooks to its intersection with the northerly line of Coastal Towel, Inc. (U-11-18), thence southerly along the westerly line of Coastal Towel, Belanger (U-11-17) and (U-11-16), extended, to its intersection with the center line of Page Avenue, thence westerly along the center line of Page Avenue to a point 350 feet from the center line of U.S. Route One, thence southerly along a line 350 feet from the center line of U.S. Route One to its intersection with the northerly line of Benner (U-11-6), extended, thence easterly to the northwesterly corner of Benner, thence southerly along the westerly line of Benner to its intersection with the northerly line of Onorato (U-11-6A), thence around the westerly line of Onorato to its intersection with the northwesterly corner of Green (U-13-31-7), thence along the westerly line of Green (U-13-31-7 and U-13-31-6), extended, to its intersection with the center line of Ward Brook Road, thence southeasterly along the center line of Ward Brook Road to its

intersection with the northerly line of Wiley (U-13-31A), extended, thence westerly and southerly along the westerly line of Wiley to its intersection with the northerly line of the Bible Baptist Church (U-13-30A), thence easterly to a point 350 feet from the center line of U.S. Route One, thence southerly along a line 350 feet from the center line of U.S. Route One to its intersection with the center line of Beechnut Hill Road, thence westerly to its intersection with the center line of Pinewood Drive thence southerly to its intersection with the northerly line of Norsworthy (U-13-3), thence easterly to its intersection with the westerly line of I.O.O.F. (U-13-1), thence southerly along the westerly line of I.O.O.F. and Parsons (U-13-1A) to its intersection with the northerly line of Daley (U-14-6), thence westerly to a point 350 feet from the center line of U.S. Route One, thence southerly along a line 350 feet from the center line of U.S. Route One to its intersection with the southerly line of Daley (U-14-6), thence easterly to the northwesterly corner of Daley (U-14-5), thence southerly along the westerly line of Daley to the southwest corner of Daley, thence easterly along the southerly line of Daley, extended, to its intersection with the center line of U. S. Route One, thence southerly along the center line of U. S. Route One to its intersection with the center line of the southerly end of the Old Bath Road, extended, thence westerly along the center line of the Old Bath Road to its intersection with the southerly line of Aponte (R-8-1-2), extended, thence westerly to the southern property line, extended, of Fogg (R-8-1A), thence westerly to the center line of Montsweag Brook (Town Line), thence northerly along the center line of the Brook to the northern boundary, extended, of R. Clarke (R-7-90-3), thence easterly along the northerly property lines of Dentico (R-7-90-4), and Ames (R-7-91) to its intersection with the Central Maine Power Company northerly property line, extended, thence northerly along the Central Maine Power Company property line to its intersection with the southerly line of M. Rafter (U-9-14), thence easterly along the M. Rafter property line, extended, to its intersection with the center line of the Old Bath Road, thence easterly along the center line of the Old Bath Road to the point of beginning. [6-91]

## EE. BUSINESS DISTRICT

- EE.1 Commencing at the Wiscasset Sewage Disposal Plant, continuing in a southwesterly direction to the center of Water Street; thence along the center of Water Street in a southerly direction to the extension of the northerly boundary of Hammond; thence westerly to the Town property; thence southerly to the center of Lincoln Street; thence northwesterly along the center of Lincoln Street to the center of Federal Street; thence southerly along the center of Federal Street to the extension of the southwesterly property line of Macurda House Corporation; thence following the Macurda House Corporation property line easterly to its intersection with the Holbrook property line; thence northerly to the

property of Nadeau; thence easterly along the extension of Nadeau property line to its intersection with the center of Middle Street; thence southerly along the southerly boundary of the Town property to its intersection with the property line of Pels and Kellogg; thence southerly along the extension of the property lines of Pels and Kellogg and Haggett to its intersection with the center of Big Foot Alley; thence southeasterly along the center of Big Foot Alley and continuing in that direction to the waterfront; thence along the waterfront to point of beginning.

- EE.2 Commencing at the northwesterly boundary of the Lincoln County Courthouse southerly along the extension of Lowndes property line (Lot 167, Map U-1) to its intersection with property of Gardiner Savings Institution; thence in a southwesterly direction along the property of Gardiner Savings Institution to its intersection with Hutchins property; thence westerly along Gardiner Savings Institution property line to its intersection with the properties of Helie and Sewall; thence westerly and southwesterly along the extension of the property of Helie to its intersection with the center of Lee Street; thence westerly along the center of Lee Street to its intersection with the center of Route One; thence northerly along the center line of Route One to its intersection with the extension of the northwesterly boundary of the Lincoln County Courthouse.
- EE.3 Beginning at the center line of Hooper Street at its intersection with the Gardiner Road; thence easterly by Hooper Street to the northerly extension of the easterly property line of Benedix; thence southerly by Benedix to land of Shorey; thence easterly by Shorey to land of the Town of Wiscasset; thence southerly, easterly and southerly by Shorey's easterly bounds to land of Tims; thence easterly by Tims and land of First National Bank of Damariscotta to the northeast corner of the land of First National Bank of Damariscotta; thence southerly by First National Bank of Damariscotta and land of Petrie to Petrie's southeast corner and land of Doering; thence westerly by Petrie, to the corner of the Gardiner Road; thence northerly by the center of the Gardiner Road to the point of the beginning.

#### FF. VILLAGE WATERFRONT DISTRICT

The waterfront area of the Village area of the Town of Wiscasset running from the Sewer Treatment Plant and the middle of Water Street, southerly to the middle of Fore Street, also known as Front Street; thence westerly along the middle of Fore Street to the 250' Shoreland Zone; thence along the edge of the 250' Shoreland Zone to the northerly boundary of land of Jane Tucker; containing the land within these bounds to the high water mark.

GG. COMMERCIAL DISTRICT

All lots abutting US Rt. #1 as of August 19, 2003, which lie between the northwesterly sides of US Route #1 and the Old Bath Road to a depth of (1) the back line(s) of the lot (i.e., the line(s) furthest from US Route #1), (2) 1,000 feet from the centerline of US Route #1, or (3) the Old Bath Road, whichever of the three is closer to US Route #1; also including the land now or formerly of Holbrook depicted on Wiscasset Tax Map U-9 as Lot 16A. [6-91, 11-00, 9-03]

HH. NEQUASSET WATERSHED DISTRICT

All land in the Nequasset Lake Watershed.

JJ. RURAL DISTRICT

All land not listed in Districts AA-HH, KK and LL.

KK. SHORELAND BUSINESS II DISTRICT

A tract of land at Birch Point in the Town of Wiscasset, being a part of the former Mason Station Property shown on a plan entitled "Shoreland Business District II & Marine Overlay Districts Zoning Map" dated February 28, 2005 bounded and described as follows: Beginning at an iron rod set at the assumed southerly sideline of a town way leading easterly from Birch Point Road to the former Mason Station property at the northeast corner of the land now or formerly of the Chewonki Foundation, Inc. and Thomas B. Stetson, Anne Tierney Stetson & Ethan F. Stetson; thence N 02°40'15" W along the end of the town way 13.35' to an iron rod set; thence N 09°25'15" W along the end of the town way 54.76' to an iron rod set; thence continuing N 09°25'15" W along the land now or formerly of Central Maine Power Company 64.16' to an unmonumented point at the high water mark of Hilton Pond labeled "M" on said Zoning Map; thence northeasterly and northwesterly along the high water mark of Hilton Pond and a concrete dam to a point at an old earth dam on the boundary of the land now or formerly of Central Maine Power Company; thence N 20°04'45" E along the land now or formerly of Central Maine Power through the old earth dam to the high water mark of Hilton Cove; thence northwesterly, easterly, southerly, and easterly along the high water mark of Hilton Cove to the land now or formerly of Central Maine Power Company at an unmonumented point at the high water mark of Hilton Cove labeled "L" on the above mentioned Zoning Map; thence S 51°24'15" E along the land now or formerly of Central Maine Power Company 172.82' to an unmonumented point; thence S 05°57'43" E along the land now or formerly of Central Maine Power Company 101.26' to an unmonumented point on the northerly side of the access road; thence N 84°02'17" E partly along the northerly edge of the access road 398.71' to an unmonumented point; thence N 05°57'43" W along the land now or formerly of Central Maine Power Company 97.21' to an

unmonumented point; thence N 24°23'29" E along the land now or formerly of Central Maine Power Company 200.41' to an unmonumented point; thence N 65°16'49" W along the land now or formerly of Central Maine Power Company 31.33' to an unmonumented point; thence N 11°18'11" E along the land now or formerly of Central Maine Power Company 36.34' to an unmonumented point; thence N 32°23'50" W along the land now or formerly of Central Maine Power Company 110.13' to an unmonumented point; thence N 23°54'42" E along the land now or formerly of Central Maine Power Company 33.76' to an unmonumented point; thence N 65°49'25" W along the land now or formerly of Central Maine Power Company 58.04' to an unmonumented point; thence N 51°24'15" W along the land now or formerly of Central Maine Power Company 332.50' to an iron rod set labeled "F" as shown on the above mentioned Zoning Map; thence continuing N 51°24'15" W along the land now or formerly of Central Power Company 51.79' to an unmonumented point at the high water mark of Hilton Cove labeled "A" on the above mentioned Zoning Map; thence northeasterly, easterly, and southeasterly by the high water mark of Hilton Cove and Sheepscot River to an unmonumented point that lies S 86°04'44" W 13.94' from a drill hole in ledge set labeled "H" on the above mentioned Zoning Map; thence S 86°04'44" W along the northerly boundary of the Marine Overlay District 25.00' to an unmonumented point; thence southerly along the westerly boundary of the Marine Overlay District by a line that is 25' from (on the landward side) and parallel to the high water mark of Sheepscot River to a point that lies N 64°11'45" W from an unmonumented point labeled "J" as shown on the above mentioned Zoning Map; thence S 64°11'45" E along the southerly boundary of the Marine Overlay District 25.00' to an unmonumented point at the high water mark of Sheepscot River labeled "J" on the above mentioned Zoning Map; thence southwesterly by the high water mark of the Sheepscot River to the center of the old dam at the outlet of the ice pond; thence southwesterly along the high water mark of the ice pond to the land now or formerly of the Chewonki Foundation, Inc. et.als. at an unmonumented point labeled "N" on said Zoning Map; thence N 02°40'15" W along the land now or formerly of the Chewonki Foundation, Inc. et.als. 168.61' to the point of beginning. Bearings mentioned above are oriented towards Grid North (NAD 83) as shown on the above mentioned Zoning Map.

#### LL. MARINE OVERLAY DISTRICT

A tract of land at Birch Point in the Town of Wiscasset, being a part of the former Mason Station Property shown on a plan entitled "Shoreland Business District II & Marine Overlay Districts Zoning Map" dated February 28, 2005 bounded and described as follows: Beginning at a drill hole set in ledge below the high water mark of Sheepscot River lying about 420' northerly of the northeast corner of the brick building known as Mason Station; said drill hole being labeled "H" on the above mentioned Zoning Map; thence N 86°04'44" E into Sheepscot River 600.00' to an unmonumented point; thence S 01°50'59" W 886.03' to an

unmonumented point; thence S 34°19'32" W 681.78' to an unmonumented point; thence N 64°11'45" W 600.00' to an unmonumented point at the high water mark of Sheepscot River; said point being labeled "J" on the above mentioned Zoning Map; thence continuing N 64°11'45" W along the boundary of Shoreland Business II District 25.00' to an unmonumented point; thence northerly along the easterly boundary of the Shoreland Business II District by a line that is 25' from (on the landward side) and parallel to the high water mark of Sheepscot River to a point that lies S 86°04'44" W, a distance of 38.94' from the point of beginning; thence N 86°04'44" E 25.00' to the high water mark of Sheepscot River; thence continuing N 86°04'44" E 13.94' to the point of beginning. Bearings mentioned above are oriented towards Grid North (NAD 83) as shown on the above mentioned Zoning Map.

(zoning map goes here)

## ARTICLE VII - SUBDIVISION

### 1. STATEMENT OF PURPOSE

In order to assure the comfort, convenience, safety, health and welfare of the people of Wiscasset, to protect the environment and natural resources, to promote and control development of an economically and socially sound and stable community, the following subdivision regulations and procedures are adopted pursuant to 30-A MRSA 4401-4407.

### 2. PROCEDURES FOR SUBDIVISION REVIEW

#### 2.1 PRE-APPLICATION

- 2.1.1 Prior to submitting an application for approval of the subdivision and the Preliminary Plan, the subdivider or his authorized agent shall appear informally at a regular meeting of the Planning Board to discuss the proposed subdivision.
- 2.1.2 The subdivider shall present to the Board for informal review and comment, a sketch plan of the proposed subdivision. The sketch plan shall consist of a rough outline of the proposed subdivision, and may be a freehand, penciled sketch of the parcel, showing the proposed layout of streets, lots and other features which may be of assistance to the Board in making its determination. The subdivider shall also locate the proposed subdivision on the land suitability map and the hydrogeological sensitive area map in order to identify possible geological or hydrogeological problems prior to site review and detailed site-specific studies. It should also indicate whether or not the proposed project is within the shoreland zone or within a flood plain zone. [3-90, 3-94]
- 2.1.3 No binding commitments shall be made between the subdivider and the Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible and what is acceptable.
- 2.1.4 In order that the Planning Board be more fully informed about the site, the subdivider shall arrange an inspection of the site by a minimum of three members of the Planning Board. The on-site inspection may be conducted at or shortly after the time of submission by the sketch plan. The pre-application phase of the application process will not be considered complete until such inspection has been made.
- 2.1.5 Within 30 days from submission of a pre-application and sketch plan, and following an on-site inspection, the Planning Board shall submit in writing to the applicant a checklist of the specific information which should be included in the formal application to the Planning Board.



- 2.1.6 Prior to final approval the date for completion shall be agreed to by the applicant and the Planning Board. The Board shall not extend this date unless the applicant can show hardship or other unusual circumstance prior to the date; when determining these circumstances the Board shall consider strikes, unwarranted delays in government regulatory approvals, delays in delivery of materials which are not the fault of the applicant, and unforeseen difficulties in construction due to site constraints, etc. [3-88]
- 2.1.7 If any portion of a subdivision crosses municipal boundaries, the reviewing authorities from each municipality shall meet jointly to discuss the application. [12-89]
- 2.1.8 If after the initial pre-application the applicant takes no action during a 4-month period towards obtaining final approval the application shall be considered null. [3-88]

## 2.2 ACCEPTANCE OF APPLICATION

- 2.2.1 When an application is submitted to the Planning Board, it must include a Preliminary Plan and a fee of \$25.00 per lot or unit including rental units up to 5 lots or units and a fee of \$50.00 per lot or unit, including rental units, for more than 5 lots or units. If Site Review is also required, the higher of the Subdivision or Site Review fees shall be charged. Upon receiving the application, the Planning Board shall issue a dated receipt to the applicant and shall notify by mail all abutting property owners of the proposed subdivision and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project. [3-88, 12-89]
- 2.2.2 If the Planning Board hires one or more state-certified or licensed expert consultants to provide the Board with advice as to whether or not a developer's application, if approved, would comply with the provisions of the subdivision and site review ordinances and applicable state and federal laws relevant to the consultant's expertise, the applicant shall be responsible for payment to the Town of Wiscasset of a sum equal to 50% of the consulting fees charged to the Planning Board. The Planning Board shall not vote on final approval of the application until it has been notified by the Town Treasurer that the applicant's share of the consulting fees has been received. This provision applies whether or not the application is finally approved. [3-89]
- 2.2.3 The Preliminary Plan shall include: [3-01]
  - a. Proposed name or identifying title of the subdivision.

- b. Name and address of record owner, subdivider or developer, and surveyor, planner or designer of the plan. Applicant must have an interest in the site to be developed.
- c. Survey of tract made by a registered land surveyor, or registered engineer to establish reference points showing true north point, graphic scale and metes and bounds, and date of survey. The plan size shall be not larger than 24" by 36". [9-02]
- d. Names of all property owners immediately adjacent.
- e. Existing buildings, lot lines, street rights-of-way, utility lines and easements, and all planned construction, including but not limited to buildings or other structures, utility lines and easements, parking lots, paved areas; type, location, and extent of temporary and permanent measures for control of erosion, sedimentation, drainage, storm drainage, existing and proposed locations of septic systems and water wells. (See Section 2.3.3.a (water and air pollution) and 2.3.3.e (soil erosion) of this ordinance). [6-89]
- f. Proposed lot lines (with approximate dimensions) and acreage of each lot. [6-89]
- g. Numbers or letters identifying all proposed lots.
- h. Any proposed public street or private road intended to provide access to the lots of the subdivision.
- i. Streams, rivers, brooks, lakes, ponds, wetlands (of any size) wholly or partly within or abutting the subdivision, existing and proposed drainage swales, areas of natural vegetation to be preserved, areas to be cut-and-filled or graded, proposed changes in land surface and vegetation cover. (See Section 2.3.3.e (soil erosion) of this ordinance). [6-89, 12-89]
- j. In addition to the above, the preliminary map shall show present land surface contours and proposed contours at an interval of 5 feet, and distribution of soils as mapped in accordance with The Maine Association of Professional Soil Scientists Standards for Soil Surveys, Class B survey. [6-89]
- k. Any additional information requested by the Planning Board necessary to properly view the subdivision's impact upon the community.

- 2.2.4 The application shall be made on forms provided for that purpose by the Planning Board.
- 2.2.5 In addition, the applicant should be aware that he must satisfy the Planning Board that he can meet the criteria set forth in 30-A MRSA 4401-4407 as amended and which are set forth hereafter in Section 2.3.3. Evidence as to each applicable criterion to be met by the applicant should be included in the Preliminary Plan so as to avoid delay due to an incomplete application.
- 2.2.6 Within 30 days from receipt of an application, the Planning Board shall notify the applicant in writing either that the application and Preliminary Plan are complete or, if the application or the Preliminary Plan is incomplete, the specific additional material needed to make a complete application and Preliminary Plan.
- 2.2.7 After the Planning Board has determined that an application is complete; it shall notify the applicant and begin its full evaluation of the proposed subdivision.

## 2.3 EVALUATION OF APPLICATION AND PRELIMINARY PLAN

- 2.3.1 The Planning Board shall hold a public hearing on the application for subdivision approval within 30 days of notification to the applicant that the application is complete. The Board shall give written notice of the date, time and place of such hearing to the person making the application and also publish such notice in a newspaper of general circulation in Wiscasset at least two (2) times; the date of the first publication to be at least seven (7) days prior to the hearing.
- 2.3.2 The applicant shall provide notice of the date, time and place of the public hearing by certified mail, return receipt requested an by U.S. First Class Mail, to all property owners within 200 feet of the property boundary lines of the original tract or parcel of land, prior to the first dividing, at least fourteen (14) days prior to the hearing. The applicant shall present proof, by submission of copies of return postal receipt(s), to the Planning Board that such action by the applicant to described abutters has occurred. [9-04]
- 2.3.3 In reviewing any application for subdivision approval, the Planning Board shall consider the following criteria, and before granting approval shall determine that the proposed subdivision:
  - a. Will not result in undue water or air pollution. In making this determination it shall at least consider: the elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal, the

slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources regulations.

Undue water pollution is defined by the State of Maine Primary Drinking Water Standards in groundwater and surface water at any existing or planned well sites within the subdivisions; or at water bodies and wetlands wholly or partially within the subdivisions as defined appropriately in the Subsurface Wastewater Disposal Rules (Chapter 241, State Plumbing Code), in the State Protection of Natural Resources Act (Section 480-B), and in the permit requirements of the Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act; or at any point on the boundary of the Subdivision.

Whether or not pollution will occur shall be determined by hydrogeologic studies utilizing site-specific hydrogeologic, soils, and test data including background nitrate-nitrogen levels, and performed by professionals certified by the State to make such studies. [3-89]

- b. Has sufficient water available for the reasonably foreseeable needs of the subdivision. In subdivisions dependent on groundwater for potable water, for each dwelling unit sufficient water is defined as those well yields at various well depths recommended by the Water Well Drillers Association of Maine as sufficient to supply a typical home. The quantity of water withdrawn from the wells or planned wells of the subdivision shall not exceed an amount that would deprive abutting properties of sufficient groundwater. [3-89]
- c. Quality and potability shall meet State Primary and Secondary Drinking Water Standards. Determination of quantity, quality, and potability shall be based on hydrogeologic studies by State certified professionals using all available information from existing hydrogeologic studies within the Town, from existing wells within the subdivision and neighboring properties, and from drilling records. If available data is insufficient for a technically acceptable determination, the drilling of the necessary test wells is required. [3-89]
- d. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.
- e. Will include soil erosion and sedimentation control measures which shall minimize the area to be stripped of topsoil and vegetation, the amount of erosion and sedimentation during

construction, stabilize and protect the land from erosion when complete, prevent off-site erosion and/or sedimentation, and manage stormwater runoff. The control measures, together with the overall plan of the Subdivision shall minimize loss of the annual recharge capacity of the land and minimize increases of annual stream discharges downstream for the Subdivision. The plan for control measures to accomplish the preceding objectives shall be engineered and implemented according to the Soil Conservation Service Environmental Quality Handbook (1986) as amended and Technical Release 55 as amended to meet the requirements of the site-specific slopes, soils, drainage, and water bodies, including wetlands, of the subdivision. Filling or otherwise altering freshwater and coastal wetlands is not permitted except for construction of the main access road and utility lines if no other route is possible due to topography or other natural features; such road or utility lines shall be located, engineered and built to minimize alteration of the wetland. The plan shall include measures required under subsection 2.3.4.a of this ordinance compatible with the Environmental Quality Handbook. The plan shall designate responsibility for long term maintenance of the control systems. The developer shall prepare individual lots for use in accordance with this subsection so that any further work by the individual lot owner shall be limited to measures that will not negate the effectiveness of the above subdivision plan. The Planning Board shall include these measures on the approved plan to be filed with the Lincoln County Registry of Deeds. The Planning Board may submit the plan to the Soil Conservation District for evaluation as to its compliance with the Environmental Quality Handbook and TR55. If permits are required by the Army Corps of Engineers pursuant to Section 404 of the Clean Water Act and by the Department of Environmental Protection pursuant to the Natural Resources Protection Act (1988) they shall be submitted. [6-89, 3-90]

- f. Will not cause unreasonable highway or public congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed.
- g. Will provide for adequate sewage waste disposal. For each single family dwelling on its own lot and dependent on subsurface wastewater disposal, the septic site shall be located and evaluated in accordance with the Subsurface Wastewater Disposal Rules and Site Evaluation for Subsurface Wastewater Disposal Design in Maine, and the use of that site is mandatory. The subdivision plan shall show the septic site locations and all required setbacks from water bodies and wetlands as defined in Subsection 2.3.3.a above

and from tidal waters under the Shoreland Zoning Ordinance, and also from existing wells or planned well locations on the lot and adjacent lots. The application shall include for each septic site the Soil Profile, depth to the mottled zone, Classification and Condition of the soil, and the Disposal Area Rating according to Table 6-1 of the Subsurface Wastewater Disposal Rules. New - system variances are not permitted. The undue pollution definition and hydrogeologic determinations required in Subsection 2.3.3.a above shall govern the number of septic systems and the rate of wastewater discharge permitted in the area of the subdivision occupied by dwelling lots, the sizes of which shall not be less than allowed under the applicable zoning. [3-89]

- h. The number of single family detached dwellings in a cluster development under Section 3 of this Article, or of dwelling units in a multiple unit building, whether or not in a cluster development, serviced by a single common septic system with in-ground discharge, the total number of such systems within the subdivision, the rate of discharge of such systems, and the location of each such system shall be governed by the undue pollution performance standards and determinations of Subsection 2.3.3.a above in addition to the requirements of the State Plumbing Code. Each common septic system shall be engineered to meet the hydrogeologic condition on the site whether or not its discharge exceeds 2000 per day. In order to enforce the State Plumbing Code and Wiscasset ordinances dealing with in-ground septic systems, the ownership and responsibility for construction and maintenance of a common septic system shall be stated in the subdivision covenants and deeds together with the responsibilities of the developer to repair faulty engineering or construction. [3-89]
- i. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage in municipal services are to be utilized.
- j. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline; significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the Town of Wiscasset shall be considered during subdivision review, as well as the watershed of any pond or lake. [6-89, 12-89]
- k. Is in conformance with duly adopted Subdivision Regulations of the Town of Wiscasset, the Wiscasset Building Code and Comprehensive Plan of the Town of Wiscasset. In making this

determination, the Planning Board is authorized to interpret these ordinances and plans. [6-89]

- l. The subdivider has adequate financial and technical capacity to meet the above stated standards.
- m. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
- n. For single family and multiple family dwellings the minimum lot size shall be governed by Article II, Section 2.
- o. Mobile homes within a mobile home park may be grouped or clustered on individual sites not less than 75 feet by 100 feet. Total area shall be governed by Article II, Section 2.
- p. The subdivider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the subdivision is in a flood prone area. If the subdivision, or any part of it, is in such an area the subdivider will determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan shall include a condition of plan approval requiring that principal structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. (See Town of Wiscasset Flood Plain Ordinance). [6-89]
- q. For purposes of protecting and assuring access to direct sunlight for solar energy systems, the Planning Board may prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and setback requirements or other permissible forms of land use control. [6-89]

2.3.4 The Planning Board shall also consider:

- a. Drainage. New roads and changes to the site affecting surface water runoff should not result in erosion or collecting of standing water. Such changes should particularly not interfere with the normal drainage of adjoining properties. If swales or relocated brooks are used for drainage, the sides of the resulting cuts must be sloped gently or suitably lined with rocks. The developer shall

submit a surface drainage plan showing ditching, culverts, easements and other proposed improvements.

- b. Traffic Safety. The location and design of roads and intersections must provide safe, as well as convenient access within the site and on adjacent streets. Lots fronting on main highways should be avoided if alternative layouts are feasible. Minor streets should be laid out in such a way that through traffic will be discouraged.
- c. Adequate Water Supply. The source of water for the proposed development must be sufficient in quantity and quality to meet state or nationally recognized standards. Fire hydrants are to be provided according to National Fire Protection Association standards.
- d. Resources of Developer. Applicants must demonstrate that they have or will have the necessary legal, engineering, construction, and financing arrangements for installing adequate roads, utilities, and landscaping. The Planning Board may require that a bond be posted to assure completion of site development work, as described in Section 2.4.
- e. Impact on Municipal Services. The size and rate of development shall not be such as to create significant adverse effects upon municipal finances and services. These effects would relate to schools; community sanitary and solid waste disposal facilities; water supply, fire protection, road maintenance, off-street parking, existing community recreation facilities, public safety services and local administrative services.
- f. Access to Lots and Adjacent Property. Adequate road access to all lots in the proposed subdivision and to adjoining properties must be assured by the provision and location of roads.
- g. Buffer Strip. The Planning Board may require a buffer strip when the proposed subdivision will be located adjacent to a use where separation is desirable.
- h. Covenants and Restrictions. The applicant shall present any covenants and/or restrictions, which he proposes to insert in deeds to lots within the subdivision. The fact that restrictive covenants made apart of the application and inserted in deeds to lots within the subdivision may allow further subdivision of lots, shall in no way imply approval by the Planning Board of any future divisions or changes on the final approved plans. Any changes in the final



plan shall be considered a re-subdivision and shall be reviewed in accordance with Section 2.3 of this ordinance.

- i. Additional Rules for Campgrounds or Recreational Vehicle Parks. In addition to Subdivision rules Campgrounds or Recreational Vehicle Parks shall also be in compliance with the "Rules of the Department of Human Services to Tent and Recreational Vehicle Parks and Wilderness Recreational Parks" approved and adopted December 8, 1977 by the Department of Human Services.

2.3.5 Any street or road constructed within a subdivision shall be constructed in accordance with the following minimum procedures:

- a. All streets shall be designed so that they will provide safe vehicular travel and where possible shall conform to existing topography.
- b. Minimum width, grades and sight distances:
  - \* Width of right-of-way: 50'
  - \* Width of traveled way: 20' (excluding shoulders)
  - \* Minimum clear sight distance: 200'
  - \* Minimum grade: .5%
  - \* Maximum grade: 10%
- c. A traveled way with a drainage ditch on either side shall include gravel shoulders 4' feet wide on both sides unless otherwise approved by the Planning Board and the Road Commissioner.
- d. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other at less than 60 degrees.
- e. Intersecting side streets shall have a 20' minimum radius of curvature on all inside corners.
- f. A dead-end street shall have a turnaround at its end whether or not it is destined to be extended.
- g. The Planning Board and Town Engineer and the major subdivider shall strive for the ideal turnaround; namely, a loop or "T" such that school buses and other large vehicles can reverse direction conveniently and safely. The diameter of the outer edge of the traveled way is the measurement of importance. For difficult terrain this diameter might be most practical at 70 feet. For level

and clear areas a diameter of 110 feet would be ideal for the longest school buses.

Although "T's" may be desirable to allow future expansion of the development, the use of "T's" should be minimized unless terrain or other site circumstances warrant. If "T's" are used they shall conform to the following standard. The "T" shall be positioned at the end of the road. The paved or traveled way shall extend 50 feet on both sides of the centerline of the road. The paved width of the "T" shall be at least 20 feet. The right of way shall extend beyond the paved way by 15 feet all around. [3-93]

- h. At all changes in alignment street sidelines shall be connected by horizontal curves. Radii of curves and length of tangents between curves shall be consistent with clear sight distances specified in 2.3.5.b above.
- i. All other changes in slope shall be connected with vertical curves. Length of vertical curves shall be consistent with clear sight distances specified in 2.3.5.b above.
- j. Every traveled way shall center in its right-of-way. Exceptions to this may only be granted by the Planning Board, only in writing and only before the start of construction of the road.
- k. A driveway or private way shall enter the street at the level of the edge of the traveled way. A driveway or private way shall have a slope of less than 10% within the right-of-way.
- l. Monuments shall be set at each point of curvature and angle point on both sides of every street to the extent deemed adequate or necessary by the Town Engineer for street line survey.
- m. Monuments shall be made of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The monument shall clearly show the registration number or temporary certificate number of the Registered Land Surveyor responsible for the survey. (As per Title 30-A MRSA 4406). [3-88]
- n. Written certification by a registered land surveyor that monuments shown on profile drawings have been accurately set will be required before final acceptance of any street.
- o. All streets shall have adequate facilities for carrying off storm water.

- p. No surface drainage shall be conveyed or directed across a traveled way.
- q. No permanent cellar drains or ground water drains shall be designated to empty onto the surface of a traveled way.
- r. Ditches shall have side slopes no greater than 3:1 and longitudinal slopes no less than 2%, unless otherwise permitted by the Planning Board in writing.
- s. Catch basin and storm drain design shall be subject to approval by the Town Engineer.
- t. Driveway culverts shall be a minimum of 15 inches diameter by 24 feet long in the ditch line where the driveway intersects a street. Culverts other than driveway culverts shall be determined on the basis of estimated runoff from the area served. All culverts shall conform to the State of Maine Department of Transportation Standard Specifications (January 1984 or as may be amended) Section 603 Option III Pipe. All culvert pipe to be used shall be approved and inspected by the Town Engineer prior to installation. [3-87] (Refer to Appendix for cross-sectional diagram)
- u. Underdrains may be required in wet or swampy areas.
- v. Paving or other protection of ditches may be required in locations susceptible to erosion.
- w. A runoff drainage plan shall be submitted. This plan shall show all culverts in the plan and profile view and shall indicate the direction of flow in the ditches and through all culverts. The plan shall be drawn on 23" by 36" Plan Profile paper and drawn to the scale of 1" = 40' horizontal and 1" = 4' vertical. All drainage plans shall indicate the design method used for culvert sizing. [3-87]
- x. All tree stumps, roots, organic matter shall be removed to the full width of the right-of-way. The Planning Board may diminish this requirement after giving due consideration to safety requirements and the attractiveness of the area. Loam shall be removed to the full width of the traveled way, including the shoulders.
- y. The subgrade shall be carefully graded and compacted for approval by the Town Engineer.

- z. Where stability of subgrade is unsatisfactory in wet or swampy areas, an undercut may be required. Undercut backfill material shall conform to the current Standard Specifications of the Department of Transportation. Depth of undercut and backfill shall be sufficient to provide acceptable stability.
- aa. Subgrade fills shall be constructed with materials meeting the requirement standards dealing with common borrow of the Department of Transportation Standard Specifications as amended.
- bb. The gravel surface shall be at least 1'6" deep and shall be compacted to the satisfaction of the Town Engineer or his representative.
- cc. The Planning Board may require more than 1'6" of gravel surface for arterial streets. The builder will be notified of the designation of the street prior to the final approval of the plans.
- dd. Gravel shall be applied in layers not over 8" deep and thoroughly compacted with the addition of water if necessary before placing the next lift.
- ee. The top 6" of gravel shall conform to "Aggregate Subbase" gravel set forth in the Department of Transportation Standard Specifications. Below the top 6" of gravel it shall conform to Gravel Borrow Standards set forth in current Department of Transportation Standard Specifications.
- ff. All streets shall be paved with a minimum 60 mm (2.25 inches) of compacted (90-96%) thickness of bituminous concrete (MDOT 19.0 mm superpave) and 40 mm (1.50 inches) of compacted (90-96%) surface mix (MDOT 12.5 mm superpave). The paved surface shall be a minimum of 6.1 meters (20 feet) in width. This section shall be mandatory, except in minor subdivisions. [3-99]
- gg. All bridges shall be designed by a professional engineer, registered in the State of Maine.
- hh. No wooden bridges or culverts shall be allowed unless approved by the Planning Board, with the advice of the Town Engineer in writing, and only on or before approval of the profile drawings.
- ii. A complete set of plans for any bridge shall be included with the profile drawings.

- jj. All sanitary sewer designs shall be subject to the approval of the Town Engineer and in relation to the master plan. Any street to be accepted shall be served by a sanitary sewer line if said street joins a street served by a sewer main or if the town is having or plans to have the immediate area served by a sewer in the near future.
- kk. Any street to be accepted shall be served by a water main if said street joins a street containing a water main. Size of water main to be acceptable to the Planning Board and the fire department.
- ll. All utility poles shall be located so as not to obstruct drainage ditches.
- mm. All underground utility mains and services to individual lots shall be installed before the gravel surface is placed.
- nn. If sidewalks are planned or required, they shall be at least 4' wide and separated from the traveled way by a planting strip of at least 3' wide.
- oo. All areas, excluding pavement, sidewalks and shoulders, in the right of way shall be loamed, seeded, fertilized and mulched in accordance with the State of Maine Department of Transportation Standard Specifications Sec. 614 through 619 exclusively. (Refer to most recent M.D.O.T. specifications.) [3-87]
- pp. Completion of a road or street to the requirements set forth in Section 2.3.5 shall be accomplished up to the proposed driveway of the lot being sold prior to the sale of that lot.
- qq. In all areas where side slopes exceed or equal a slope of 2:1, a guard rail shall be installed. In areas where the vertical drop from the edge of the pavement to the toe of the existing slope is less than 6', a guardrail may be waived by the Planning Board and the Town Engineer. All guardrail shall conform to State of Maine Department of Transportation Standard Specification Section 606 Type 3b or as amended. (Refer to Appendix for cross-sectional diagram) [3-87]

2.3.6 Whenever a town sewer line exists across a roadway from a proposed subdivision, the developer of the subdivision shall be responsible for providing access to the sewer, and all access shall be made with one crossing of any existing paved road subject to the following requirements:

- a. The existing ground profile will dictate where the new line connects into the existing sewer.

- b. Each house lot will be provided with a tee to connect into the new sewer. Three copies of the swing ties for each tee will be given to the Planning Board.
- c. New sewer pipe shall be a minimum of eight inches in diameter.
- d. No construction across town roads shall occur between December 1st and April 1st.
- e. Specifications for installation of sewer pipe and manhole structure shall be obtained from the Town Engineer.

## 2.4 PERFORMANCE GUARANTEE

- 2.4.1 Before the Planning Board gives approval of a Final Plan, the subdivider must file with the Planning Board a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements. The purpose of this performance guarantee is to ensure completion of all improvements required by the Board. The performance guarantee may be tendered in the form of (1) a certified check payable to the Town Treasurer, (2) a performance bond running to the Town and issued by a surety company acceptable to the Town, or (3) an irrevocable letter of credit acceptable to the Town and with a bank acceptable to the Town. The conditions and amount of such performance guarantee shall be determined by the Planning Board with the advice of the municipal officers and must be approved in its form and execution by the Town's attorney. The amount shall be equal to the total cost of furnishing, installing, connecting, and completing all of the street grading, paving, and storm drainage. Construction of these improvements must be completed - within two years of the date of the Final Plan approval. [6-92]
- 2.4.2 The Planning Board may recommend a maximum extension of 12 months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Board and the municipal officers, good cause for such extension. Such recommendation shall be referred to the municipal officers for official action.
- 2.4.3 Before a subdivider may be released from any obligation requiring his guarantee of performance, the Planning Board will require certification from the various municipal officers to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (State, Federal and Local codes, ordinance, laws and regulations).

2.4.4 In any subdivision where no more than 5 separate lots are serviced by minor streets and no more than 5 separate lots are to be serviced by applicant-supplied sewer lines, the Planning Board, at the applicant's request, shall waive the requirements of the above performance guarantees and shall, instead, endorse on the final plan, or any part thereof, that it is approved on the condition that no lot in the subdivision may be sold, and no permit shall be issued for construction of any building on any lot on any street in the subdivision until it shall have been certified in the manner set forth in paragraph 2.4.3 above that all improvements have been made within 2 years of the date of executing such conditional agreement. In addition, whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance by the Board of Appeals from any of the applicable subdivision approval standards, that fact shall be expressly noted on the face of the subdivision plan to be recorded in the Lincoln County Registry of Deeds or, in the case of an amendment if no amended plan is to be recorded, a certificate indicating the name of the current property owner, identifying the property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form and shall be recorded in the Lincoln County Registry of Deeds within 90 days of the final subdivision approval or the variance shall be invalid. No rights may accrue to the variance recipient or his heirs, successors or assigns unless and until the recording is made within the 90 days. The Planning Board must make findings of fact based on the review criteria when considering revisions to a previously approved subdivision plan. [6-89, 12-89, 6-92]

## 2.5 CONFORMANCE

- 2.5.1 The proposed subdivision shall be in conformance with all pertinent local, state and federal ordinances, statutes, laws and regulations. If the proposed subdivision meets the definition of subdivision as defined in the Site Location Act (Title 38 MRSA, Section 482) the subdivider must secure the approval of the Board of Environmental Protection and the Planning Board. When a proposed subdivision requires approval of the Planning Board and the Board of Environmental Protection, each review may be conducted simultaneously. However, each review will be conducted independently, and the Planning Board may deny approval of the subdivision even though the Board of Environmental Protection has granted an approval under the provision of the Site Location Act.
- 2.5.2 For a minor subdivision, the requirements of this Article VII are modified in the following specific instances only: [3-97]

- a. In place of the Class B soils survey by a certified soils scientist required in Section 2.2.3.j transfer of the soil boundaries from the Soils Survey of Knox and Lincoln Counties is permitted.
- b. In place of the site-specific hydrogeologic study required in Section 2.3.3.a, a hydrogeologic study based on already mapped soils and topography and using conservative assumptions as to background nitrate-nitrogen levels, recharge rates, septic system nitrate-nitrogen output, and septic system discharges are permitted. A drainage plan is required.
- c. In place of detailed compliance with the Soil Conservation Service Environmental Quality Handbook required in Section 2.3.3.e, other accepted engineering standards may be used provided they meet the objectives of the erosion, sedimentation, and storm water runoff controls of this subsection.
- d. Design requirements for streets required in Section 2.3.5.b, are reduced to a 30' width right-of-way and a 16' width traveled way (excluding shoulders), and the paving requirement in Section 2.3.5 ff is eliminated. All other requirements of this section 2.3.5 must be met. [3-97]
- e. Design requirements for turnarounds required in Section 2.3.5g may be eliminated altogether if the layout is conducive to school buses meeting students at the entrance to the minor subdivision. [3-93]

### 3. CLUSTER HOUSING REGULATIONS

#### 3.1 STATEMENT OF PURPOSE

The purpose of this Section shall be to encourage housing development that will result in:

- \* Open space and recreation areas.
- \* A variety and choice of housing.
- \* Land use that will encourage choices in the type of environment and dwelling units that will be a long-term asset to the town.
- \* Efficient use of the land, with small networks of utilities and streets and municipal services.
- \* A more creative use of the topography to save lands that should not be developed and the preservation of the existing landscape features to the greatest extent possible.
- \* Diversity and originality in lot layout and individual building, street, parking layouts.



### 3.2 PERFORMANCE STANDARDS

Planned unit developments / cluster developments shall meet all the following criteria:

- 3.2.1 All planned unit developments / cluster development shall meet the requirements for a residential subdivision relating to layout, setbacks, frontages, and areas.
- 3.2.2 The minimum area of land in a planned unit development/ cluster development shall be 5 acres.
- 3.2.3 Each building shall be an element of an overall plan for site development, which plan shall identify the location of all proposed roads, structures, parking areas, footpaths, common open space, and private yard space related to individual dwelling units. Only developments having a total site plan for structures will be considered. In respect to the placement of buildings and treatment of spaces, paths, roads, service and parking the developer shall take into consideration all requirements of this section and of other relevant sections of this Ordinance.
- 3.2.4 The maximum net residential density (i.e., the number of dwellings per acre, excluding roads) allowable in planned unit/cluster developments shall be calculated on the basis described in the table below. For example, in developments where sewer service is not being provided, all of the "well-drained" and "moderately well-drained" land may be included in density calculations, plus half of the "poorly-drained" land.

-----  
Land Which May be Included as "Suitable Land"  
When Calculating Net Residential Density.  
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	on sewer	not on sewer
excessively drained, well-drained and moderately well-drained	100%	100%
poorly drained*	75%	50%
very poorly drained*	40%	-
slopes greater than 33%	50%	-

borrow pits

67%

33%

Exclude all land under Article II Section 2.10 [3-90]

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\* Soil classification by U.S. Soil Conservation Service. All "poorly" and "very poorly" drained soils are unsuitable for on-site sewage disposal, under the State Plumbing Code.

- 3.2.5 The minimum required space between multiple and/or single units shall be the equivalent of the height of the tallest unit.
- 3.2.6 A setback of at least 50 feet shall be required along existing road frontage, and access to lots in the development shall be limited to the interior road system.
- 3.2.7 The total area of open space in the development shall equal or exceed the area to be used for dwelling units.
- 3.2.8 If the development is for single family detached homes the lot size shall not be reduced to less than 1/2 acre.
- 3.2.9 No building or structure shall be located within 20 feet of any abutting property line.
- 3.2.10 All utilities shall be underground.
- 3.2.11 Individual lots, buildings, streets and parking areas shall be designed and situated so that stream beds, aquifers, rock outcroppings, trees of a significant size (over 18" in diameter), be included in the common open space.
- 3.2.12 In order to determine the maximum number of dwelling units permitted on a tract of land, the total acreage allowed to be included in net density calculations (according to the table) less the land needed for roads, shall be divided by the minimum lot size normally required in the District, except for Elderly Congregate Housing (See Article II, BUILDING LAWS, section 2.15). [3-01]
- 3.2.13 No single group of dwellings which are attached either horizontally or vertically shall contain more than four (4) dwelling units except for Elderly Congregate Housing (See Article II, BUILDING LAWS, section 2.15). [3-01]

- 3.2.14 The extent of soil types in the six categories listed in the table shall be certified by a Registered Soil Scientist licensed in the State of Maine, on a high-intensity soil survey map.
- 3.2.15 No dwelling unit shall be constructed on soil classified as being "very poorly" drained.
- 3.2.16 Where a planned unit development or cluster development abuts a watercourse or water body, a portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.
- 3.2.17 All dwelling units in a planned unit development or cluster development shall be connected to a common water supply and distribution system, either public or private, at no expense to the Town of Wiscasset, except for Elderly Congregate Housing (See Section 3.2.20 below). [3-01]
- 3.2.18 All structures with required plumbing in a planned unit development or cluster development shall be connected to the existing public sanitary sewer system, if available, or as permitted in Subsection 2.3.3.h above. [3-89]
- 3.2.19 Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development.
- 3.2.20 Any Elderly Congregate Housing shall be connected to public water and sewer at no expense to the Town of Wiscasset. [3-01]

### 3.3 DEDICATION AND MAINTENANCE OF COMMON OPEN SPACE

- 3.3.1 All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the dwelling units by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the Town of Wiscasset.
- 3.3.2 Further subdivision of common land or its use for other than non-commercial recreation or conservation, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to noncommercial recreational or conservation uses may be erected on the common land.
- 3.3.3 The common open space(s) shall be shown on the development plan with appropriate notation on the face thereof to indicate that it shall not be used for future building lots.

- 3.3.4 The use of common open space shall be limited to low-intensity recreation or other passive outdoor living purposes such as nature trails, and for preserving the natural features of the site, wildlife habitats and aquatic habitats. Such uses shall not include parking areas, swimming pools, tennis courts or similar recreation development which requires any manmade structures or addition of any non-natural materials such as but not limited to asphalt, cement, etc. In addition, the use of motorized recreational vehicles shall be strictly forbidden in order to preserve the natural features of the land.
- 3.3.5 If any or all of the common space is to be reserved for use by the residents, the bylaws of the proposed neighborhood association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to the Final Plan Approval.
- 3.3.6 Covenants for mandatory membership in the association setting forth the owner's rights and interest and privileges in the association or trust and the common land shall be reviewed by the Planning Board and included in the deed for each lot or dwelling.
- 3.3.7 This neighborhood association shall have the responsibility of maintaining the common open space(s).
- 3.3.8 The association shall levy annual charges against all dwelling owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities and Town assessments.
- 3.3.9 The developer or subdivider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request of the neighborhood association or trust or the developer or subdivider.
- 3.3.10 Owners of multifamily rental developments are responsible for maintenance of common open space areas.

#### 4. PLANNING BOARD DECISION AND FINAL PLAN

- 4.1 The Planning Board shall, within 30 days of a public hearing, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed subdivision, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and in Title 30-A MRSA Sections 4401-4407, and to preserve the public's health, safety and general welfare. In all instances, the burden of proof shall be upon the subdivider. The order shall be in writing and shall specifically

state reasons for denying, accepting, or modifying the proposed subdivision and shall be sent to the applicant and adjacent property owners by registered mail, return receipt requested.

- 4.2 Upon receiving approval of the Preliminary Plan and the application, the applicant shall submit to the Board a Final Plan within 6 months. Failure to submit the Final Plan within 6 months of acceptance or modification of the Preliminary Plan shall require the submission of a new subdivision application.
- 4.3 The Final Plan shall consist of an original plus five copies of one or more maps or drawings which shall be printed or reproduced in a manner suitable for filing in the Registry of Deeds and shall be prepared by a registered land surveyor or registered engineer and certified. Space shall be reserved thereon for endorsement by all appropriate agencies. The Final Plan shall show:
  - 4.3.1 All of the information presented on the Preliminary plan and any amendments thereto suggested or required by the Planning Board.
  - 4.3.2 The name, registration number and seal of the land surveyor or engineer who prepared the plan.
  - 4.3.3 Street names and lines, pedestrian ways, lot easements, and areas to be reserved for or dedicated to public use.
  - 4.3.4 Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where practical, these should be tied to reference points previously established.
  - 4.3.5 The length of all straight lines, the deflection angles, radii, length, or curves and central angles off all curves tangent distances, profile elevations, and tangent bearings for each street. Applicant shall provide for placement of permanent-reference monuments at not less than 1000' or sight distance from one to another, whichever is less.
  - 4.3.6 By proper designation, all public open space for which offers of dedication are made by the subdivider and those spaces to which title is reserved by him.
  - 4.3.7 Lots and blocks within the subdivision to be plainly numbered.
  - 4.3.8 Permanent reference monuments shown thus: "X".
  - 4.3.9 A soil suitability analysis for each lot by a qualified soil engineer, if on-site septic sewage disposal is anticipated.

- 4.4 If the Final Plan does not deviate from the Preliminary Plan as approved, and the soils suitability analysis meets the requirements of the State Plumbing Code, a majority of the Board shall within 30 days from receipt of the Plan, indicate its approval by signing the plan on its face and issuing a final written order approving said plan with or without conditions.
  - 4.5 In the event the Final Plan deviates from the Preliminary Plan as approved, the Planning Board may request that a revised plan be submitted or may consider the deviant plan to be a new Preliminary Plan and proceed to review the same pursuant to section three.
  - 4.6 The Planning Board will file the original and one copy of the approved Final Plan with the County Registry of Deeds. One copy will be retained in the municipal files and one copy filed with the Town Clerk.
  - 4.7 Approval and recording of a Final Plan does not indicate town acceptance of any street, easement or other open space.
  - 4.8 If a proposed resubdivision occurs after final subdivision plans have been approved and recorded or after the hearing on the preliminary subdivision plan, a new final plan must be submitted. If the Planning Board feels that the change is minor in nature, does not change the overall nature of the subdivision and does not affect the neighborhood, a public hearing may be waived.
5. TIME REQUIREMENTS FOR PROJECT COMMENCEMENT AND COMPLETION
- 5.1 The Subdivider shall furnish, install, connect, and complete all of the street grading, paving, storm drainage and utilities or other improvements specified on the Final Plan as approved by the Planning Board. [3-87]
  - 5.2 If the Subdivider fails to start within one year or fails to complete within two years the specifications on the Final Plan as noted in paragraph 4.3.1, the subdivider shall then be required to submit a New Application according to Section 2, PROCEDURES FOR SUBDIVISION REVIEW, of this Ordinance. The requirements of all ordinances enacted or amended after the date of Final Plan Approval shall apply to the New Application and Preliminary Plan. [3-87]
  - 5.3 Prior to the first sale or lease of property the developer shall meet with the Planning Board to review the requirements of paragraph 4.3.1 above. [3-87]
6. ENFORCEMENT
- 6.1 No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been

approved by the Planning Board and recorded in the Lincoln County Registry of Deeds.

- 6.2 Any person, firm, corporation or other legal entity who sells, leases, develops, builds upon or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved as required by this section shall be punished by a fine of not more than \$1,000 for each such offense. Each month that a violation exists after notification of a violation shall constitute a separate offense.

## 7. VALIDITY/SEVERABILITY CLAUSE

The invalidity of any provision of this ordinance shall not invalidate any other part.

## ARTICLE VIII - SITE PLAN REVIEW

### 1. STATEMENT OF PURPOSE

Substantial development or major changes in the uses of land cause a profound impact on the cost and efficiency of municipal services and on the environment of the town. Such developments can have impacts on schools, sewers, water lines and other public utilities; recreational facilities; liquid and solid waste disposal; police and fire protection; open space; road systems and circulation; traffic congestion; placement of buildings and structures; property values; water quality; the visual characteristics of the neighborhood and town; and the general health, safety, and welfare of the community. It is the purpose of this section to minimize such impacts caused by development.

### 2. APPLICABILITY

This section shall apply to:

- 2.1 Proposals for new construction of nonresidential buildings or structures and of multifamily dwellings, including accessory buildings and structures.
- 2.2 Proposals for enlargements of nonresidential buildings or structures and of multifamily dwellings, including accessory buildings and structures.
- 2.3 Proposals to pave, strip, grade, or remove earth materials from areas of more than 10,000 square feet within a five-year period.
- 2.4 This section does not apply to:
  - 2.4.1 Two-family dwellings.
  - 2.4.2 Agricultural land management practices and forest management practices.
  - 2.4.3 The construction of or movement of temporary non-residential structures of any type onto a site for a period not to exceed nine months per calendar year. [3-97]
- 2.5 This Section does not apply to construction of ramps and other features required for compliance with the Americans with Disabilities Act, provided that the total area of such construction is less than 200 sq. ft. However, although such construction is exempt from this Section, it must nonetheless comply with all other Town Ordinances (including the Building Laws, Zoning Ordinance, and setback requirements), and must comply with any other applicable State and Federal Laws [3-93]



### 3. ADMINISTRATION AND PRE-APPLICATION

#### 3.1 PRE-APPLICATION

3.1.1 Prior to submitting an application for approval of the proposed use or construction, the developer shall meet informally with the Planning Board at a regular meeting to present a sketch plan which shall consist of a rough outline of the proposed construction or use and may be a freehand, penciled sketch showing features which maybe of assistance to the Board in making its determination. It should also indicate whether or not the proposed project is within the shoreland zone or within a flood plain zone. The purpose of this pre-application meeting shall be to understand what is proposed, and shall not include a binding commitment between the developer and the Planning Board. [3-94]

3.1.2 The Planning Board shall make an inspection of the site which may be conducted at or shortly after the time of submission by the sketch plan. The pre-application phase of the application process will not be considered complete until such inspection has been made.

3.1.3 Within 30 days from submission of a pre-application and sketch plan, and following an on-site inspection, the Planning Board shall submit in writing to the applicant a checklist of the specific information which should be included in the formal application to the Planning Board.

3.2 Prior to final approval the date for completion shall be agreed to by the applicant and the Planning Board. The Board shall not extend this date unless the applicant can show hardship or other unusual circumstance prior to the date; when determining these circumstances the Board shall consider strikes, unwarranted delays in government regulatory approvals, delays in delivery of materials which are not the fault of the applicant, and unforeseen difficulties in construction due to site constraints, etc.

3.3 If after the initial pre-application the applicant takes no action during a 4-month period towards obtaining final approval the application shall be considered null. [3-88]

### 4. SUBMISSION OF APPLICATION AND PRELIMINARY SITE PLANS

4.1 When an application is submitted to the Planning Board, it must include a Preliminary Site Plan and a fee of \$.02 per square foot of floor space but not less than \$25.00. If Subdivision approval is also required the higher of the Site Review or Subdivision fees shall be charged. Upon receiving the application, the Planning Board shall issue a dated receipt to the applicant. [3-88]

- 4.2 If the Planning Board hires one or more state-certified or licensed expert consultants to provide the Board with advice as to whether or not a developer's application, if approved, would comply with the provisions of the subdivision and site review ordinances and applicable state and federal laws relevant to the consultant's expertise, the applicant shall be responsible for payment to the Town of Wiscasset of a sum equal to 50% of the consulting fees charged to the Planning Board. The Planning Board shall not vote on final approval of the application until it has been notified by the Town Treasurer that the applicant's share of the consulting fees has been received. This provision applies whether or not the application is finally approved. [3-89]
- 4.3 The Site Plan shall include:
- 4.3.1 A map or maps prepared at a scale of not less than one inch equals 50 feet and including the name and address of the applicant or his authorized agent, and:
  - 4.3.2 Existing soil conditions as described by either a Maine licensed soil scientist, geologist, engineer or Soil Conservation Service medium intensity soil survey, and:
  - 4.3.3 Municipal lot numbers and names of abutting landowners, and:
  - 4.3.4 Scale, true north arrow, legend, and a space for dates of any revisions which may be required, and:
  - 4.3.5 Exact dimensions and acreage of parcel to be built upon; the corners of the parcel shall be located and marked on the ground and shall be referenced in the plan; for any site for which construction or grading is proposed, other than an enlargement of an existing building or construction of an accessory building, the Planning Board shall require that the site plan include an actual field survey of the boundary lines of the lot, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor; and:
  - 4.3.6 Existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, easements, drainage ways and public or private rights-of-way; and:
  - 4.3.7 The size, shape and location of existing and proposed buildings on the parcel; and:
  - 4.3.8 If the site is not to be served by a public sewer line, an on-site soils investigation report by a licensed geologist or soil scientist shall be provided, and the report shall state whether or not the soil is suitable for sewage disposal in accordance with state law; and:

- 4.3.9 Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site onto public streets, and curb and sidewalk lines; and:
- 4.3.10 Landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening; and:
- 4.3.11 Natural contours at intervals of 2 feet and final contours at intervals of 2 feet unless sufficient detail cannot be shown with 2 foot contours, when spot elevations shall be required; contours and/or spot elevations shall be required only for that portion of the lot which will be altered in any way and portions of the lot downslope from the proposed alterations to an extent sufficient to clearly delineate the existing and proposed course of drainage and the point or points of discharge from the lot; and:
- 4.3.12 Location of aquifers and aquifer recharge areas, in any, as mapped by the Maine Bureau of Geology; and:
- 4.3.13 Specifications of quantities and grades of material is to be used if land filling is proposed.

## 5. NOTIFICATION OF ABUTTERS AND PUBLIC HEARING

- 5.1 The Planning Board shall hold a public hearing on the application for site plan approval within 30 days of notification to the applicant that the application is complete. The Board shall give written notice of the date, time and place of such hearing to the person making the application and also publish such notice in a newspaper of general circulation in Wiscasset at least two (2) times; the date of the first publication to be at least seven (7) days prior to the hearing. [3-01]
- 5.2 The applicant shall provide notice of the date, time and place of the public hearing, and nature of the proposal, by certified mail, return receipt requested and by U.S. First Class mail, to all property owners within 200 feet of the property boundary lines of the property involved at least fourteen (14) days prior to the hearing. The applicant shall present proof to the Planning Board that such action by the applicant to described abutters has occurred. [3-01, 09-04]

## 6. PERFORMANCE STANDARDS

The following standards are to be used by the Planning Board in judging applications for site plan reviews and shall serve as minimum requirements for approval of the site plan. The site plan shall be approved unless in the judgment of the Planning Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

### 6.1 PRESERVE AND ENHANCE THE LANDSCAPE

The landscape shall be preserved in its natural state insofar as practical by minimizing tree removal, disturbance of soil and by retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures and to minimize the encroachment of the proposed use on neighboring land uses.

### 6.2 FILLING AND EXCAVATION

6.2.1 Filling, excavation and earth moving activity shall be carried out in a way that keeps erosion and sedimentation to a minimum, including preservation and protection of natural vegetation where possible; keeping duration of exposure of disturbed soils to as short a period as possible and stabilizing the disturbed soils as quickly as practicable; and the use of temporary vegetation or mulching to protect exposed critical areas during development.

6.2.2 Use of debris basins, sediment basins, silt traps or other acceptable methods to trap the sediment from storm water runoff.

6.2.3 No placement of fill within 20 feet of the banks of any stream or water body; and no removal of topsoil from any area, except for that removed from areas to be occupied by buildings, paving or other surfaces that will not be revegetated.

### 6.3 AIR QUALITY

The development will not result in undue air pollution or odors. In making this determination the Planning Board, as necessary, shall consult federal and state authorities to determine applicable air quality laws and regulations.

#### 6.4 WATER SUPPLY

The development has sufficient water available for the reasonably foreseeable needs of the development, including adequate fire protection in accordance with Underwriters Laboratory recommendations and will not cause an unreasonable burden on an existing town water supply and/or neighboring wells.

#### 6.5 NATURAL BEAUTY

The development will not have an adverse effect on the scenic or natural beauty of the area, including water views, sites, or rare and irreplaceable natural areas.

#### 6.6 RELATIONSHIP TO ENVIRONMENT AND NEIGHBORING BUILDINGS

6.6.1 Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed building, and shall not interfere with the solar access of existing buildings on adjacent parcels.

6.6.2 Between different types of land use or different districts, a strip of not less than 10 feet shall be required except along road frontage, and shall be planted with a sufficient density of evergreen trees or other living evergreen material to provide an effective visual shield at pedestrian eye level from the adjacent property. [3-97]

#### 6.7 VEHICULAR ACCESS

The proposed site layout shall provide for safe access to and egress from public and private roads.

#### 6.8 PARKING AND CIRCULATION

6.8.1 The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement of parking areas.

6.8.2 Parking lots shall be divided into small areas of no more than 40 parking spaces each, by landscaping such as, but not limited to, shade trees, shrubs, and evergreens, and shall be separated from the frontage road by a landscaped strip of shrubs and/or trees not more than 4 feet high, the strip to be not less than 15 feet wide. [3-01]

6.8.3 Facilities that rent rooms on a nightly basis, such as hotels, motels, B & B's, etc. shall provide one parking space per rental unit; restaurants and

bars shall provide a minimum of one parking space per employee and one parking space for every three seats; retail establishments and shopping centers shall provide at least one parking space for every 250 square feet of building space. When planning, allowance of 350 square feet per parking space shall be provided, in accordance with state recommendations. [9-03]

- 6.8.4 The following exception to paragraph 6.8.3 above applies only to retail establishments within the village business zone defined in Article VI, Section EE.1: New construction, or remodeling of a building to be used for retail purposes need not provide off-street parking if the owner demonstrates to the satisfaction of the Planning Board that space for parking can not be found within the property limits.

## 6.9 SURFACE WATER DRAINAGE

Adequate provision shall be made for surface drainage so that removal of storm waters shall not adversely affect neighborhood properties, downstream water quality, soil erosion or the public storm drain system, and whenever possible, on-site absorption of runoff waters shall be used to minimize discharges from the site. Drainage facilities shall be designed for a ten-year storm frequency.

## 6.10 EXISTING UTILITIES AND MUNICIPAL SERVICES

- 6.10.1 The proposed development shall not impose a burden on sewers and storm drains, water lines or other public utilities.
- 6.10.2 The proposed development will not have an adverse impact on the municipal services, including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, open spaces, and other municipal services and facilities.

## 6.11 WATER QUALITY

The developer shall show that there will be no continuing undue water pollution as a result of the proposed development. In making this determination the Developer shall at least consider the nature of soils and subsoils and, if necessary, their ability to support waste disposal; the potential for new or increased discharge of unpotable waste waters to surface and sub-surface water bodies; the slope of the land; the availability of streams for disposal of surface runoff; and the applicable federal, state and local laws and ordinances.

## 7. GENERAL PROVISIONS

- 7.1 The Planning Board may modify or waive any of the above application requirements or performance standards when the Planning Board determines that

because of the small size(less than 2,000 square feet) of the project such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and not adversely affect the abutting landowners and the general health, safety and welfare of the town.

- 7.2 All construction performed under the authorization of a building permit issued for development within the scope of this Ordinance shall be in conformance with the approved site plan.
- 7.3 Approval of the site plan and any building permit issued for development within the scope of this Ordinance shall expire after a period of twelve months if development has not begun. No building permit shall be issued for such development before it has received Planning Board approval. New owners shall bring the site review plan before the Planning Board for review if the property is sold before the project is completed.
- 7.4 The proposed development shall not require a capital investment of the town for additional municipal services.

## 8. VALIDITY/SEVERABILITY CLAUSE

The invalidity of any provision of this Ordinance shall not invalidate any other part.

## 9. VIOLATIONS

- 9.1 Failure to comply with any conditions of approval shall be construed to be a violation of this Ordinance. It shall also be a violation to make changes which are described in Section 2 above as requiring Site Review without such review and approval. Violations shall be the ground for revoking the approval, initiating legal proceedings to enjoin construction development, or any specific activity violating the conditions of permit approval, or applying the legal penalties detailed below.
- 9.2 Violations shall be punishable by a fine of not less than fifty dollars, nor more than one hundred dollars, for each day that the violation continues to exist after official notification by the Planning Board.
- 9.3 Whenever sedimentation is caused by stripping vegetation, regrading, or other development, it shall be the responsibility of the owner to remove sediment from all adjoining surfaces, drainage systems and water courses, and to repair any drainage at his expense as quickly as possible. Failure to do so within two weeks after official notification by the Board shall be punishable by a fine of one hundred dollars for each day the offense continues after formal notification by the Board that such a fine is being imposed.

10. PERFORMANCE GUARANTEE

The provisions of Section 2.4 of Article VII generally apply except that "applicant" substitutes for "subdivider." [6-92]



## ARTICLE IX - REGULATIONS, LICENSES AND PERMITS

### 1. MISCELLANEOUS

#### 1.1 GROUPS IN PUBLIC WAYS

Three or more persons shall not stand in a group, or near each other, on any sidewalk, or cross walk, or in any street or public way, or on the steps, or in the passage ways or entrances to buildings, in such manner as to obstruct free passage, after request from any officer of the peace to move on.

#### 1.2 NOISES IN STREETS

No person shall in any street or public place, make any loud or unusual noises, by shouting, discharging firearms, sounding horns or other instruments or things, or sing or utter obscene or indecent songs or words or in any unruly or boisterous manner disturb the peace, quiet and good order of the town.

#### 1.3 FIREWORKS

No fireworks or other things of an explosive or pyrotechnic nature shall be discharged or set off in the public or private ways of the town at any time.

#### 1.4 TEMPORARY SALES ORDINANCE [6-06]

1.4.1 Purpose. It is the intent of this ordinance to regulate temporary sales activities so that temporary stands, concessions and exhibits are allowed only upon meeting certain minimum regulations.

##### 1.4.2 Definitions.

- a. Temporary Business Activity: Temporary business activity is defined as any activity, stand, concession, carnival, road show, trade show, fair or public exhibition, taking place from a temporary structure and/or temporary location, whose purpose is to advertise, display, or offer goods for sale.
- b. Temporary Business License: A temporary business license is a document obtained from the Wiscasset Town Manager that grants the applicant permission to conduct a temporary business activity in the Town of Wiscasset.

1.4.3 Permits. It shall be unlawful for any individual, person, firm, corporation, partnership, or other business entity to conduct temporary business

activities in the Town of Wiscasset without first applying for and obtaining a temporary business license.

- a. The applicant for a temporary business license shall obtain a temporary business license from the Wiscasset Town Manager prior to engaging in any activities associated with this section. The Town Manager shall have the authority to approve or deny any temporary business license pursuant to this ordinance.
- b. A temporary business license shall be valid for thirty (30) consecutive calendar days, beginning on the date of license approval.
- c. There shall be no fee for a temporary business license.

1.4.4 Appeals. Any application to conduct a temporary business activity that has been denied may be appealed to the Wiscasset Board of Selectmen. All appeals must be made by submitting a formal written request of an appeal to the Town of Wiscasset Town Manager.

1.4.5 Regulations. Each licensee shall meet all of the requirements listed below. Failure to meet any of the requirements listed herein shall constitute grounds for non-issuance or revocation of a temporary business license.

- a. No temporary business activity will create hazardous traffic conditions.
- b. No temporary business activity shall obstruct or act as a cause of obstructing any sidewalk, street or highway within the Town of Wiscasset.
- c. Each licensee shall be required to clean up its site and remove all materials associated with its temporary business activity within twenty-four (24) hours of license expiration. Failure to remove will result in the Town removing materials at the expense of said licensee and shall constitute a violation of this ordinance.
- d. Temporary licenses shall be conspicuously displayed at the place of business.

1.4.6 Exemptions. The following activities are held exempt under this ordinance.

- a. Private garage or yard sales, conducted on the seller's owned or leased property.

- b. Temporary activities associated with any recreational activities that are permitted by law and for other activities which a license or permit by the town is necessary; such as, but not limited to: School Department sporting events, 4<sup>th</sup> of July parade, Maine Street Pier activities, etc.
  - c. Temporary activities involving craft fairs, flea markets and yard sales that are sponsored by churches, civic organizations and nonprofit organizations that are tax exempt under the provisions of the Internal Revenue Code.
- 1.4.7 Violations. Any individual, person, firm, corporation, partnership or other business entity violating the provisions of this ordinance shall be punished by: 1). 1<sup>st</sup> offense shall be a warning; 2). For each and every offense thereafter a payment of a fine not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00). Each day of a continuing violation shall be deemed a separate offense. The Wiscasset Police Department and Code Enforcement Officer shall be responsible for the enforcement of this ordinance

## 2. GENERAL PROVISIONS

- 2.1 Any person violating any of the town's ordinances, rules or regulations shall be subject to the following. In the event that two or more penalty provisions apply to the same violation, the Selectmen shall choose which one or more penalty sections to apply. [3-99]
- 2.1.1 If the violation is one which is within the scope of 30-A M.R.S.A. 4451 (Enforcement of Land Use Laws and Ordinances) as the same may be amended from time to time, the violator shall be subject to the procedure and penalty provisions as set out in that statute as the same may be amended from time to time. [3-99]
  - 2.1.2 If the ordinance, rule or regulation which is violated provides for a particular penalty, the violator shall be subject to the penalty as so provided. [3-99]
  - 2.1.3 If the ordinance, rule or regulation which is violated does not provide for a particular penalty, the violator shall be subject to a fine of \$100.00 per day for each day or part of a day that the violation occurs. [3-99]
  - 2.1.4 If the violation arises from the improper parking of a vehicle, a Selectman or any Police Officer may employ a wrecker service to remove the vehicle and store it, and the person owning or controlling such vehicle shall be liable for the towing and storage fees. [3-99]

- 2.1.5 If the violation arises from the improper docking or mooring of a boat, a Selectman, the Harbor Master, or a U.S. Coast Guard official may move or cause to be moved the boat and take custody of it, and the person owning or controlling the boat shall be liable for all expenses incurred. [3-99]
- 2.2 These regulations, or any part of them, may be amended, added to or repealed by a majority vote of any Town meeting, provided due notice of any change to be considered has been given in advance.
- 2.3 Should any provisions of this Ordinance be declared by the courts to be invalid, the decision shall not invalidate any other provisions of this Ordinance which can be given effect without the invalid provision, and to this end, the provisions of this Ordinance are severable.
- 2.4 The provisions of this Ordinance are minimum requirements. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted statute, rule, regulation, ordinance, deed, restriction or covenant, the most restrictive or that imposing the higher standard shall govern.
- 2.5 All Ordinances or parts of Ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.
- 2.6 The above Police Regulations of the Town of Wiscasset shall be deemed to be in full effect on and after May 30, 1961.
- 2.7 The above regulations are made in accordance with authority vested in the Municipal Officers at the annual Town Meeting of March, 1946, Article 71 of the Town Warrant.
- 3. PARKING, TRAFFIC AND VEHICLE REGULATIONS
  - 3.1 PARKING
    - 3.1.1 MIDDLE STREET: Parking shall be prohibited on the westerly side of Middle Street from Main Street to Fore Street.
    - 3.1.2 WATER STREET: Parking is prohibited on the west side of Water Street, starting at a point parallel with the curb at Main Street, running 160 feet south, also the east side of Water Street, starting parallel with the south side of Big Foot Alley and running south for 195 feet. Parking on Water Street is prohibited on the east side from the end of the sidewalk to Lincoln Street.
  - 3.2 The following streets shall be one-way the entire year:

- 3.2.1 SHIN BONE ALLEY: One-way easterly from Middle Street to Water Street.
- 3.2.2 BIG FOOT ALLEY: One-way westerly from Water Street to Middle Street.
- 3.3 It shall be unlawful to operate any vehicle on any street or alley designated as a one-way street or alley by ordinance in any direction other than that so designated.
- 3.4 Parking on any street is prohibited within twelve (12) feet of the intersecting line of any other street, except at the intersections of Main and Water Streets and Main and Middle Streets.
- 3.5 Parking is prohibited within ten (10) feet of any fire hydrant.
- 3.6 Parking on any street within the Town in a manner so as to obstruct the free flow of traffic on that street is prohibited.
- 3.7 Vehicles shall be no more than twelve inches (12") from the curb or within the designated areas on all streets where parking is allowed.
- 3.8 The Chief of Police or any other person designated by the Selectmen shall post or cause to be posted suitable signs designating all one-way streets and parking areas.
- 3.9 Parking is prohibited between the sidewalk and the traveled portion of Main Street or any street situated westerly of the easterly line of Fort Hill Street and of Federal Street.
- 3.10 The Selectmen are authorized to fix the permitted hours of parking in all public parking areas in the town. [3-93]
- 3.11 Parking is prohibited on all sidewalks and marked crosswalks.
- 3.12 The Chief of Police is authorized to designate areas on streets, whether designated by these ordinances for parking or not, as loading zones, and to post them accordingly.
- 3.13 Any person, firm, corporation or other entity who violates any portion of this Section 3 shall be subject to the following [1-08]:
  - 3.13.1 A \$20.00 fine for overtime parking or parking in a loading zone, a \$100.00 fine and/or vehicle towed for parking within ten (10) feet of any fire hydrant and a \$20.00 fine for all other violations, if the applicable fine is

paid to the Town Treasurer by the end of the second town workday commencing the workday after the date of the violation [1-08, 6-08];

3.13.2 Twice the appropriate amount set out in subparagraph 3.13.1, above, if the applicable fine is paid later than the end of the second town workday commencing the workday after the date of the violation [1-08];

3.13.3 Court action if the applicable fine is not paid within 14 calendar days of the date of the violation (not counting the date of the violation itself). If the Town initiates a Court action, the violator will be liable for the applicable \$40.00 or \$200.00 fine, plus Court costs, plus attorney's fees which the Town incurs in presenting the suit. [3-88, 1-08, 6-08]

### 3.14 STREETS WHERE PARKING IS PROHIBITED

3.14.1 Parking shall be prohibited on the west side of the northern section of Water Street in the Town of Wiscasset beginning on the south side of Shin Bone Alley running to the south side of the Cost residence driveway, being a distance of 225 feet.

3.14.2 Parking shall be prohibited on the east side of Water Street from the driveway on lot 56 on map U-1 to the far boundary of lot 57, being a distance of 80 feet.[3-93]

3.14.3 Parking shall be prohibited on the east side of the southern section of Water Street from CMP pole #05 to CMP pole #06, being a distance of 120 feet.

3.14.4 Parking shall be prohibited on the easterly side of Federal Street in the following area: beginning at the intersection of Federal Street and U.S. Route #1; thence northerly 3,800 feet, more or less, to the southwest corner of the property known as the Old State Garage.

3.14.5 Parking shall be prohibited on the westerly side of High Street from the library to the intersection with Lee Street, except where a parking indentation has been made in the curbing. [4-08]

3.15 No person shall park any horse, carriage or motor vehicle within the limits of any street, road or way in the Town of Wiscasset in such manner that the same shall in any way interfere with or hinder the removal of snow by mechanical or hand means from the streets, roads, ways or sidewalks within said town. A Selectman or any Police Officer shall have the authority to employ wrecker service to remove any parked vehicle interfering with such snow removal and have it taken to a public garage or other place of safety, or he may remove such vehicle himself, all at the expense of the person owning or in control of such vehicle.

- 3.16 No person shall park any horse, carriage or motor vehicle upon any other street or way nearer than twelve (12) feet to the line of an intersecting street or way nor on any street nearer than ten (10) feet from any hydrants.
- 3.17 The Selectmen of said Town of Wiscasset may establish time limits for parking on any streets or parts of streets, and may establish areas in which no parking shall be allowed and they may close any streets or parts of streets to vehicle traffic or establish one way streets when in their opinion public safety and convenience so require. Notice of action taken pursuant to the above shall be posted in two conspicuous places in said town at least twenty-four hours before becoming effective, and the streets, parts of streets and areas affected shall be reasonably signed and posted to inform travelers of the limited use thereof permitted.
- 3.18 No parking will be allowed on any grass or planted road shoulders or planted street shoulder owned by the Town. Violators will be subject to a fine of \$10. The Town may tow any offending vehicle and the owner of such vehicle shall be liable for all towing fees. [3-87]
- 3.19 SPEED LIMITS
- The speed limit on Federal Street is hereby reduced from 30 miles per hour to 25 miles per hour in the area from U.S. Route One to the residence of Freda Hussey, being a distance of 3550 feet.
- 3.20 WEIGHT LIMIT ON FEDERAL STREET
- 3.20.1 No person, business, corporation or other entity shall operate or cause to be operated any truck, trailer, tractor or other vehicle that has a gross weight of more than 6,000 pounds or a width greater than eight feet, on that section of Federal Street which runs northerly from State Highway #1 to the former State Highway Garage as now situated, a distance of 3,800 feet.
- 3.20.2 Provided, however, that this section shall not apply to persons operating general service vehicles engaged in conducting business on said street.
- 3.20.3 Whoever violates this section shall, upon conviction, be punished by a fine of not less than \$10.00 nor more than \$100.00. [2-73]
- 3.21 LOUD AND/OR UNNECESSARY NOISE
- 3.21.1 No automobile horn shall be sounded in any unreasonable manner or so as to make objectionable noise. No operator of a motor vehicle shall make any unnecessary noise by cutting out the muffler or operating with a defective muffler.

3.21.2 No person shall operate a motor vehicle upon any street or way or any other place so as to make any loud, unusual or unnecessary noise against the peace, quiet or good order of the town.

### 3.22 PULL OVER FOR EMERGENCY VEHICLES

Drivers of a vehicle on the approach of a fire engine or other fire apparatus, police vehicles or ambulances (answering an alarm) shall immediately draw up said vehicle as soon as possible to the right hand curb and parallel thereto and bring it to a standstill.

### 3.23 CLEARANCE FOR FIRE APPARATUS

No automobile or other vehicle shall trail, follow or approach any piece of fire apparatus going to or at a fire nearer than two hundred feet.

### 3.24 Deleted 3/99

### 3.25 BICYCLES

3.25.1 No person shall ride a bicycle upon the foot bridge or any of the sidewalks in the Town of Wiscasset in such a manner as to interfere with pedestrians. Upon approach of any person, bicycle riders shall stop or leave the sidewalk.

3.25.2 Every bicycle rider shall provide his bicycle with a suitable bell or horn which shall be sounded on overtaking other vehicles or persons and on the crossings in the Town of Wiscasset.

3.25.3 No operator of a bicycle shall carry any other person thereon or ride abreast of another bicycle, but two or more bicycle operators shall ride one ahead of the other in single file. No operator of a bicycle shall weave from one side of the street to the other but shall keep as far to the right as possible.

### 3.26 AIRCRAFT

Aircraft whether lighter or heavier than air shall at all times be operated at more than 500 feet above the ground or water except when landing or taking off.

### 3.27 TRAVEL AROUND MONUMENTS

No person shall, with any horse and wagon or other team, or on horseback or with any motor vehicle of any kind, on the streets, ways, roads or highways in the Town of Wiscasset, in the County of Lincoln and State of Maine, pass to the left



of any monument or other device, established by said town, or by or with the authority of the Selectmen of said town, marked "Keep to Right" or with any other mark of equal import.

### 3.28 ENFORCEMENT

Constables and police officers shall have authority to enforce the preceding sections and no person shall proceed with any horse, team, or motor vehicle after being called upon or signaled to stop by any constable, inspector of police or officer of the law.

## 4. ANIMAL CONTROL [3-97]

The purpose of this section is to prevent injury to persons, damage to property, creation of a nuisance, or spread of contagious disease by requiring animals to be kept under the control of their owners at all times. The provisions which apply to the owner of an animal apply equally to any person having its custody or possession.

### 4.1 ANIMALS CREATING A NUISANCE BY NOISE

Any animal which barks, howls, or makes other sounds continuously for twenty (20) minutes or intermittently for one hour or more shall be deemed to constitute a nuisance. Dogs barking at trespassers on private property on which the dog is situated, dogs barking as part of an organized hunt, or dogs barking as a result of provocation shall not be deemed a nuisance.

### 4.2 ANIMALS AT LARGE

It is unlawful for animals to run at large except when being used for hunting. Animals running at large shall be impounded by the Animal Control Officer, hereafter referred to as ACO, and taken to an animal shelter. Any dog or ferret not on the property of its owner or custodian must be on a leash of suitable strength or must be under the supervision and voice control of its master. Dogs shall not be allowed off leash in any Town owned or maintained cemetery. Any animal in violation may be impounded by the ACO. Any animal so impounded may be destroyed if it is not claimed within eight (8) days following impoundment. The ACO, his representative, or other law enforcement officer may take the animal to its owner if known. The owner, however, will be subject to a charge of \$10 payable to the Town for services rendered. [3-01]

### 4.3 CONFINEMENT OF CERTAIN DOGS

Dogs of fierce, dangerous, or vicious propensity, or in heat shall be properly confined or tied by the owner in a reasonable manner to prevent harm to the

public. If the owner of such a dog is found in violation of this section, the dog shall be impounded and not released except on the approval of the ACO, the Police Chief, or a police officer, and only if all provisions of Section 4.7 "Impoundment Fees" have been satisfied.

#### 4.4 ANIMAL CONTROL OFFICER (ACO)

An Animal Control Officer shall be appointed from time to time by the selectmen. The ACO, under the direction of the Chief of Police, shall be responsible for the control, regulation, and enforcement of all laws related to domesticated and undomesticated animals in accordance with 7 MRSA Section 3947 and the Town Ordinances.

#### 4.5 DOG LICENSES

All dogs kept, harbored, or maintained by their owners in the Town of Wiscasset shall be licensed in accordance with 7 MRSA Chapter 721. No later than the end of the grace period of January 31 each year all dogs over the age of six (6) months must be licensed by the Town Clerk. Proof of a rabies vaccination must be shown to obtain a license.

#### 4.6 REGISTRY AND NOTIFICATION OF IMPOUNDMENT

When impounding any animal, the ACO or police officer shall, at the time of impoundment, list the number and description of violations, and make a complete registry of the date of impoundment, breed, color, sex, general condition of the animal, whether licensed or unlicensed, and the name of the owner on a registry form. A copy of this form shall be furnished to the animal shelter, together with written instructions setting the conditions under which the animal may be released. The administrator of the shelter shall contact the owner if possible within 48 hours, and report to the Town Clerk a description of the animal and its place of impoundment. If not claimed by the owner, the animal shelter shall dispose of the animal by adoption or otherwise in a proper and humane manner consistent with state law.

#### 4.7 IMPOUNDMENT FEES

Owners may reclaim their animal by first licensing (if necessary), and by paying to the Town a fee of \$30. Impounded cats shall be released to the owners upon proof of current rabies vaccination. The owner will also be responsible for any additional costs incurred by the animal at the shelter prior to reclamation. Fees must be paid to the Town Clerk and a receipt of same presented to the shelter prior to the release of an animal.

#### 4.8 DISPOSITION OF DISEASED ANIMALS

The owner of an animal which has bitten a human or may have been exposed to a contagious disease shall be served a quarantine notice. The owner shall confine and control the animal for the amount of time ordered. The owner must observe and obey all written instructions and procedures included in the quarantine notice. In addition to the fines or penalties described in subsection 4.10, failure to comply with this subsection may also result in court ordered seizure of the animal, and placement in a state licensed facility that houses such animals. All related expenses shall be paid by the owner. Length of confinement shall be in accord with the current State Rabies Management Manual including exposure by proximity.

#### 4.9 ANIMALS CREATING A PUBLIC HEALTH THREAT

The municipal health officer or his designee shall order suppression and removal of animals and conditions posing a public health threat, when there is a reasonable cause to suspect the presence of a communicable disease, and the owner has failed to comply with the properly served quarantine notice.

- 4.10 It is a violation of this Article for any person who owns, possesses or controls a dog to fail to properly remove and dispose of any feces left by that dog on any street, sidewalk or publicly owned property. [3-01]

#### 4.11 VIOLATIONS

Any person found in violation of any provision contained in this section shall be subject to a fine of not less than \$25 and not more than \$100 for each offense; however, licenses shall be issued with a fine of \$3.00 each for dogs past the grace period.

Any person found in violation of subsections 4.8 or 4.9 shall be subject to a fine of not less than \$100 and not more than \$1000 for each offense. Fines collected under this section shall be deposited in a separate account and retained for use by the Town as required in 7 MRSA Section 3945.

#### 4.12 SEVERABILITY

The invalidity of any part of this section shall not invalidate any other part.

### 5. TRANSPORTATION

- 5.1 No person, firm or corporation shall operate or cause to be operated, a taxicab, unless licensed as herein provided. No license shall be issued unless and until the Board of Selectmen has issued a certificate that public convenience and necessity require the operation thereof. Application for such certificate shall be made on forms provided by the Town Clerk and shall set forth the name and address of the

applicant, the trade name under which the applicant does or proposes to do business; where proposed stands and garages are to be located; the number of vehicles the applicant desires to operate, with a clear description of each vehicle, and such other facts as the Board of Selectmen may require.

- 5.2 Upon presentation of such certificate within thirty days from its date and satisfactory evidence that license fees herein required have been paid and that the insurance policy required by law has been duly filed with the Secretary of State, the Board of Selectmen may issue to the applicant a license for each car set out in said certificate. The license fee shall be five dollars (\$5.00) yearly for each taxicab. All taxicab licenses shall expire June 30 of each year.

## 6. USER FEES

- 6.1 Wiscasset's Board of Selectmen shall establish fees, where they deem them to be appropriate, for the use of Town owned or Town controlled property or facilities unless a fee is already established by these Ordinances or by an applicable law. The Selectmen shall also determine the time at which such fees shall be paid.

## 7. IMPROVEMENTS TO TOWN PROPERTY

The Selectmen, or the Town Manager at the Selectmen's direction, are authorized to grant permission to individuals or entities to do work on Town owned or controlled property, at the individuals' or entities' own expense, upon such terms as the Selectmen or the Town Manager may direct, and to accept as Town property all materials incorporated into the work. [9-03]

## 8. STREET EXCAVATION ORDINANCE

### 8.1 General

#### 8.1.1 Purpose

This Ordinance has been enacted by the Town of Wiscasset to regulate the use of public rights-of-way in the interest of public safety and convenience, and to protect public infrastructure. Excavation and restoration standards, control of access, and regulation of vehicle loads are required to preserve the integrity, operational safety, and function of the public right-of-way.

#### 8.1.2 Definitions

1. Town shall mean the Town of Wiscasset and/or its Public Works Authority.

2. Commissioner shall mean the Road Commissioner of the Public Works Department and/or his or her designee.
3. Contractor shall mean one contracts for the completion of an entire project, including purchasing all materials, hiring and paying subcontractors, and coordinating all the work.
4. Emergency shall mean any event, which may threaten public health or safety, where action is necessary to prevent personal injury, death or the loss or disruption of a private or public utility or service. The burden of proof of such emergency rests with the applicant.
5. Excavation shall mean any operation in which earth, rock, paving or like material, on, or below the surface of the ground, is moved, displaced, dug, trenched, tunneled or in any similar manner disturbed, except the agricultural tilling of soil or gardening.
6. Applicant shall mean a person applying for a permit required by this Ordinance.
7. Permit Holder shall mean a person who has obtained a permit as required by this Ordinance. A applicant may be any natural or corporate “person”, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.
8. Public right-of-way shall mean the entire width of every way and place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of traffic, except for private roads and private ways. The definition shall include the area on, above and below the public right-of-way, dedicated to public use, and any dedicated, but unaccepted street or way. The definition shall also include any publicly owned space or park. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.
9. Entrance shall mean direct vehicular access to property abutting the public right-of-way.
10. M.D.O.T shall mean the Maine Department of Transportation.

11. Technical and Design Standards shall mean the standards cited herein and adopted by the Town of Wiscasset and the Maine Department of Transportation (MDOT) Standards and Specifications for Highways and Bridges, latest edition.
12. Utility shall mean a public utility, as defined in 35-A M.R.S.A. § 102 as it may be hereinafter amended and shall specifically include the non-regulated activities of such a utility.

#### 8.1.3 Administration

1. The Commissioner is the responsible authority for the enforcement of this ordinance.
2. A Highway Opening and/or Entrance permit is required prior to the commencement of any excavation in the public right-of-way. It shall be unlawful for any person to excavate, or to place, deposit or leave upon any public right-of-way any earth or other material, equipment or structure tending to interfere with the free use of the public right-of-way, unless such person shall first have obtained a permit.
3. All Federal and State requirements for safe operation within the right-of-way shall be followed, including, but not limited to, OSHA and the Manual of Uniform Traffic Control Devices (MUTCD).
4. The permit holder shall hold harmless the Town of Wiscasset and its duly authorized agents and employees against any action for personal injury or property damage sustained by reason of the exercise of any permits issued under this ordinance.
5. Environmental Considerations
  - a) In the course of any work in the right-of-way, the permit holder shall not remove any trees or shrubs which exist in the public right-of-way area without first obtaining the approval of the Commissioner.
  - b) Best Management Practices (BMP's) as defined in the Maine Department of Transportation Practices for Erosion and Sedimentation Control, dated September 1997 shall be followed for all construction in the public rights-of-way.
6. The Road Commissioner or his/her designee shall make such inspections as are necessary in the enforcement of this ordinance.

7. Permit holders shall maintain accurate drawings, including plans and profiles showing the location and character of all underground structures including abandoned installations proximate to their work. Corrected as-built plans shall be filed with the Commissioner within sixty (60) days after new installations, changes or replacements are completed.
8. Penalty. Any person, firm or corporation who shall violate any provision of this Ordinance shall be subject to a fine in an amount established by Title 30-A M.R.S.A. Section 4452. Each day of continued violation and every violation of a provision of this Ordinance shall constitute a new and separate offense.
9. If any work performed under any permit issued under this ordinance is not completed in compliance with the terms of this ordinance, the Town shall cause such work to be repaired and prepare a bill for the cost of repair to be paid for by the Permit Holder. In the event such repair was undertaken without a permit, the Town shall prepare a bill for the cost of the repair, plus an additional amount of fifty (50) percent to be paid by the person doing the work. The Town shall issue no further permits to any person who has performed such work until the Town receives payment from the person for the repair work.
10. Working Hours: Except for emergency repairs or as approved by the Commissioner, working hours shall be between the hours of 7:00 a.m. and 7:00 p.m., prevailing time. Starting or warming up equipment prior to 7:00 a.m. is prohibited. Work on the weekend or legal holidays is prohibited unless specifically authorized by the Commissioner.

## 8.2 Entrances to Public Right-of-Ways

### 8.2.1 Purpose

This Article provides for the review, of any entrance onto a public way for compliance with sound construction and design practices, to ensure that traffic safety, drainage and public improvements are not adversely affected.

### 8.2.2 Permit Required.

No person shall construct, cause or permit to be constructed, alter or relocate any driveway, entrance, or approach or other improvement within

the public right-of-way in accordance with an entrance permit. This Ordinance applies to all proposed entrances or substantive changes to existing entrances to public roads after the effective date of the Ordinance.

#### 8.2.3 Administration

1. A permit, completed in conformance with applicable Wiscasset Street Excavation Ordinance Standards, may be issued upon application to the Commissioner for the purpose of securing access to private property.
2. An entrance permit does not authorize parking or servicing vehicles within such right-of-way.
3. A permit fee established by order of the [Town Selectboard] shall be paid for each permit.
4. The Commissioner may establish a review fee for staff or consultant review of the application. This fee shall be based on the estimated time for review and be placed in a cash escrow account with the Town prior to issuance of a permit.
5. The Application on standard form available at the Town Office or Public Works garage shall be filed with the Commissioner together with an application fee. The applicant shall furnish a copy of plans or sketches showing the following information:
  - (a) location(s), width, and arrangement;
  - (b) distance between existing entrances within 100 feet of the proposed entrance(s);
  - (c) distance(s) from the centerline of the traveled way to any structures, gasoline pumps, or other obstructions within 100 feet of the proposed entrance(s) etc.;
  - (d) property lines and easements;
  - (e) length, size and location of existing pipes, culverts, catch basins or manholes, curbing, curb and gutter, and/or sidewalks, and above ground utilities within 100' of the proposed entrance(s); and
  - (f) The proposed location of new pipes, culverts, catch basins or manholes, curbing, etc.



6. The entrance permit shall be valid for a period of twelve months from the date of original issue.
7. A contractor and/or permit holder must complete all work within the right-of-way.
8. The Commissioner may approve any variances from the Entrance Standards contained in the permit.

#### 8.2.4 Entrance Standards

##### 1. Sight Distance Criteria:

- a) All entrances shall be so located such that vehicles approaching or using the entrance will be able to obtain adequate sight distance in both directions along the public way and to maneuver safely and without interference with traffic. One and two family dwelling unit entrances are exempt from the site distance criteria. Unobstructed sight distance both ways for an exiting vehicle shall be in accordance with the following schedule:

Posted Highway Speed (MPH)	Minimum Sight Distance (in feet)
25	250
30	300
35	350
40	400
45	450
50	500
55	550

- b) Unobstructed sight distance shall be that distance of clear sight measured from a point 10' from the edge of pavement or curb line at a height of 3.5 feet to an object in an approaching lane with a height of 4.5 feet.
- c) Clearing, limbing and removal of other obstructions within the right-of-way necessary to provide the required sight distance shall be the responsibility of the permit holder and require the approval of the Commissioner.

##### 2. Geometry

- a) The entrance shall be designed such that the grade within the right-of-way does not exceed 10%.
- b) In rural sections the entrance grade shall match the edge of the existing shoulder and slope away from the road surface at a rate of one half inch per foot, for a distance of ten (10) feet from the edge of pavement.
- c) In curbed sections, the entrance grade shall match the existing gutter line and slope up at a rate of one inch per foot for a distance of not less than six (6) feet from the curb line.
- d) The entrance should intersect the traveled way at a horizontal angle of 90 degrees but in no case shall the horizontal angle be less than 75 degrees.
- e) The entrance shall not be located closer than 50 feet from an intersection.
- f) Not more than two entrances (or exits) shall be allowed on any parcel of property for which the frontage is less than two hundred (200) feet. Additional entrances for parcels of property having a frontage in excess of two hundred (200) feet shall be permitted only after showing of necessity. When frontage is fifty (50) feet or less, only one entrance is permitted, the width of which shall not exceed thirty (30) feet.

### 3. Drainage

- a) Existing roadside drainage in gutter or ditch lines shall not be altered or impeded by the entrance. The permit holder shall provide suitable and approved drainage structures/culverts at all entrances.
- b) Surface drainage shall be provided so that all surface water on the areas adjacent to the road shall be carried away from the roadway.
- c) Where a drainage culvert is required to maintain roadside drainage the Commissioner must approve the pipe diameter, length and material type prior to installation. Minimum pipe size shall be 15 inch diameter.

### 4. Construction Standards

- a) The Permit Holder and/or contractor is responsible for all construction and restoration of disturbed areas for the entrance within the limits of the Public right-of-way.
- b) The entire portion of any entrance within the limits of the Public right-of-way shall be stripped of all organics. The base for the entrance shall be constructed with a minimum 15-inch well-graded gravel base course conforming to MDOT Standard Specifications, Section 703.
- c) If the entrance grade within the Public right-of-way exceeds five (5%) percent slope then the entrance shall have a paved surface within the limits of the Public right-of-way.
- d) Where culverts are not required or where they are continuous between multiple entrances, an island raised not less than six (6) inches above the surface of the adjacent drives shall be provided. The island shall be curbed, loamed and seeded, or paved. If an open swale is used between entrances, the raised island is not necessary.
- e) When sidewalk, curbing or curb and gutter is to be removed, it shall be replaced in kind at the transition points of the entrance. All curbing at the side of entrance shall be rounded with a radius of not less than five (5) feet.

## 5. Curb and Sidewalk

- a) When sidewalk or curb exists at the proposed entrance the permit holder shall remove and replace such materials at the permit holder's expense. Any granite curb to be removed by the permit holder will remain the property of the Town.
- b) Curb transitions shall be provided at each side of a new entrance.
- c) Where sidewalk is removed to accommodate a new entrance, a new walk surface of equal type construction is to be provided. The sidewalk area at all entrances shall meet handicap accessibility requirements and conform to the American with Disabilities Act guidelines. In general sidewalks shall meet the following:
  - 1) The maximum sidewalk longitudinal transition slope is not to exceed 1 vertical to 12 horizontal.

- 2) The maximum sidewalk cross-slope is not to exceed 2%.
- 3) No abrupt changes in grade are permitted and the maximum curb reveal crossing a walkway is ½ inch or less.

### 8.3 Excavation and Utility Installation in Public Right-of-Way

#### 8.3.1 Purpose

The purpose of this Article is the regulation of the use of public right-of-ways in the interest of public safety and convenience, and the operation and protection of public works infrastructure. Excavation and restoration standards are required to preserve the integrity, operational safety and function of the public right-of-way.

#### 8.3.2 Highway Opening Permit Required.

No person, except utilities performing emergency excavations, shall make any excavation in any public right-of-way without first obtaining a Highway Opening permit from the Commissioner. All such excavations are governed by 23 M.R.S.A., Sec. 3381 et seq. as amended from time to time, and this Ordinance.

#### 8.3.3 Administration

1. A permit, completed in conformance with applicable Wiscasset Street Excavation Ordinance Standards, may be issued upon application to the Commissioner for the purpose of excavation and utility construction within the public right-of-way.
2. An application fee established by order of the (*Town Selectboard*) shall be paid for each permit.
3. The Commissioner may establish a consultant review fee for staff or consultant review of the application. This fee shall be based on the estimated time for consultant review and be placed in cash escrow account with the Town prior to issuance of the permit.
4. No person shall be granted a permit to excavate or open any public right-of-way or sidewalk from November 15 of each year to March 31 of the following year, unless an emergency or special condition exists and permission is obtained in writing from the Commissioner. Any person wishing to obtain a Highway Opening permit between these aforementioned dates shall first explain fully in writing the emergency

or special condition to the Commissioner before issuance is granted. If a hazardous condition which could endanger life and/or property exists, excavation work shall not be delayed by this section of this Ordinance; however, a written explanation shall be delivered to the Commissioner within two (2) working days, and a Highway opening permit obtained for the work.

5. The Application on standard form available at the Town Office or Public Works garage shall be filed with the Commissioner together with the Application review and opening fee (if applicable) and plans and specifications of the work including property lines and easements.
6. Upon review for completeness and submission of all fees the Commissioner may issue the Highway Opening Permit if the permit is in conformance with the applicable standards of this ordinance
7. In cases of emergency as defined above or in cases of minor alteration, the Commissioner shall have the authority to waive the provisions of this ordinance.

#### 8.3.4 General Policy and Construction Standards

##### A. Protection and Restoration of Highway Items and Protection of the Traveling Public.

###### 1. Maintenance

The permit holder and/or contractor shall be responsible for maintaining the excavated/construction area in a safe, passable condition satisfactory to the Commissioner until the project is accepted. A temporary bituminous patch shall be placed on all trenches that cannot be permanently patched within 48 hours of initial disturbance. Permanent restoration of the pavement structure including hot bituminous base and surface shall be made within 15 days.

One lane of traffic shall be maintained at all times, unless traffic has been detoured. The permit holder and/or contractor shall provide traffic control officers, barricades, lights, warning signs and other devices to safeguard traffic and pedestrians while the work is in progress.

Two-way traffic shall be maintained during all non-working hours, unless approved by the Commissioner. In the event that two-way traffic cannot be maintained during these hours, the permit holder

and/or contractor shall install and maintain barriers and lights, as specified in the MUTCD until a permanent surfacing has been installed.

All equipment and materials shall be removed and located off the highway during non-working hours.

A highway opening permit does not authorized parking or servicing vehicles within such right-of-way.

## 2. Removal and Protection of Utilities

The permit holder and/or contractor shall not interfere with any existing utility other than their own facilities without the written consent of the utility company or person owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the Town shall be moved to accommodate the permit holder unless the cost of such work be borne by the permit holder and/or contractor. The cost of moving privately owned utilities shall be borne by the permit holder unless he makes other arrangements with the utility owner. The permit holder and/or contractor shall support and protect all pipes, conduits, poles, wire or other apparatus which may be in any way affected by the excavation work. In case any of said pipes, conduits poles, wire or apparatus should be damaged, they shall be repaired by the utility or person owning them and the expense of such repairs shall be charged to the permit holder and/or contractor. The permit holder and/or contractor shall be responsible for any damage done to any public or private property by reason of the damage any water, sewer, gas pipe, electric conduit or other utility. Permit holder and/or contractor shall inform itself as to existence and location of all underground utilities and protect the same against damage. Above ground utilities abandoned as a result of relocation or replacement shall be removed in its entirety.

## 3. Protection of Adjoining Property

The permit holder and/or contractor shall at all times and at his own expense preserve and protect from damage any adjoining property by providing proper protection and taking other measures necessary for the purpose. Where- the protection of such property is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permit holder and/or contractor shall obtain written permission from the owner of such private property. The permit holder and/or contractor shall, at its own expense shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be

responsible for all damage to public or private property resulting from its failure properly to protect said work facilities.

#### 4. Restoration and Replacement

The Permit Holder and/or Contractor shall be responsible for permanently restoring or replacing roadway items damaged as a consequence of any construction operations. These items are to be permanently replaced in kind, in the same thickness and to the same grade as originally found and shall include, but not be limited to, the following items:

- a) Bituminous pavement;
- b) Portland Cement Concrete Pavement, including that displaced by blasting, undermined, or broken by construction equipment.  
Concrete pavement under, bituminous pavement shall be replaced with a digable concrete fill of equal thickness;
- c) Bituminous, concrete and brick sidewalks;
- d) Aggregate base and subbase material under roadways, shoulders, and walks;
- e) Curbing, all types
- f) Gravel surfacing and shoulders;
- g) Turf slopes and ditches;
- h) Drainage pipes, structures, and ditches;
- i) Guard rail and fencing;
- j) Property and other survey monuments

The contractor shall guarantee the restoration/ replacement against defects in material and workmanship for a period of one (1) year from the date of acceptance, and shall replace any defective work at the written directive of the Commissioner.

#### 5. Emergency Coordination

- a) The permit holder and/or contractor shall furnish the Commissioner, local and State Police Departments with a list of names, addresses and telephone numbers of Contractor personnel who may be reached in case of emergency during hours when no work is being performed. On weekends and during storms the permit holder and/or contractor shall assign certain personnel to stand-by duty and shall inform the Commissioner of the arrangements.

#### B. Construction Standards

1. All excavations on paved public right-of-way surfaces shall be precut in a neat straight line with pavement breakers or saws. Cutouts of the trench lines must be normal or parallel to the trench line. Pavement edges shall be trimmed to a vertical face and neatly aligned with the centerline of the trench. Unstable pavement over cave-ins shall be removed and aggregate bases restored. Jointed or broken pavement within one (1) foot of the restoration edge shall be removed. Prior to permanent surfacing the pavement shall be saw cut an additional six inches beyond the disturbed edge and removed.
2. When multiple openings are located with less than five (5) feet of original pavement remaining between adjacent openings, the permit holder/contractor shall neatly cut and remove the area of pavement between these adjacent areas and shall patch as one trench.
3. All previous sections shall also apply to sidewalks in all cases except concrete sidewalks. Concrete sidewalks shall be saw cut. Use of pavement breakers will not be allowed. On concrete sidewalks, all cuts shall be made to the nearest joint or score line on either side of the excavation. All sidewalk restorations shall be in accordance with the requirement of paragraph B4.
4. All backfilling of public right-of-way openings shall be done in accordance with the following standards:
  - a) All work must be conducted in strict accordance with the latest regulations of OSHA for excavations, and other applicable safety regulations.
  - b) All work must be protected from freezing.
  - c) Whenever water is found standing in the excavation area, the water shall be removed by pump or other means before backfilling operations can commence.
  - d) Backfilling of excavations shall be performed by the Permit Holder/Contractor as soon as practicable so that the least possible subsequent settling will occur. Backfill material shall be spread in layers not exceeding eight (8") inches in loose depth and compacted to no less than 95% of the maximum dry density of the material as established by ASTM D1557. Rocks, broken pavement, or ledge particles larger than six (6) inches will not be allowed in the backfill. The Permit Holder/contractor shall notify the Commissioner, prior to beginning the backfilling operations to allowing adequate time for inspection.
  - e) Where the excavated material is primarily silt or rock, it shall be allowed for use as backfill only upon the express approval of the Commissioner, with the intention of minimizing differential settling.
  - f) All remaining excavated material shall be removed from the job site and disposed of by the permit holder/contractor, in such a



manner that will minimize interference with pedestrian and vehicular traffic. No material shall be left within the right-of-way once the repair and/or installation is complete.

5. Temporary resurfacing shall be provided on all arterial and connector type public right-of-ways and when directed by the Commissioner. Temporary resurfacing shall consist of a minimum of two (2) inches of compacted temporary bituminous surfacing. Such temporary material shall be cold-mix except that the permit holder under this article may use or the Town may require hot-mix. The temporary surface material shall be placed and compacted to provide smooth even surface for the safe passage of pedestrian traffic and safe vehicular travel at the legal posted speed. The permit holder/contractor shall maintain the temporary paving for a period not to exceed 15 calendar days. At such time, the permanent restoration shall be made.
6. Permanent restoration of the pavement structure shall consist of aggregate subbase and base and hot bituminous pavement base and surface conforming to the following:

a) Minimum Compacted

<u>Layer</u>	<u>M.D.O.T. Specification</u>
<u>Thickness</u>	
Subbase Course	Aggregate Subbase – 703.06 Type D 18"
Base Course	Aggregate Base – 703.06 Type A 4"
Pavement Base	19.0 MM Superpave 3"
Pavement Surface	9.0 MM Superpave 1 1/2"

- b) Aggregate material shall be spread in layers not exceeding eight (8") inches in loose depth and compacted to no less than 95% of the maximum dry density of the material as established by ASTM D1557.
  - c) The maximum dry density of the material to be used in the trench along with the corresponding moisture contents, in accordance with ASTM D1557, shall be filed at the time of application to obtain a permit. The Town reserves the right to verify maximum density and field density at any time.
  - d) Hot bituminous pavement (Superpave) shall be placed and compacted in accordance with the latest MDOT specification.
7. All temporary resurfacing shall be maintained for the safety of pedestrian and vehicular traffic until the permanent restoration is made. The permit holder/contractor shall erect and maintain warning

signs, barriers, and lights as specified in the MUTCD until a permanent surfacing has been installed.

C. Excavations in reconstructed or repaved roads.

1. After a public road has been reconstructed or repaved, a Highway Opening Permit shall not be granted for five (5) years unless an emergency condition exists or unless the necessity for making such installation could not have been reasonably foreseen at the time of the reconstruction or repaving. This section shall be void unless the Town shall have given sixty (60) days notice by registered and/or certified mail of the impending work to all public utilities serving the road.

8.4 Approved Contractors

8.4.1 Purpose

The purpose of this Article is the regulation of Contractors and Utilities performing work in public rights-of-ways in the interest of public safety and protection of public works infrastructure.

8.4.2 Insurance

1.) The Commissioner may require each contractor to maintain at all times a minimum of \$300,000.00 public liability insurance coverage protecting himself, his agents and the Town from all such claims for damages or injuries and naming the Town of Wiscasset as an additional insured. Evidence of such coverage shall be submitted in a form satisfactory to the Commissioner. Coverage shall be maintained throughout the period of work performed under this ordinance and shall not be less than the following amounts:

- a.) General liability including comprehensive form, premises/operations, underground explosion and collapse hazard, products/completed operations, contractual, independent contractors, broad form property damage and personal injury.  
\$300,000 Bodily Injury and Property Damage Each Occurrence  
\$500,000 Bodily Injury and Property Damage Aggregate  
\$300,000 Personal Injury Aggregate

- b.) Automobile liability including any vehicle, hired vehicle and non-owned vehicle- \$300,000 bodily injury and property damage combined.
- c.) Workers' Compensation and Employers' Liability \$100,000 each accident. [9-04]

## 9. BUSINESS LICENSE [6-06]

### 9.1 PURPOSE OF PROVISIONS

The purpose of this chapter shall be to require the annual registration of all business activities and enterprises located within the town and to provide the town with the necessary information concerning the business within the town, including but not limited to the nature of the business operation, number of employees, location of business, and emergency contacts, in order to protect the health, welfare and safety of the town's inhabitants. For the purpose of this section, business activities and enterprises shall include any person or persons carrying on the businesses, trades, professions, or selling of goods, and any establishment that serves or prepares food or drink for public consumption.

### 9.2 DEFINITIONS

Business: Means and includes all kinds of vocations, occupations, home occupations, professions, enterprises, and nonprofits, any of which are conducted on any premises in the Town of Wiscasset.

Premises: Means and includes all land, structures and places, and the equipment and appurtenances connected or used therewith, in any business, and also any personal property which is either affixed to, or otherwise used in connection with, any such business conducted on such premises.

### 9.3 LICENSE REQUIRED

A person or organization may not engage in any business activity or enterprise without first obtaining a license from the Town Clerk. In addition, the applicant is responsible for compliance with all pertinent town ordinances and state laws. A separate license shall be required for each business entity and each location. All business licenses shall expire one year after the date of issuance by the Town Clerk. A thirty-day (30) grace period, beginning on the date of permit renewal, is allowed for each Business License Holder.

### 9.4 FEE

There shall be no fee for a business license.

## 9.5 PROCEDURE

Applications for business licenses shall be obtained from the Town Clerk. Applications shall be made in writing and shall state the name of the business, location of business, description of business, name of owner, mailing address of owner, emergency contact information, number of employees; Also, driver's license number, proof of insurance, and proof of registration for those businesses and enterprises associated with motor vehicle use.

## 9.6 AUTHORIZATION

9.6.1 Registration does not permit the conduct of any business or enterprise if the premises to be used for the business, or the conduct of such business, does not fully comply with the Wiscasset Ordinances.

9.6.2 Registration does not permit the conduct of any business that violates any existing state or federal statute or municipal ordinance.

## 9.7 EXEMPTIONS

9.7.1 Those that qualify under Wiscasset Ordinance Article IX, Section 1.4.

9.7.2 Non-resident businesses employed on a temporary basis to improve or repair the landowner's property.

## 9.8 VIOLATIONS

Any person, firm or corporation, including but not limited to a landowner or his/her agent, who violates any provision of the ordinance after receiving notice of such violation shall be subject to the applicable provisions in Town of Wiscasset Ordinances Article IX, Section 2 (General Provisions). The Wiscasset Board of Selectmen or their designee shall be responsible for the enforcement of this ordinance.

## 9.9 SEVERABILITY

If any portion of this ordinance shall be held to be invalid, such decision shall not affect to the validity of the remaining portions thereof.

## 9.10 EFFECTIVE DATE

The effective date of this ordinance shall be the date of its adoption.

## ARTICLE X - MISCELLANEOUS ORDINANCES

### 1. SPECIAL AMUSEMENTS [3-79, 3-86]

- 1.1 This ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Wiscasset, Maine.
- 1.2 The purpose of this Ordinance is to control the issuance of special permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor as required by 28-A MRSA Section 1054, and in or around facilities charging admission or fees.
- 1.3 No licensee shall permit, on his licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the municipality in which the licensed premises are situated a special amusement permit signed by at least a majority of the Selectmen.
- 1.4 Applications for all special amusement permits shall be made in writing to the Selectmen and shall state the name of the applicant; his residence address, the name of the business to be conducted; his business address; the nature of his business, the location to be used, whether the applicant has ever had a license to conduct the business therein described either denied or revoked, and if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony, and if so, the applicant shall describe specifically those circumstances; and any additional information as may be needed by the Selectmen in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.
- 1.5 No permit shall be issued for anything, or act, or premises if the premises and buildings to be used for the purposes do not fully comply with all ordinances, articles, bylaws or rules and regulations of the municipality.
- 1.6 The fee for a special amusement permit shall be \$10.00
- 1.7 The Selectmen shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within 15 days of the date the request was received, at which the testimony of the applicant and that of any Interested members of the public shall be taken. The Selectmen have the right to waive the public hearing requirement for applications from non-profit organizations.
- 1.8 The Selectmen shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare or would violate municipal ordinances, or rules and regulations, articles or bylaws.

- 1.9 A permit shall be valid for only one year from the date of issuance. The above regulations shall not apply to school functions.
- 1.10 The Selectmen may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permits which have been issued under this ordinance on the grounds that the music, dancing or entertainment so permitted constitutes a detriment to the public health, safety or welfare, or violates any municipal ordinances, articles, bylaws or rules and regulations.
- 1.11 The Selectmen are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted.
- 1.12 Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.
- 1.13 Any licensee requesting a special amusement permit from the Selectmen shall be notified in writing of their decision no later than fifteen (15) days from the date his request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within 30 days after an application for a permit which has been denied.
- 1.14 Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within 30 days of the denial, suspension or revocation, appeal the decision to the municipal Board of Appeals as defined in Article I, Section 5. The municipal Board of Appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety or welfare, or that the denial, revocation or suspension was arbitrary or capricious, or that the denial, revocation or suspension was not based by a preponderance of the evidence on a violation of any ordinance, article, bylaw, or rule or regulation of the municipality.
- 1.15 A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.
- 1.16 Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than one hundred dollars (\$100.00) for the first offense, and not

more than five hundred dollars (\$500.00) for the subsequent offenses, to be recovered, on complaint, to the use of the Town of Wiscasset.

- 1.17 The invalidity of any provision of this Ordinance shall not invalidate any other part.
- 1.18 The effective date of this Ordinance shall be July 3, 1979, and as amended March 15, 1986.

## 2. REGULATIONS FOR INDIVIDUAL MOBILE HOMES [3-00]

Throughout this section, whenever "mobile home" or "mobile home park" is referred to, also see 30-A MRSA 4358.

- 2.1 No person shall maintain and occupy a mobile home without a permit issued by the Building Inspector.
- 2.2 Each owner of a mobile home shall be required to apply for and obtain from the Building Inspector a permit to locate in the Town of Wiscasset.
- 2.3 No person shall maintain and occupy a mobile home in the Town of Wiscasset, Maine, except on a one-acre lot as provided in Section 2.1 or in a duly licensed mobile home park. [3-83, 6-83, 12-89, 3-97, 3-02]
- 2.4 Within a mobile home park no mobile home shall be parked less than ten feet from the adjacent mobile home lot or property line. [6-83, 12-89, 3-02]
- 2.5 No permit shall be issued authorizing the establishment of a mobile home park within the "urban area" of the Town of Wiscasset, Maine. The "urban area" as used in this section shall be the urban compact area as indicated on the map of the Department of Transportation dated 1976.
- 2.6 No permanent additions, foundations, lean-tos, studs, or rooms shall be added to any mobile home; provided however that open porches with awnings may be installed and skirting of suitable building material approved by the Building Inspector, may be applied for the purpose of insuring added comfort.
- 2.7 In the event the wheels are removed, or the mobile home is permanently attached to the ground, the mobile home shall immediately become subject to all the provisions of the Building Ordinance of Wiscasset, Maine. Existing mobile homes may not be extended or altered except in conformance with the Building Ordinances of the Town of Wiscasset.
- 2.8 Individual mobile homes shall comply with State of Maine regulations regarding sanitary waste and sewage disposal means.

- 2.9 This Chapter shall not apply to mobile homes in the hands of dealers as stock in trade for resale, so long as said mobile homes remain unoccupied, except that no mobile home shall be exhibited for sale for commercial purposes in any urban area, mobile home park, or singly occupied mobile home site.
- 2.10 This Chapter shall not apply to mobile homes that are unoccupied and stored temporarily in buildings, garages, or on private property if said mobile homes are not objectionably visible from any public street or way.
- 2.11 This Chapter shall not apply to existing mobile homes or replacement of mobile homes on an existing site established prior to its effective date.
- 2.12 Any person found guilty of violating any provision of this Chapter shall be subject to a fine of not more than one hundred (\$100) dollars for each offense. Each month in which a violation is proved to exist may constitute a separate offense under this section.
- 2.13 The Building Inspector shall inspect all mobile homes and mobile home parks being located, altered, repaired, replaced or relocated wherever situated in the Town of Wiscasset and issue a certificate of occupancy the purpose of which is to enforce the provisions of this ordinance, governing the construction, alteration, replacement or repair in accordance with the Building Laws of the Town of Wiscasset.
- 2.14 The Building Inspector or his assistant in the performance of his duties, as prescribed by State Law, may enter any mobile home for the purpose of making the inspection required by this Chapter.

### 3. UNDERGROUND TANKS [3-87]

- 3.1 No person, firm or corporation shall install or cause to be installed any new or replacement underground oil storage tank without first obtaining a permit from the Building Inspector. The Building Inspector shall under no circumstances issue such a permit until the applicant has obtained all necessary D.E.P., State and federal permits required. Permits shall be issued at a cost of \$50 per each underground tank regardless of size.
- 3.2 Following the issuance of a Building Permit, the installer shall file a written notification with the Building Inspector indicating the date and location of each installation. Permits shall be renewed annually at a cost of \$10 to the applicant.
- 3.3 No permit shall be issued for any new or replacement tank to be located within 1000 feet of Ward Brook, Montsweag Brook, Gardiner Pond or any other surface water or water supply within the Town of Wiscasset.



- 3.4 Installation or replacement of any underground storage tanks without first obtaining a permit from the Building Inspector shall be punishable by a fine of not less than \$500 (five-hundred dollars) and not more than \$1000 (one-thousand dollars).

4. FLOOD PLAINS ORDINANCE [3-91]

4.1 ESTABLISHMENT

The Town of Wiscasset, Maine elects to comply with the requirements of the National Flood Insurance Act of 1968(P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town having a special flood hazard be identified by the Federal Emergency Management Agency (FEMA) and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Wiscasset, Maine.

- 4.2 The areas of special flood hazard, Zones A and AE, identified by FEMA in a report entitled "Flood Insurance Study - Town of Wiscasset, Maine, Lincoln County", dated October 16, 1990, with accompanying "Flood Insurance Rate Map" is hereby adopted by reference and declared to be a part of this Ordinance, and any subsequent amendment or revision as issued by FEMA.

4.3 PERMIT REQUIRED

Before any construction or other development (as defined in the Glossary), including the placement of manufactured homes, begins within any areas of special flood hazard established in Sections 4.1 and 4.2 above, a Flood Hazard Development Permit shall be obtained from the Planning Board. This permit shall be in addition to any other building permits which may be required pursuant to the codes and ordinances of the Town of Wiscasset, Maine.

4.4 APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board and shall include:

- 4.4.1 The name and address of the applicant;
- 4.4.2 An address and a map indicating the location of the construction site;
- 4.4.3 A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot;

- 4.4.4 A statement of the intended use of the structure;
- 4.4.5 A statement as to the type of sewage system proposed;
- 4.4.6 Specification of dimensions of the proposed structure;
- 4.4.7 The elevation in relation to Mean Sea Level, or to a locally established datum in Zone A only, of the:
  - a. base flood at the proposed site of all new or substantially improved structures, which is determined:

In Zone AE, from data contained in the "Flood Insurance Study - Town of Wiscasset, Maine," as described in Section 4.2 above; or

In Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
  - b. highest and lowest grades at the site adjacent to the walls of the proposed building;
  - c. lowest floor, including basement; and whether or not such structures contain a basement; and,
  - d. level, in the case of nonresidential structures only, to which the structure will be floodproofed;
- 4.4.8 A description of a base flood elevation reference point established on the site of all new or substantially improved structures;
- 4.4.9 A written certification by a registered land surveyor that the elevations shown on the application are accurate;
- 4.4.10 Certification by a registered professional engineer or architect that floodproofing methods for any nonresidential structures will meet the floodproofing criteria of Sections 4.4.7.d; 4.7.7; and other applicable standards in section 4.7.
- 4.4.11 A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- 4.4.12 A statement or construction plan describing in detail how each applicable development standard in Section 4.7 will be met.

#### 4.5 APPLICATION FEE AND EXPERT'S FEE

- 4.5.1 A nonrefundable application fee of \$40.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.
- 4.5.2 An additional fee may be charged if the Planning Board and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the Planning Board may appeal that decision to the Board of Appeals.

#### 4.6 REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Planning Board shall:

- 4.6.1 Review all applications for the Flood Hazard Development Permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of Section 4.7 (Development Standards) have, or will be met;
- 4.6.2 Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the "Flood Insurance Study - Town of Wiscasset, Maine," as described in Section 4.2. In special flood hazard areas where base flood elevation data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state or other sources including information obtained pursuant to Section 4.4.7; Section 4.7.9; and Section 4.9.5 in order to administer Section 4.7 of this Ordinance;
- 4.6.3 Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Sections 4.2 of this Ordinance;
- 4.6.4 In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

- 4.6.5 Notify adjacent municipalities, the Department of Environmental Protection, and the Maine State Office of Comprehensive Planning prior to any alteration or relocation of a water course;
- 4.6.6 Issue a two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an application for Part II of the Flood Hazard Development Permit and shall include an Elevation Certificate completed by a registered Maine surveyor for compliance with the elevation requirements of Section 4.7; 4.7.6, 4.7.7; 4.7.8 and 4.7.10. Following review of the application, which review shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; and,
- 4.6.7 Maintain, as a permanent record, copies of all Flood Hazard Development Permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 4.10 of this Ordinance, and copies of Elevation Certificates and Certificates of Compliance required under the provisions of Section 4.8 of this Ordinance.

#### 4.7 DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- 4.7.1 New construction or substantial improvement of any structure shall:
  - a. be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. use construction materials that are resistant to flood damage;
  - c. use construction methods and practices that will minimize flood damage; and,
  - d. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

- 4.7.2 All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- 4.7.3 All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the systems into flood waters.
- 4.7.4 On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- 4.7.5 All development shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.
- 4.7.6 New construction or substantial improvement of any residential structure located within: [6-91]
  - a. Zone AE, shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
  - b. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
  - c. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
    - \* at least one foot higher than the depth specified IN feet on the community's Flood Insurance Rate Map; or,
    - \* at least three feet if no depth number is specified.
  - d. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 4.4.7.a; Section 4.6.2; or Section 4.9.4.
- 4.7.7 New construction or substantial improvement of any nonresidential structure located within:
  - a. Zone AE, shall have the lowest floor (including basement) elevated to one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
    - \* be floodproofed to at least one foot above the base flood level so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;

- \* have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - \* be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 4.4.10 and shall include a record of the elevation above mean sea level of the lowest floor including basement.
- b. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from them.
- c. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
- \* at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
  - \* at least three feet if no depth number is specified; or,
  - \* together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Section 4.7.7.a. [6-91]
- d. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 4.4.7.a; Section 4.6.2; or Section 4.9.4.

4.7.8 New or substantially improved manufactured homes located within:

- a. Zone AE, shall be elevated on a permanent foundation so that the lowest floor is at least one foot above the base flood elevation; and,
- \* be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
  - \* over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (homes less than 50 feet long require one additional tie per side); or by, (2) frame ties at each

corner of the home, plus five additional ties along each side at intermediate points(homes less than 50 feet long require four additional ties per side). (3) All components of the anchoring system described in Section 4.7.8 shall be capable of carrying a force of 4800 pounds. [6-91]

- b. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from them.
- c. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
  - \* at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
  - \* at least three feet if no depth number is specified; and,
  - \* meet the requirements of Section 4.7.8.a and b.
- d. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 4.4.7.a; Section 4.6.2; or Section 4.9.4.

#### 4.7.9 Floodways

- a. In Zones A1-30 and AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
- b. In Zone A riverine areas, in which the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of Section 4.7.9.a.

4.7.10 New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Section 4.7, including the elevation requirements of Section 4.7.6, 4.7.7 or 4.7.8 and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces less than three feet in height may be closed below the elevation requirements provided all the following criteria are met or exceeded:

- a. Walls, with the exception of crawl spaces less than three feet in height, shall not be part of the structural support of the building; and,
- b. Enclosed areas are not "basements" as defined in the Glossary; and,
- c. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
  - \* be certified by a registered professional engineer or architect; or meet or exceed the following minimum criteria:
  - \* a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
  - \* the bottom of all openings shall be no higher than one foot above the lowest grade; and,
  - \* openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of floodwaters automatically without any external influence or control such as human intervention, electrical controls, and other nonautomatic mechanical means; and,
- d. The enclosed area shall not be used for human habitation; and,
- e. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.



#### 4.8 CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- 4.8.1 The applicant shall submit an Elevation Certificate completed by:
  - a. a registered Maine surveyor for compliance with Section 4.7.6; 4.7.7; or 4.7.8. and,
  - b. a registered professional engineer or architect, in the case of floodproofed nonresidential structures, for compliance with Section 4.7.6.
- 4.8.2 The application for a Certificate of Compliance shall be submitted by the applicant in writing along with a completed Elevation Certificate to the Code Enforcement Officer.
- 4.8.3 The Code Enforcement Officer shall review the application within 10 working days of the receipt of the application and shall issue a Certificate of Compliance, provided the building conforms with the provisions of this Ordinance.

#### 4.9 REVIEW OF SUBDIVISIONS AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, or local ordinances or regulations and all projects on 5 or more acres or, in the case of manufactured home parks divided into two or more lots, assure that:

- 4.9.1 All such proposals are consistent with the need to minimize flood damage.
- 4.9.2 All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- 4.9.3 Adequate drainage is provided so as to reduce exposure to flood hazards.
- 4.9.4 All proposals include base flood elevation and, in a riverine floodplain, floodway data.
- 4.9.5 Any proposed development plan shall include a statement that the developer will require that structures on lots in the development to be

constructed in accordance with Section 4.7 of this ordinance and that such requirement will be included in any deed, lease, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time share interest. The construction requirement shall also be stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

#### 4.10 ENFORCEMENT AND PENALTIES

4.10.1 It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to 30-A MRSA Section 4966.

4.10.2 The penalties contained in 30-A MRSA Section 4966 shall apply to any violation of this ordinance.

4.10.3 In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

- a. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
- b. a clear and unequivocal declaration that the property is in violation of a cited State or local law, or ordinance;
- c. a statement that the public body making the declaration has authority to do so and a citation to that authority;
- d. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
- e. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### 4.11 VALIDITY AND SEVERABILITY

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

#### 4.12 CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

#### 4.13 ABROGATION

This Ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

### 5. SEWER USE [3-74, 3-00]

5.1 To promote the general welfare, prevent disease and promote health; to provide for the public safety and comfort of the people, and protect the environment, the following Sewer Use Ordinance is hereby enacted.

#### 5.2 PROHIBITED USES

No person, firm, corporation or other legal entity shall introduce or allow to be introduced into the sewerage system or treatment system of the Town of Wiscasset, any pollutant which:

5.2.1 is a toxic pollutant in toxic amounts as defined in standards issued from time to time under Section 307(a) of the Federal Water Pollution Control Act of 1972 (hereinafter called the "Act");

5.2.2 creates a danger of fire or explosion in the treatment system;

5.2.3 causes corrosive structural damage to the treatment works of the Town, including all wastes with a PH lower than 5.0;

5.2.4 contains solid or viscous substances in amounts which would cause obstruction to the flow in sewers or other interference with proper operation of the treatment works; or,

5.2.5 contains a pollutant in an amount or concentration in excess of that allowed under standards or guidelines issued from time to time pursuant to Sections 304(d)(1) or 307 (b) of the "Act".

5.2.6 Disposal of unpolluted waters prohibited

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted process waters to any Sanitary Sewer. [3-98]

5.2.7 Discharge method specified

Stormwater and all other unpolluted drainage shall be discharged to such public sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Board of Selectmen. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Board, to a storm sewer or natural outlet. [3-98]

- 5.3 No person, firm, corporation or other legal entity shall discharge or allow to be discharged into the sewerage or treatment system of the Town of Wiscasset in any one day amounts in excess of five per cent (5%) of the average total daily discharge into said system, or discharge which contains any toxic pollutant unless they shall notify the Selectmen of the Town of Wiscasset at least 45 days before the date of such discharge.
- 5.4 Every person, firm, corporation or other legal entity which discharges into the sewerage or treatment system of the Town of Wiscasset, shall perform such monitoring of its discharges as the Town may reasonably require, shall keep permanent records of the results of such monitoring and shall report results of such monitoring to the Town annually.
- 5.5 The Selectmen shall have the power to establish regulations for the installation, use and maintenance of monitoring equipment. The Selectmen of the Town of Wiscasset or their representatives shall have the right to enter into, upon or through the premises of any business or industry discharging into the system for the purpose of inspecting monitoring records, monitoring equipment and for the purpose of sampling any discharge into the system.
- 5.6 Any person, firm, corporation or other legal entity who shall be in violation of the provisions of any section of this ordinance, shall be liable for a fine of not more than \$500.00. Each day a violation of said section exists shall constitute a separate offense.
- 5.7 No person, firm, corporation or other legal entity shall connect a private drain with the sewerage or treatment system of the Town of Wiscasset without obtaining a permit for said connection from the Plumbing Inspector, who shall supervise and inspect said connection.
- 5.8 Any person, firm, corporation or other legal entity being in violation of Section 5.7 shall be liable for a fine of not more than \$50.00 and shall be further subject to the provisions of 30-A MRSA Section 3423 and any amendments thereto.

## 5.9 VALIDITY/SEVERABILITY CLAUSE

The invalidity of any provisions of this ordinance shall not invalidate any other part.

## 5.10 SEWER FEES [3-00]

### 5.10.1 DEFINITIONS

CONNECTION FEE shall mean a fee charged to connect to the Town's sewer.

DUMPING FEE shall mean a fee charged to dispose of wastewater or septage at the Town's Wastewater Treatment Plant or other site designated by the Town.

PLUMBING INSPECTOR shall mean a person appointed by the Board of Selectmen to perform duties set out in 30 M.R.S.A. 3222.

CUSTOMER shall mean an owner or tenant of real estate, which is connected to the Town's sewer system. All owners and tenants in a structure or a group of structures who are connected to a single meter shall constitute one customer.

USAGE FEE shall mean a fee charged based upon water used.

IMPACT FEE shall mean a fee charged for a new connection. The impact fee is the cost associated with the treatment plant capacity designated for use by the new user. [03-03]

### 5.10.2 USE OF PUBLIC SEWERS REQUIRED

The owner of a structure for which a septic system is required by law shall, at his expense, connect the structure in question to the Town's sewer when (1) it is a new structure within 200 feet of the Town's sewer system, or (2) it is an existing structure within 200 feet of the Town's sewer system which, in the opinion of the plumbing inspector, has a failed private septic system.

Notwithstanding the foregoing, the owner of a structure shall not be required to connect to the Town's sewer when:

- a. It is legally impossible to do so; or

- b. The construction cost for connecting to the Town's sewer exceeds the construction cost of installing on the owner's lot a sub-surface septic disposal system in conformance with all applicable laws and ordinances. "Construction Cost," as used in this sub-section (b), shall be determined by the Town's plumbing inspector.

#### 5.10.3 CONNECTIONS AND METERING

Sewer connection applications will be accompanied by payment of a nonrefundable connection fee.

A sewer connection authorization will expire one year after the date the Town issued it. If a structure for which the connection authorization was obtained is not connected to the Town's sewer within this one-year period, a new connection application must be submitted to the Town together with another connection fee.

A separate application along with appropriate fees will be required for each connection to the Town's sewer system after July 20, 2000.

Water meters are mandatory for all customers who connect to the Town's sewer system after July 1, 2000 and mandatory for all existing unmetered customers by July 1, 2001. Only water meters approved by the Water District may be installed for measuring water usage.

#### 5.10.4 INSPECTIONS

The Selectmen and their duly appointed officials shall be permitted to enter upon all properties, upon reasonable notification and at times mutually convenient for the Town and the property owner, for the purpose of verifying compliance with this ordinance.

#### 5.10.5 FEES

**CONNECTION FEE:** A nonrefundable connection fee will be charged to each person when he or she applies to connect to the Town's sewer system.

**USAGE FEE:** A usage fee will be charged to each customer based upon water used as follows:

Unmetered residential customers will be billed at 1200 cubic feet of water per quarter.

Metered customers will be billed quarterly at a minimum of 900 cubic feet of water per quarter year plus the cubic foot charge for

each cubic foot over 900 used during the quarter of the year in question.

A customer, who in the opinion of the Wiscasset Selectmen generates substantial volume of wastewater, may be billed monthly for each cubic foot of water used.

**DUMPING FEE:** Except as otherwise set out herein, a septage-dumping fee shall be charged per 1000 gallons or any part thereof. A recreational vehicle dumping fee will be charged per 50 gallons or any part thereof. A bus or train dumping fee will be charged per 100 gallons or any part thereof.

**LATE CHARGE:** There shall be a late charge equal to 1% per month or any part thereof assessed to all delinquent accounts effective 30 days from the date of billing.

**LIENS:** Accounts eight months in arrears will be subject to liens as provided by law.

**RATES:** The Wiscasset Board of Selectmen will set all fees provided for in this ordinance. All fees shall be reviewed at least annually and adjusted from time to time as the Selectmen may determine. Prior to setting, reviewing or adjusting a fee, the Wiscasset Board of Selectmen shall hold a public hearing on the issue.

**IMPACT FEE:** A one-time nonrefundable fee charged to each new customer who connects to the sewer system. The impact fee is based upon the estimated volume of wastewater to be generated by the new customer in relation to the overall treatment plant capacity. [3-03]

6. **SHELLFISH CONSERVATION ORDINANCE [6-93, 9-96, 9-99, 3-00]**

6.1 Authority: This ordinance is enacted in accordance with 12 M.R.S.A. Section 6671.

6.2 Purpose: To establish a shellfish conservation program for the Town of Wiscasset which will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:

- a. Licensing.
- b. Limiting the number of shellfish harvesters.
- c. Restricting the time and area where digging is permitted.
- d. Limiting the minimum size of clams taken.
- e. Limiting the amount of clams taken daily by a harvester.

6.3 Shellfish Conservation Committee: The Shellfish Conservation Program for the Town of Wiscasset will be administered by the Shellfish Conservation Committee consisting of seven members to be appointed by the selectmen for terms of three years(s). The responsibilities of the committee include: [9-96]

- a. Establishing annually in conjunction with the Department of Marine Resources the number of shellfish digging licenses to be issued.
- b. Surveying each clam producing area at least once each three years to establish size distribution and density and annually estimating the status of the town's shellfish resources.
- c. Submitting to the Board of Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation.
- d. Keeping this ordinance under review and making recommendations for its amendments.
- e. Securing and maintaining records of shellfish harvest from the town's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources.
- f. Recommending conservation closures and openings to the Board of Selectmen or Council in conjunction with the Area Biologists of the Department of Marine Resources.
- g. Submitting an annual report to the Municipality and the Department of Marine Resources covering the above topics and all other committee activities.

6.4 Definitions:

- a. Resident: The term "resident" refers to a person who has been domiciled in this municipality for at least two years next prior to the time his claim of such residence is made. [9-96]
- b. Nonresident: The term "nonresident" means anyone not qualified as a resident under this ordinance.
- c. Shellfish, Clams and Intertidal Shellfish Resources: When used in the context of this ordinance the words "shellfish", "clams", and "intertidal shellfish resources" mean soft shell clams (*Mya arenaria*).
- d. Municipality: Refers to the Town of Wiscasset, Maine.



- e. Conservation Work: The following activities constitute conservation work: Seeding events, group shoreline cleanup, maintenance and/or operations work on upweller, net project activities, overwintering cage work, seed clam harvesting, attending shellfish committee meetings, and any other activity so designated by the chairman of the shellfish committee or his designee. [6-08]

6.5 Licensing: A Municipal Shellfish Digging License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current license issued by this municipality as provided by this ordinance.

A Commercial Digger must also have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources.

6.5.1 Designation, Scope and Qualifications:

- a. Resident Commercial Shellfish License: The license is available to residents of the Town of Wiscasset and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.
- b. Nonresident Commercial Shellfish License: The license is available to nonresidents of this municipality and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.
- c. Residential Recreational Shellfish License: The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself and his family.
- d. Nonresident Recreational Shellfish License: The license is available to nonresidents of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself and his family. [9-99]
- e. License must be signed: The licensee must sign the license to make it valid. [9-99]

6.5.2 Application Procedure: Any person may apply to the Town Clerk for the licenses required by this ordinance on forms provided by the municipality.

- a. Contents of Application: The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature, proof that the applicant has

completed his or her annual twenty (20) hours of conservation work, as verified by the designee of the shellfish committee, and whatever information the municipality may require.

- b. Misrepresentation: Any person who gives false information on a license application will cause said license to become invalid and void.

6.5.3 Fees: The fees for the licenses are as stated below and must accompany in full the application for the respective license. The Town Clerk shall pay all fees received to the Town Treasurer except for \$1.00 each license which will be retained by the clerk as payment for issuing the license. Fees received for shellfish licensing shall be used by the town for shellfish management, conservation and enforcement. [9-99, 3-00]

Resident Commercial:	\$150.00
Nonresident Commercial:	\$300.00
Resident Recreational:	\$ 15.00
Nonresident Recreational:	\$ 30.00

\* Resident and Nonresident Commercial shellfish diggers will not be allowed to buy recreational licenses.

6.5.4 Limitation of Diggers: Clam resources vary in density and size distribution from year to year and over the limited soft clam producing area of the town. It is essential that the town carefully husband its shellfish resources. Following the annual review of the town's clam resources, its size distribution, abundance and the warden's reports, as required by Section 3, the Shellfish Conservation Committee in consultation with the DMR area biologist will determine whether limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year.

- a. Prior to May 1, the committee shall report its findings and document recommendations for the allocation of commercial and recreational licenses to be made available for the following license year to the Commissioner of Marine Resources for concurrence under 12 MRSA Section 6671(3). [9-99]
- b. After receiving approval of proposed license allocations from the Commissioner of Marine Resources and prior to May 15, the Shellfish Conservation Committee shall notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued.

- c. Notice of the number of licenses to be issued and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.
- d. The Town Clerk shall issue commercial licenses as allocated to those applicants who have met the requirements of obtaining a commercial shellfish license. The sale of both resident and nonresident licenses will be held at the Town Office on the first business day after June 1<sup>st</sup>, except that commercial license holders who have purchased their licenses before September 1<sup>st</sup> of the previous year and who have completed twenty (20) hours of conservation work under the supervision of the designee of the shellfish committee may purchase a shellfish license during the first two (2) business days preceding the regular sale date. All commercial license holders who have purchased their licenses before September 1<sup>st</sup> of the previous year and have completed twenty (20) hours of conservation work shall purchase their licenses within fourteen (14) business days following June 1<sup>st</sup>. Any license not purchased in that time period shall be made available to applicants as allocated, who have completed the application procedure, by lottery drawing. Licenses remaining unsold by September 1<sup>st</sup> will be issued to residents and nonresidents, who have completed the application procedure, by lottery drawing. [9-99, 6-08]
- e. Licenses may be returned to the town voluntarily, and reissued to another person at the current fee according to the priorities established in this section. Said license will be entered into a lottery drawing for reissue. [9-96]
- f. Licenses may not be transferred from one individual to another. [6-08]
- g. Open License Sales: When the Shellfish Conservation Committee determines limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year:
  - 1. Notice of the dates, places, times and the procedures for the license sales shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general industry circulation, which the municipal officers

consider effective in reaching persons affected, not less than ten days prior to the initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to the Commissioner of Marine Resources.

2. For each commercial license category, the Town Clerk shall issue one license to nonresidents when six licenses are issued to residents and one more to nonresidents when four more are issued to residents; thereafter, one nonresident license will be issued for every ten additional resident licenses issued. For each recreational license category, the Town Clerk shall issue one license to a resident and one to a nonresident; thereafter, one nonresident license will be issued for every ten additional resident licenses sold. [9-99]

6.5.5 License Expiration Date: Each license issued under authority of this ordinance expires at midnight on 31st day of May next following date of issuance.

6.5.6 Reciprocal Harvesting Privileges: Licensees from any other municipality cooperating with this municipality on a joint clam management program may harvest clams according to the terms of their licenses.

6.5.7 Fee Waiver: Recreation shellfish license fees will be waived for applicants 65 years or older and 12 years or younger. [9-04]

6.5.8 Suspension: Any shellfish licensee having three convictions for a violation of this ordinance shall have his shellfish license automatically suspended for a period of thirty (30) days.

- a. A licensee whose shellfish license has been suspended pursuant to this ordinance may reapply for a license only after the suspension period has expired.
- b. The suspension shall be effective from the date of mailing of a Notice of Suspension by the Town Clerk to the Licensee.
- c. Any licensee who shellfish license has automatically been suspended pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Committee upon the filing of a written Request for Hearing with the Town Clerk within thirty (30) days following the effective date of suspension. The licensee may appeal the decision of the Shellfish Conservation Committee before the Board of Selectmen/Town Council by filing a written Request for Appeal with the Town Clerk within seven (7) days of the decision of the Shellfish Conservation Committee.

6.6 Opening and Closing of Flats: The Municipal Officers, upon the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendations of the Shellfish Conservation Committee and concurrence of the Department of Marine Resources area biologist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Municipal Officers may call a public hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Municipal Officers made after the hearing shall be based on findings of fact.

6.7 Minimum Legal Size of Soft Shell Clams: It is unlawful for any person to possess soft shell clams within the Town of Wiscasset, County of Lincoln, which are less than two inches in the longest diameter except as provided by Subsection B of this section.

6.7.1 Definitions:

- a. Lot: The word "lot" as used in this ordinance means the total number of soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel, or other container, the contents of each box, barrel, or other container constitutes a separate lot.
- b. Possess: For the purpose of this section, "possess" means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft shell clamshell stock.

6.7.2 Tolerance: Any person may possess soft shell clams that are less than two inches if they comprise less than 10% of any lot. The tolerance shall be determined by numerical count of not less than one peck nor more than four pecks taken at random from various parts of the lot or by a count of the entire lot if it contains less than one peck.

6.8 Possession of License [3-00]

6.8.1 Exhibit on Demand. When any person is engaged in an activity, which is licensed under this ordinance, he/she shall, on the request of a Law Enforcement Officer, or other authorized person, exhibit his/her license.

6.8.2 Prima Facie Evidence. A failure to exhibit a license within a reasonable amount of time, when requested, shall be prima facie evidence that the person is not licensed.

6.9 Consent to inspection [3-00]

6.9.1 Violation: Any person who signs an application for a license or receives a license under this ordinance has a duty to submit to inspection and search for violations related to the licensed activities by a Law Enforcement Officer under the following conditions:

a. Watercraft or vehicles and the equipment located on watercraft or vehicle which are used primarily in a trade or business requiring a license under this ordinance may be searched or inspected at any time.

6.9.2 Seizure of Evidence: Any person who signs an application for a license or receives a license under this ordinance has a duty to permit seizure of evidence of a violation of this ordinance found during an inspection or search.

6.9.3 Refusal: Refusal to permit inspection or seizure shall be a violation of this ordinance.

6.10 Stopping for Inspection; Penalty [3-00]

It shall be unlawful for any person:

6.10.1 To fail or refuse to stop immediately upon request or signal of a Law Enforcement Officer in uniform.

6.10.2 After he/she has so stopped, to fail to remain stopped until the officer reaches his/her immediate vicinity and makes known to that person the reason for the request or signal.

6.10.3 To fail or refuse to stand by immediately for inspection on the request of a Law Enforcement Officer in uniform.

6.10.4 Who has been requested or signaled to stop by a Law Enforcement Officer in uniform to throw or dump into any water any marine organism, or any pail, bag, barrel or other container of any type or the contents thereof, before the officer has inspected the same.

6.11 Penalty: A person who violates this ordinance shall be punished as provided by 12 MRSA Section 6671 (10). [3-00]

6.12 Effective Date: This ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the municipality provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption. [3-00]

- 6.13 **Period of Ordinance:** This ordinance shall remain in effect until repealed or amended by vote of the legislative body. [3-00, 3-03]

Note: Previously Shellfish Conservation Ordinances could be adopted for a maximum period of three years. This requirement has been repealed.

- 6.14 **Separability:** If any section, subsection, sentence or part of this ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance. [3-00]
- 6.15 **Repeal:** Any ordinance regulating the harvesting or conservation of shellfish in the town and any provisions of any other town ordinance, which is inconsistent with this ordinance, is hereby repealed. [3-00]

## 7. RECREATIONAL VEHICLES [3-00]

- 7.1 No recreational vehicle (RV) shall be used as a dwelling unit in the Town of Wiscasset unless it is situated in a State-approved campground or RV park. However, RVs may stay temporarily on private property under the following conditions:

- 7.1.1 The RV is not on a public way or in a public parking area.
- 7.1.2 The location of the RV has safe access to and from a public way.
- 7.1.3 The RV complies with State of Maine regulations regarding sanitary wastes and sewage disposal.

## 8. AUTOMOBILE JUNKYARDS, AUTOMOBILE GRAVEYARDS, AND AUTOMOBILE RECYCLING BUSINESSES [9-00]

### Section 1. Purpose

The purpose of this ordinance is to provide adequate controls to ensure that automobile graveyards, automobile junkyards and automobile recycling businesses do not have a deleterious impact on the public health, safety, and general welfare.

### Section 2. Authority

This ordinance is enacted pursuant to 30-A MRSA 3001 et seq. and 3751 et seq.

### Section 3. Applicability

This ordinance shall apply to all automobile graveyards, automobile junkyards and automobile recycling business as defined in 30-A MRSA 3752. (See Glossary)

### Section 4. Permit Required

No person may establish, operate or maintain an automobile graveyard, automobile junkyard or automobile recycling business without first obtaining a nontransferable permit from the Selectmen.

### Section 5. Administration

5.1 This ordinance shall be administered by the Board of Selectmen. No an automobile graveyard, automobile junkyard or automobile recycling business permit shall be issued unless all of the provisions of this ordinance are met.

5.2 Upon receipt of an application, the Selectmen shall hold a hearing in accordance with 30-A MRSA 3754.

5.3 Permits shall renewed annually to remain valid. Once the site plan is approved it does not have to be resubmitted unless changes are made on the site. The Selectmen shall annually inspect, or cause to be inspected, the site to ensure that the provisions of this ordinance and state law are complied with.

5.4 A nonrefundable fee of \$100 shall be submitted with the permit application.

### Section 6. Submission Requirements

Any application for an automobile graveyard, junkyard or automobile recycling business permit shall contain the following information:

6.1 The property owner's name and address and the name and address of the person or entity that will operate the site.

6.2 A site plan drawn to scale not to exceed 1"=100', on which is shown:

6.2.1 The boundary lines of the property

6.2.2 The soils



- 6.2.3 The location of any sand and gravel aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist
- 6.2.4 The location of any residences or schools within 500 feet of the area where vehicles will be placed
- 6.2.5 The location of any bodies of water on the property or within 200 feet of the property lines
- 6.2.6 The boundaries of the 100-year flood plain
- 6.2.7 The location of all roads within 1000 feet of the site
- 6.2.8 A plan for containment of fluids, containment and disposal of batteries; and storage or disposal of tires; and
- 6.2.9 The location within the property boundary lines where vehicles are drained, dismantled or stored.

## Section 7. Performance Standards

The following performance standards are required of all automobile graveyards, automobile junkyards and automobile recycling businesses, whether new or existing:

- 7.1 The site must be enclosed by a visual screen at least 6 feet in height and built in accordance with Department of Transportation rules issued pursuant to 30-A MRSA 3759. It shall be the responsibility of the owner of the property to see that such screening is provided.
- 7.2 No vehicle shall be stored within 100 feet of any water body or inland wetland or pond or stream or any private well, excluding only a private well that serves only the premises and/or the owner's or operator's abutting residence.
- 7.3 No vehicle shall be stored within 500 feet of any school, church or public playground or public park.
- 7.4 No vehicles shall be stored over a sand and gravel aquifer recharge area as mapped by the Maine Geological Survey or by a licensed geologist.

No vehicles shall be stored within the 100-year flood plain.

- 7.6 When a vehicle is dismantled all fluids shall be drained into watertight, covered containers and shall be recycled or disposed of according to all applicable Federal and State laws, rules, and regulations regarding disposal of waste oil and hazardous materials. No discharge of any fluids from any motor vehicle shall be permitted into or onto the ground, or into any body of water, storm water drain or wetland.
- 7.7 No vehicle shall be located closer than 30 feet from any lot line.
- 7.8 All dismantling of motor vehicles shall take place only between the hours of 7 a.m. and 6 p.m. Mondays through Saturdays.
- 7.9 No automobile graveyard, automobile junkyard, or automobile recycling business shall be started after the adoption of this ordinance on less than 2 acres of land, if standing alone, or three acres of land if including a residence, in all districts.

#### Section 8. Enforcement

This ordinance shall be enforced by the Selectmen or their authorized agents in accordance with state law. Any violation of this ordinance shall be subject to a fine of \$50 (Fifty Dollars) per day for a period not to exceed 30 days from official notice. If the violation is not remedied within that time, the permit shall become void, and the automobile graveyard, junkyard or automobile recycling business shall be terminated. All costs incurred in the clearing of the site shall be borne by the owner of the property. Any costs for remedying environmental pollution shall be borne by the owner of the property.

#### Section 9. Effective Date

This ordinance shall become effective on the date of adoption and may be amended by vote of the legislative body.

#### Section 10. Exemption

All holders of valid Automobile Graveyard and/or Junkyard permits as of the effective date of adoption of this ordinance are exempt from the requirements of this ordinance.

#### Section 10. Severability and Conflict

In the event that any provision of this ordinance is ruled to be invalid by a Court of competent jurisdiction, the remaining provisions shall continue in full force and effect. In the event that any provision of this ordinance conflicts with State statute, the State statute shall govern.

## 9. SMALL WIND ENERGY CONVERSION SYSTEMS [6-07]

### 9.1 Purpose and Intent

The purpose of this ordinance is to provide standards for small wind energy conversion systems that are used to produce electrical power for on-site consumption. The intent of this section is to encourage the development of small wind energy systems and to protect the public health, safety and welfare.

### 9.2 Authority

The Wiscasset Planning Board is vested with the authority to review and approve, conditionally approve or reject any application for Small Wind Energy Conversion Systems.

### 9.3 Applicability

The requirements of this Ordinance shall apply to all Small Wind Energy Conversion Systems proposed, operated, modified, or constructed after the adopted date of this Ordinance.

### 9.4 Conflict

This ordinance is not intended to interfere with, abrogate or annul any other ordinance, rule, regulation, statute, or other provision of the law except as specifically provided in this ordinance. If any provision in this ordinance imposes restrictions different from any other ordinance, rule, regulation, statute, or other provision of the law, the provision that is more restrictive or imposes higher standards shall control.

### 9.5 Severability

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

### 9.6 Definitions

- (a) Applicant: The person, firm, corporation, company, limited liability corporation or other entity which applies for approval under this ordinance

- (b) **Habitable Building:** Places likely to be occupied on a continuous basis. This includes, but is not limited to, dwellings, commercial businesses, places of worship, nursing homes, schools or other places used for education, day-care centers, motels, hotels, or correctional institutions.
- (c) **Line of Sight:** The direct view of the object from selected places of concern.
- (d) **Negative Visual Impact:** A change in the appearance of the landscape as a result of a Small Wind Energy Conversion System development that is both excessively out-of-character with a significant designated resource and which significantly diminishes the scenic value of the significant designated resource. Mere visibility, even startling visibility of a Small Wind Energy Conversion System, does not of itself constitute a negative visual impact.
- (e) **Significant Designated Resources:** A specific location, view, or corridor, identified as a scenic resource in the adopted Wiscasset Comprehensive Plan or by a state or federal agency.
- (f) **Site:** The parcel(s) of land where a Small Wind Energy Conversion System is to be placed. The site can be publicly or privately owned and may include several or more adjacent lots. Where the site is comprised of several adjacent lots the combined lots shall be considered one for the purpose of applying setback requirements and the maximum number of permissible Small Wind Energy Conversion Systems.
- (g) **Small Wind Energy Conversion System:** A wind energy conversion system consisting of a wind turbine, a tower, footings, electrical infrastructure, fence and any other associated equipment or structures, which has a rated capacity of not more than 100 kilowatts and which is intended to produce electrical power for on-site consumption.
- (h) **Total Height:** The vertical distance measured from a point on the ground at the mean finished grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the Small Wind Energy System tower to the highest point of the wind turbine blade when the tip is at its full vertical position.
- (i) **Viewshed Map:** A map that shows the geographic area from which a Small Wind Energy Conversion System may be seen.
- (j) **Wind Energy Conversion System:** All Small Wind Energy Systems, related transformers, electrical conductors, substations, and connection points to transmission or distribution lines.
- (k) **Windmill:** A wind-driven machine that does not produce electricity.

- 9.7 Applications. Small Wind Energy Conversion System applications shall include the following (Please note: the items below are in addition to applicable Site Plan Review Application items and shall be completed on a separate application):
- 9.7.1 Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
  - 9.7.2 Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed application and authorizing its submission.
  - 9.7.3 Address of each proposed Small Wind Energy Conversion System's location, including Tax Map and Lot numbers.
  - 9.7.4 A description of the project, including the number and maximum rated capacity of each Small Wind Energy Conversion System.
  - 9.7.5 In addition to the Site Plan Review Ordinance requirements (Article VIII, Section 4.3), a Small Wind Energy Conversion System Site Plan shall show the planned location of each Small Wind Energy Conversion System, property lines, setback lines, fencing, access roads and turnout locations, substations(s), electrical cabling from the system to the substation, accessory equipment, buildings and structures, right-of-way boundaries, railroads, and the layout of all structures within the Small Wind Energy Conversion System setback area.
  - 9.7.6 A scaled representation of the Small Wind Energy Conversion System showing the total height. One drawing may be submitted for each system of the same type and total height.
  - 9.7.7 Evidence the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
  - 9.7.8 A visual analysis of the Small Wind Energy Conversion System(s) as installed, which may include a computerized photographic simulation demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the site that is intended to lessen the system's visual prominence.
  - 9.7.9 Written evidence that the electrical utility service provider that serves the proposed site has been informed of the applicant's intent to install an

interconnected customer-owned electrical generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.

9.7.10 Sufficient evidence, including plans and documentation that the Small Wind Energy Conversion System(s) successfully complies with Zone Restrictions (9.8), Dimensional Requirements (9.9) and Development Standards (9.10) as stated below.

9.7.11 List of property owners, with their mailing address, within 200 feet of the boundaries of the proposed site.

## 9.8 Zone Restrictions

Small Wind Energy Conversion Systems are permitted only in the Rural Zoning District.

## 9.9 Dimensional Requirements

9.9.1 Minimum Site Area. The minimum site area for a single Small Wind Energy Conversion System shall be 1 acre. No more than 3 Small Wind Energy Conversion Systems are permissible per site.

9.9.2 Setbacks. All Small Wind Energy Conversion Systems shall be setback a minimum horizontal distance of 1.1 times the total height of the system from property lines, roads, easements, and habitable buildings. New habitable buildings shall not be constructed within the setback area after a Small Wind Energy Conversion System is constructed and operating.

9.9.3 Height. The Total Height of a Small Wind Energy Conversion System shall not exceed 140 feet. The allowed height shall be reduced if necessary to comply with Federal Aviation Administration Requirements.

9.10 Development Standards. All Small Wind Conversion Systems shall comply with the following standards. Additionally, such systems shall also comply with other applicable Wiscasset Ordinances including Site Plan Review.

9.10.1 Small Wind Energy Conversion Systems shall be used to produce electrical power for on-site consumption.

9.10.2 The maximum power output for each Small Wind Energy Conversion System shall be 100 kilowatts.

9.10.3 The system's tower and blades shall be a non-reflective color that blends the system and its components into the surrounding landscape to the

greatest extent possible and incorporates non-reflective surfaces to minimize any visual disruption.

- 9.10.4 The system shall be designed and located in such a manner to minimize negative visual impacts on significant designated resources. The application shall include a visual impact analysis of the Small Wind Energy Conversion System(s) as installed, which shall include, at a minimum, a photographic simulation, viewshed map, any visual screening incorporated into the development that is intended to lessen the system's visual prominence, the color treatment of the system's components, and an inventory documenting significant designated resources located within the line of sight of the development.
- 9.10.5 Exterior lighting on any tower or turbine associated with the Small Wind Energy Conversion System shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- 9.10.6 All on-site electrical wires associated with the systems shall be installed underground except for "tie-ins" to a public utility company transmission poles, towers and lines. This standard may be modified by the Planning Board if the project terrain is determined to be unsuitable due to reasons of the need for excessive grading or similar factors.
- 9.10.7 The system shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference beyond the site, the system operator shall promptly eliminate the disruptive interference or cease operation of the system.
- 9.10.8 At least two signs shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery.
- 9.10.9 Towers shall be constructed to provide either one of the following means of access control or another appropriate method of access control as approved by the Planning Board:
- (a) Tower climbing apparatus located no closer than twelve (12) feet from the ground.
  - (b) A locked anti-climb device installed on the tower.
  - (c) A locked, protective fence at least six feet in height that encloses the tower.

- 9.10.10 Anchor points for any guy wires for a system tower shall be located within the site and not on or across any above-ground electrical transmission lines. The point of attachment for the guy wires shall be enclosed by a fence or sheathed in bright orange or yellow covering from three to eight feet above the ground.
- 9.10.11 Construction of on-site access roads shall be minimized.
- 9.10.12 All Small Wind Energy Conversion Systems shall comply with applicable Federal Aviation Administration (FAA) rules and regulations. The applicant shall present proof of compliance with FAA rules and regulations prior to the Planning Board's final decision.
- 9.10.13 No Small Wind Energy Conversion System shall be installed or operated in a manner that causes interference with the operation of any aviation facility.
- 9.10.14 The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
- 9.10.15 The system shall be operated such that no disruptive electromagnetic interference is caused to off-site telecommunications, surveillance or other similar systems. If it has been demonstrated that a system is causing such disruptive interference, the system operator shall promptly eliminate the disruptive interference or cease operation of the system.
- 9.10.16 Except during short-term events including utility outages and severe wind storms, the audible noise due to wind turbine operations shall not be created which causes the noise level at the property boundary line of the proposed site to exceed fifty (50) dBA for more than five (5) minutes out of any one hour time period or to exceed fifty-five (55) dBA for any time period. Certification shall be provided before construction demonstrating compliance with this requirement.

#### 9.11 Abandonment of Use

A Small Wind Energy System which is not used for eighteen (18) consecutive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

#### 9.12 Waivers or Modifications

- 9.12.1 Small Wind Energy Conversion System Ordinance Waivers or Modifications. The Planning Board may, after a public hearing, grant a waiver or modification from the strict application of the provisions of this ordinance if, in the opinion of the Planning Board, the grant of the waiver



or modification is in the best interests of the Town of Wiscasset. The Planning Board may consider as reasonable factors in evaluating the request, which may include, the impact of the waiver or modification on the neighborhood, including the potential detriment to nearby properties; the benefit to the applicant; feasible alternative; the scope of the request; the lack of adverse effect on the general health, safety and welfare of the town. The applicant shall have the burden of proof.

9.12.2 Site Plan Review (Article VIII) Waivers or Modifications. The Planning Board may waive or modify any Site Plan Review requirement or performance standard when the applicant clearly establishes and documents that the requirement or standard would not be applicable or would be an unnecessary burden upon the applicant and would not adversely affect the abutting landowners or the general health, safety and welfare of the public.

#### 10. GENERAL ASSISTANCE [6-07]

The Town of Wiscasset administers a general assistance program. The Town of Wiscasset Board of Selectmen, after notice and public hearing, shall annually vote on the Appendices annually received from the Department of Health and Human Services. A copy of the General Assistance Ordinance and Appendices is available at the town office. This Ordinance and Appendices are also filed with the Department of Health and Human Services in compliance with Title 22 M.R.S.A. § 4305(4).

## ARTICLE XI - WIRELESS TELECOMMUNICATIONS FACILITY (WTF) ORDINANCE

### SECTION 1. STATEMENT OF PURPOSE

In order to establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities; to encourage the co-location of wireless telecommunications facilities thus helping to minimize adverse visual impacts on the community, and to further the goals and policies of the comprehensive plan, the following Wireless Telecommunications Facilities (WTF) regulations and procedures are adopted pursuant to 30-A M.R.S.A. Sections 3001 and 4312 et seq.

### SECTION 2. APPLICABILITY

This ordinance applies to any construction, expansion and co-location of any WTF except as provided in section 2.1.

2.1 The following are exempt from the provisions of this ordinance:

- A. Temporary WTFs erected for emergency communications by public officials.
- B. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
- C. Parabolic antennas less than seven (7) feet in diameter that are an accessory use of the property.
- D. Maintenance, repair or reconstruction of a WTF and related equipment, provided that there is no change in the height or any other dimension of the facility.
- E. Temporary WTFs in operation for a maximum period of ninety (90) days and promptly removed.
- F. An antenna that is an accessory use to a residential dwelling unit

### SECTION 3. APPLICATION PROCESS

All persons seeking approval of the Planning Board under this ordinance shall meet with the CEO no more than thirty (30) days before filing an application. At this meeting, the CEO shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this ordinance.

The application must include the following information:

1. Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
2. A copy of the FCC license for the facility or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
3. A USGS 7.5 minute topographic map or maps showing the location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on rooftops, within a five (5) mile radius of the proposed facility. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.
4. A site plan including:
  - a. a plan prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;
  - b. a boundary survey performed by a land surveyor licensed by the State of Maine.
5. A scenic assessment, consisting of the following:
  - a. elevation drawings of the proposed facility and any other proposed structures showing height above ground level;
  - b. a landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.
  - c. photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.

- d. a narrative discussing:
  - i. the extent to which the proposed facility would be visible from or within a designated scenic resource;
  - ii. the tree line elevation of vegetation within 100 feet of the facility; and
  - iii. the distance to the proposed facility from the designated scenic resource's noted viewpoints.
- 6. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
- 7. Evidence demonstrating that no existing building site or structure can accommodate the applicant's proposed facility. The evidence may consist of any one or more of the following:
  - a. evidence that no existing facilities are located within the targeted market coverage area that meet the applicant's engineering requirements;
  - b. evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost (See 7d) so as to meet the applicant's engineering requirements;
  - c. evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
    - i. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
    - ii. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
    - iii. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively
  - d. For facilities existing prior to the effective date of this ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This

evidence shall also be satisfactory for a tower built after the passage of this ordinance;

- e. Evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure, and has been denied access;
- 8. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places.
  - 9. To encourage co-location, a signed statement binding the owner of the WTF and his or her successors and assigns to:
    - a. respond in a timely, comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
    - b. negotiate in good faith for shared use of the WTF by third parties;
    - c. allow shared use of the WTF if an applicant agrees in writing to pay reasonable charges for co-location; (See 7d above)
    - d. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
  - 10. A bond or other form of surety approved by the Planning Board in the amount of 150% of the estimated demolition cost of the tower and the removal of all accessory facilities. Such cost is to be determined by an independent Registered Professional Engineer in the State of Maine. The bond or other financial surety shall be in effect for as long as the tower is in place.
  - 11. Evidence that a notice of the application has been published in a local newspaper of general circulation in the community, at the applicant's expense.
  - 12. The names and mailing addresses of all property owners within five hundred (500) feet of the proposed facility.

#### SECTION 4. PLANNING BOARD APPLICATION FEE

An application for Planning Board approval shall include payment of an application fee of \$100. The application shall not be considered complete until this fee is paid. An applicant is entitled to a refund of the application fee, less all expenses incurred by the Planning Board to review the application, if the application is withdrawn within fifteen (15) days of date of filing,

#### SECTION 5. PLANNING BOARD REVIEW FEE

An applicant shall pay all reasonable and customary costs incurred by the Planning Board that are necessary to review the application, if any. The review fee shall be paid in full prior to the start of construction. That portion of the review fee not used shall be returned to the applicant within fifteen (15) days of the Planning Board's decision.

#### SECTION 6. NOTICE OF COMPLETE APPLICATION

Ten (10) copies of an application shall be presented to the Planning Board at a regular meeting. Upon receipt of an application, the Planning Board shall provide the applicant with a dated receipt. Within ten (10) working days of receipt of an application the Planning Board shall review the application and determine if the application meets the submission requirements.

If the application is deemed to be complete, the Planning Board shall notify all property owners within five hundred (500) feet by first-class mail, that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, specify the location where a copy of the application is available for inspection, and provide the date, time, and place of the public hearing and the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application, nor for denial of the application.

#### SECTION 7. PUBLIC HEARING

A public hearing shall be held within 30 days of the notice of the complete application.

## SECTION 8. PLANNING BOARD APPROVAL

Within ninety (90) days of receiving a complete application for approval under section 5.1 (B), the Planning Board shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based.

## SECTION 9. PLANNING BOARD APPROVAL STANDARDS

An application for approval by the Planning Board under Section 5.1 (B) must meet the following standards:

1. New wireless telecommunications facilities are permitted only in the following districts as designated in the Wiscasset zoning ordinance:
  - a. Rural Districts
  - b. Route One Business District
2. If an applicant proposes to locate a new WTF or expand an existing facility on municipal property the applicant must show the following:
  - a. The proposed location complies with applicable municipal policies and ordinances.
  - b. The proposed facility will not interfere with the intended purpose of the property.
  - c. The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.
3. A new WTF and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three additional WTFs or providers.
4. A new WTF must be no more than 200 feet in height.
5. A new or expanded WTF must be set back one hundred five percent (105%) of its height from all property lines

6. A new WTF and related equipment must be screened with plants from view from abutting properties to the maximum extent practicable. Existing plants and natural landforms on the site shall also be preserved to the maximum extent practicable.
7. A new WTF must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.
8. A new WTF must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. Security lighting may be used as long as it is shielded to retain light within the boundaries of the site to the maximum extent practicable.
9. A new WTF must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
10. A new WTF must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
11. A new WTF must have no substantial adverse impact upon designated scenic resources within the Town, as identified either in the comprehensive plan, or by a State or federal agency.
  - A. In determining the adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors:
    - i. The extent to which the proposed WTF is visible above the surrounding tree line, from the viewpoint(s) of the impacted designated scenic resource;
    - ii. the type, number, height, and proximity of existing structures and background features within the same line of sight as the proposed facility;
    - iii. the amount of vegetative screening;
    - iv. the distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and



- v. the presence of reasonable alternatives that allow the facility to function consistently with its purpose.
- 12. During construction, repair, or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 8 a.m. and 9 p.m. at a WTF is exempt from existing municipal noise standards.
- 13. The proposed facility will have no substantial adverse impact upon a historic district, site or structure which is currently listed on or eligible for listing on the National Register of Historic Places.

## SECTION 10. AMENDMENT TO AN APPROVED APPLICATION

Any changes to an approved application must be approved by the Planning Board in accordance with Section 5.

## SECTION 11. ABANDONMENT

A WTF that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within sixty (60) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the owner fails to show that the facility is in active operation the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the municipality for removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment have been removed to the satisfaction of the Planning Board.

## SECTION 12. ADMINISTRATION AND ENFORCEMENT

The CEO shall enforce this ordinance. If the CEO finds any provision of this ordinance has been violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it, such action to be completed within thirty (30) days.

## SECTION 13. PENALTIES

Any person who owns or controls any building or property that violates this ordinance shall be fined a minimum of one hundred (100) dollars and a maximum of twenty-five hundred (2500) dollars. Each day such violation continues after notification by the CEO shall constitute a separate offense.

## SECTION 14. CONFLICT AND SEVERABILITY

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

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

## SECTION 15. EFFECTIVE DATE

This ordinance becomes effective on December 17, 2001.

## SECTION 16. DEFINITIONS

The terms used in this ordinance shall have the following meanings:

“Antenna” means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

“Tower Height” means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. Measurement of tower

height shall include antenna, base pad and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade then the average between the highest and lowest grades shall be used in calculating the antenna height.

"Co-location" means the use of a WTF by more than one wireless telecommunications provider.

"Expansion" means the addition of antennas, towers, or other devices to an existing facility.

"FAA" means the Federal Aviation Administration, or its lawful successor.

"FCC" means the Federal Communications Commission or its lawful successor.

"Height" means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory feature usually erected at a height greater than the main roofs of buildings.

"Historic or Archaeological Resources" means resources that are:

- a. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places;
- d. Individually listed on a local inventory of historic places;
- e. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the comprehensive plan which have been listed or are eligible to be listed on the National Register of Historic Places.

"Historic District" means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the municipality's comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

"Historic Landmark" means any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, State or national history identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places. .

"Line of sight" means the direct view of the object from the designated scenic resource.

"Parabolic Antenna" (also known as a satellite dish antenna) means an antenna, which is bowl-shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

"Principal Use" means the use other than one, which is wholly incidental or accessory to another use on the same premises.

"Public Recreational Facility" means a regionally or locally significant facility, as defined and identified either by State statute or in the municipality's adopted comprehensive plan, designed to serve the recreational needs of municipal property owners.

"Designated Scenic Resource" means that specific location, view, or corridor, as identified as a scenic resource in the municipally adopted comprehensive plan or by a State or federal agency, that consists of:

- a. a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such a downtown skyline or mountain range, resulting in a panoramic view corridor; or
- b. lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

"Targeted Market Coverage Area" means the area which is targeted to be served by this proposed telecommunications facility.

"Unreasonable Adverse Impact" means that the proposed project would produce an end result, which is:

- a. excessively out-of-character with the designated scenic resources affected, including existing buildings structures and features within the designated scenic resource, and
- b. would significantly diminish the scenic value of the designated scenic resource.

"Viewpoint" means that location which is identified either in the municipally adopted comprehensive plan or by a federal or State agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

"WTF" or "Facility" means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

## ARTICLE XII - TOWN OF WISCASSET CABLE TELEVISION ORDINANCE

### Section 1. Designation of Ordinance

This Ordinance shall be known as the Town of Wiscasset Cable Television Ordinance. It is adopted by the Municipal Officers of the Town of Wiscasset pursuant to 30-A M.R.S.A. §3008, effective August 17, 2004.

### Section 2. Definitions

For the purposes of this Ordinance, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number, and vice versa. The word "shall" is always mandatory and not merely directory.

- 2.1 “Access” or “Access Cablecasting”: Cablecasting on the Cable System’s access channels for the following purposes: (i) non-commercial and non-discriminatory use by the public; (ii) carriage of non-commercial educational programs or information; and (iii) non-commercial use for governmental purposes in accordance with the Cable Act.
- 2.2 “Access Channel(s)”: A video channel(s) which the Cable Operator shall make available to the Town of Wiscasset, without charge, for the purpose of transmitting programming by/for members of the public, Town departments, boards and agencies, public schools, educational, institutional, non-profit and similar organizations in accordance with the Cable Act.
- 2.3 “Affiliate” or “Affiliated Person”: An entity that owns or controls is owned or controlled by, or is under common ownership with a Cable Operator.
- 2.4 “Alphanumeric”: Consisting of a combination of letters and numbers, used in reference to keyboards permitting communication in such form and in reference to Channels or Programs transmitting information in such form.
- 2.5 “Area Outage”: An area outage occurs when cable or equipment is damaged, fails or otherwise malfunctions (collectively called malfunctions”), and ten or more Subscribers receiving services from that section of cable or that equipment receive unusable or no service as a result of that malfunction.
- 2.6 “Basic Service”: The minimum service transmitted to all Subscribers which includes, at a minimum, (1) all signals of domestic television

broadcast stations entitled to “must carry” status under FCC rules, (2) any Public, Educational and Governmental programming required by a Franchise Agreement to be carried on the basic tier, and (3) any additional video programming signals added to the basic tier by the Cable Operator in its sole discretion.

- 2.7 “Broadcast”: Over-the-air transmission by a radio or television station.
- 2.8 “Cable Act”: The Cable Communications Policy and Communications Act of 1984, as amended by the Cable Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, and as further amended.
- 2.9 “Cablecast”: Programming (exclusive of broadcast signals) carried on the Cable System.
- 2.10 “Cable Programming Service”: Any video programming provided over a Cable System, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than (1) video programming carried on the Basic Service tier, and (2) video programming offered on a pay-per-channel or pay-per-program basis.
- 2.11 “Cable Service”: The one-way transmission to Subscribers of video programming or other programming services, together with Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming services.
- 2.12 “Cable Operator”: Any Person or Persons owning, controlling, operating, managing or leasing a Cable System within the Town, pursuant to this Ordinance, and pursuant to any Franchise granted to it by the Town. This term shall include any lawful successor(s) to the interest of such Person or Persons where consent to such successor(s) is approved under the provisions of this Ordinance and under any applicable terms of a Franchise Agreement entered into pursuant to this Ordinance.
- 2.13 “Cable System”: A facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service and other services to Subscribers as defined in the Cable Act.
- 2.14 “Channel” or “Video Channel”: A portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel (as defined by the FCC by regulation).
- 2.15 “Completion of Construction”: That point when the Cable Operator has provided written documentation to the Grantor that a Cable System

serving Wiscasset has been fully upgraded in accordance with any applicable requirements of this Ordinance and a Franchise Agreement, and service has been made available to Subscribers and potential Subscribers pursuant to the Franchise Agreement.

- 2.16 “Converter”: A special tuner or device attached to the Subscriber’s television set which expands reception capacity and/or unscrambles coded signals distributed over the Cable System.
- 2.17 “Downstream Channel”: A Channel over which signals travel from the Cable System Headend, or Subheadend to an authorized recipient of programming.
- 2.18 “Downstream Transmissions”: Signals traveling from a Cable System distribution point to an authorized location.
- 2.19 ”Drop” or “Cable Drop”: The interconnection between each home or building and the feeder line of the Cable System.
- 2.20 “FCC”: The Federal Communications Commission or any successor agency.
- 2.21 “Grantor”: The Town of Wiscasset.
- 2.22 “Feeder Cable”: The cable, connected to trunk cable, from which cable television signal service is distributed to Subscribers, as distinguished from trunk cable (which distributes cable television service throughout the Franchise area) and drop cable.
- 2.23 “Franchise Authority”: The Board of Selectmen of the Town of Wiscasset.
- 2.24 “Franchise”: The right, privilege and franchise to construct, operate and maintain a Cable System, and appurtenances or parts thereof, in the Streets, roads, alleys, and other Public Ways of the Town.
- 2.25 “Gross Annual Revenues”: Any and all payments made to or compensation received by a Cable Operator from Subscribers, advertisers or other users of the Cable System in connection with the operation of the Cable System to provide Cable Service within the municipality, including but not limited to revenues from Subscribers or users in payment for programs or signals received and/or transmitted, pay and subscription TV, fees paid for pay and/or pay-per-view services, charges for installation, connection, disconnection, reinstatement, downgrade, upgrade and any other similar fees, fees paid for Channels designated for commercial use, advertising revenue less agency fees, all home-shopping service(s)



revenues, rentals of Local Origination facilities, rentals of converter boxes, remote control units and other equipment, revenues from Channel leasing, and any other revenues derived from the provision of Cable Service in Wiscasset. Gross revenues shall not include revenues received from cable modem service except to the extent that, during the term of this Franchise Agreement, federal law is amended, or interpreted by the FCC or a court of competent jurisdiction, to permit local franchise authorities to collect franchise fees on revenues a Cable Operator or its affiliate collects for the provision of cable modem service in Wiscasset, and in the event of a court interpretation, such interpretation is final. In such an event, unless otherwise agreed to by the Town and the Cable Operator in writing, beginning sixty (60) days after the effective date of such amendment or interpretation, Gross Annual Revenues shall include such revenues related to cable modem service. In the event that an Affiliate is responsible for advertising, advertising revenues shall be deemed to be the pro-rata portion of advertising revenues paid to the Cable System by an Affiliate for said Affiliate's use of the Cable System for the carriage of advertising. In computing amounts due to the Town with respect to advertising revenue and other revenue not specifically attributable to residents of Wiscasset, such revenue shall be attributed to the Town on the basis of the number of Cable System Subscribers in Wiscasset as a percentage of the total number of Subscribers served by the Cable System which serves Wiscasset and other communities, using, for Wiscasset Subscribers and total system Subscribers, respectively, the average numbers of Subscribers for the period for which payment is made. Gross revenues shall include those revenues of a Parent, Subsidiary or affiliate of a Cable Operator to the extent such revenues are attributable to the operation of the Cable System to provide Cable Service in Wiscasset. Gross Annual Revenues shall not include security deposits paid to the Cable Operator by Subscribers, refunds and credits or any taxes, other than franchise fees, imposed on the services furnished by the Cable Operator which are imposed on the Subscriber or user by the local or any other governmental unit and collected by the Cable Operator on behalf of that governmental unit.

- 2.26 "Headend": The electronic center through which broadcast and cablecast signals are electronically translated or modified for distribution over the Cable System.
- 2.27 "Leased Channel" or "Leased Access": A video and/or audio or data Channel which the Cable Operator shall make available pursuant to Section 612 of the Cable Act.
- 2.28 "Local Origination": Local programming produced by the Cable Operator.

- 2.29 “Other Programming Service”: Services that a Cable Operator may make available to all Subscribers generally.
- 2.30 “Outlet”: An interior cable connection that connects a Subscriber or User to the Cable System.
- 2.31 “Parent”: When used in reference to a Cable Operator, any Person holding direct or indirect ownership or control of twenty percent (20%) or more of the rights of control of the Cable Operator; and any Person holding such ownership or control of a Parent to the Cable Operator.
- 2.32 “Pay Cable” or “Premium Service”: Optional additional Program services, provided to Subscribers at a monthly charge in addition to the charge for Basic Service.
- 2.33 “Pay-Per-View”: Programming delivered for a fee or charge to Subscribers on a per-program or time basis, in addition to the charge or fee to Subscribers for Basic Service, or for such other service tier required by applicable law.
- 2.34 “PEG”: The acronym for Public, Educational and Governmental, used in conjunction with Access Channels, support and facilities.
- 2.35 “Person”: Any corporation, partnership, limited partnership, association, trust, organization, other business entity, individual or group of individuals acting in concert.
- 2.36 “Video Programming”: Programming provided by, or generally considered comparable to Programming provided by, a television broadcast station.
- 2.37 “Signal”: Any transmission of electromagnetic or optical energy that carries Cable Services from one location to another.
- 2.38 “State”: The State of Maine.
- 2.39 “Street” or “Public Way”: The surface of, and the space above and below, any public Street, highway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, Public Way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Grantor in the Town which shall entitle the Cable Operator to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. “Street” or “Public Way” shall also mean any easement now or hereafter held by the Grantor within

the Town for the purpose of public travel, or for utility or public service use dedicated for public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Cable Operator to the use thereof for the purposes of installing or transmitting the Cable Operator's Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System. Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the Grantor that its property rights are sufficient to permit its use for any purpose, or that the Grantor shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.

- 2.40 "Subheadend": A signed distribution point for part of the Cable System linked to the Headend by fiber optic cable, coaxial supertrunk or microwave, and also referred to as a "Hub."
- 2.41 "Subscriber": Any Person or user of the Cable System who lawfully receives Cable Services or other service from the Cable System with the Cable Operator's express permission.
- 2.42 "Town": The Town of Wiscasset organized and existing under the laws of the State of Maine and all territory within its existing and future territorial corporate limits.
- 2.43 "Two-way Capability": The ability to transmit audio and video signals upstream and downstream on the Cable System.
- 2.44 "Upstream Channel": A Channel over which signals travel from an authorized location to a Cable System distribution point.
- 2.45 "Upstream Transmissions": Signals traveling from Subscribers or other originating points on the Cable System to a cable distribution point.

### Section 3. Franchise Required.

No Person, firm or corporation shall install, maintain or operate within the Town or any of its Public Ways or Streets or other public areas any equipment or facilities for the operation of a Cable System unless a Franchise Agreement authorizing the use of said Public Ways or Streets or areas has first been obtained pursuant to the provisions of this Ordinance and unless said Franchise Agreement is in full force and effect.

#### Section 4. Franchise Agreement.

The Municipal Officers of the Town may contract on such terms, conditions and fees as are in the best interest of the Town and its residents with one or more Cable Operators for the operation of a Cable System within the Town, including the granting of non-exclusive Franchise Agreements for the operation thereof.

Prior to issuing a request for proposals to any Cable Operators for Franchise Agreements or renewals, the Town shall hold a public hearing or conduct some other process to determine any special local needs or interests with respect to Cable Service and shall allow for a period of public comment on the request for proposals.

Franchise Agreement applications, including renewal applications, and any submittals in response to a request for proposals or solicitation of bids and related documents, are public records. Upon the filing of such documents, the Town shall provide reasonable notice to the public that such documents are open to public inspection during reasonable hours.

Each Franchise Agreement between the Town and a Cable Operator shall contain but is not limited to, the following provisions:

A statement of the area or areas to be served by the Cable Operator;

- (a) A line extension policy;
- (b) A provision for renewal, the term of which may not exceed ten (10) years;
- (c) Procedures for the investigation and resolution of Subscriber complaints by the Cable Operator;
- (d) An agreement to comply with the requirements of 30-A M.R.S.A. §3010 regarding consumer rights and protection and any amendments thereto;
- (e) Penalty provisions to enforce and compel compliance with Franchise Agreement provisions;
- (f) Any other terms and conditions that are in the best interests of the Town;
- (g) A provision for access to, and facilities to make use of, one or more local PEG Access Channels; and
- (h) A provision for the assessment of reasonable fees to defray the costs of public notice, advertising and other expenses incurred by the Town in acting upon applications for initial and renewal Franchise Agreements.

## Section 5. Town's Retained Rights and Authority

- (a) Right to Grant Additional Franchises. Grantor expressly reserves the right to grant other such Franchise Agreements in the Town of Wiscasset on such terms as it deems appropriate and to operate a Town-owned Cable System. No privilege or power of eminent domain is bestowed upon a Cable Operator by the granting of a Franchise.
- (b) Exercise of Police Power. All rights and privileges granted in any Franchise Agreement are subject to the police power of the Town to adopt and enforce local laws, ordinances, rules and regulations necessary to the health, safety and general welfare of the public. Expressly reserved to the Town is the right to adopt, in addition to the provisions of any Franchise Agreement, this Ordinance and any other existing laws, ordinances and regulations (collectively "laws"), such additional laws as it may find necessary in the exercise of its police power. Any conflict between the terms of any Franchise Agreement and any present or future exercise of the Town's police and regulatory powers shall be resolved in favor of the latter.
- (c) Use of Public Ways. The right to use and occupy the Streets, Public Ways and public places granted in any Franchise Agreement shall not be exclusive, and the Town reserves the right to grant similar or other uses of the said Streets, Public Ways and public places to any Persons at any time during the term of any Franchise Agreement.
- (d) Conflict With Public Works. The rights and privileges granted to a Cable Operator in any Franchise Agreement shall not be in preference or hindrance to the right of the Town or any other governmental agency, improvement district or other authority having jurisdiction, to perform or carry on any public works or public improvement. Should a Cable Operator's Cable System in any way interfere with the construction, maintenance or repair of such public works or improvements, the Cable Operator shall, at its own expense, protect or relocate its Cable System or part thereof, as directed by the Town or other authority having jurisdiction.
- (e) Removal and Relocation. The Town shall have the power at any time to order and require a Cable Operator to remove or relocate any pole, wire, cable or other structure machinery or equipment located within a public way that is dangerous to life or property. In the event that a Cable Operator, after notice, fails or refuses to act within a reasonable time, the Town shall have the power to remove or relocate the same at the sole cost and expense of the Cable Operator.

## Section 6. Bonds, Indemnifications and Insurance

- (a) Performance Bond to Town. Concurrent with the award of a Franchise to it, a Cable Operator shall file with the Town Clerk and shall thereafter annually during the entire term of such Franchise maintain in full force and effect at its own cost and expense a performance bond in the amount of at least \$100,000 to guarantee the faithful performance by the Cable Operator of all of its obligations under its Franchise Agreement. Upon completion of any required construction or rebuild of the Cable System required by the terms of this Ordinance or the applicable Franchise Agreement, the performance bond shall be reduced to fifty thousand dollars (\$50,000) for the remainder of the term of the Franchise Agreement. The Town agrees to execute such documents as are necessary for said reduction of the Performance Bond. The bond or fund shall be so conditioned that in the event that the Cable Operator shall fail to comply with any one or more material provisions of this Ordinance or of such Franchise Agreement and subsequent to any notice and opportunity to cure provision of this Ordinance or the Franchise Agreement, then the Town may recover from the surety any penalties assessed in accordance with Section 10 of this Ordinance and any damages or costs suffered or incurred by the Town as a consequence of such breach. Said conditions shall be a continuing obligation during the entire term of the Franchise Agreement. Not less than thirty (30) days' prior notice to the Town shall be provided of the Cable Operator's or the surety's intention to cancel, materially change, or not to renew the performance bond or security fund. In the event that the Town recovers against any portion of the performance bond, the Cable Operator shall be required to replenish the original bond in an amount equal to the amount recovered by the Town within 30 days. Failure to post an additional bond on a timely basis shall constitute a violation of a material provision of this Franchise Agreement.
- (b) Hold Harmless Agreement. Any Franchise Agreement shall include provisions whereby the Cable Operator agrees to defend, indemnify and hold harmless the Town and its agents from claims and liabilities arising out of the Cable Operator's construction, ownership, operation, maintenance, repair and control of the Cable System.
- (c) Insurance. Cable Operator shall maintain during the full term of this Franchise Agreement such insurance as will protect it and Grantor from any claims which may arise directly or indirectly or result from Cable Operator's ownership, construction, repair, operation or maintenance of Cable Operator's cable system serving Wiscasset, whether such activities are performed by Cable Operator, or by anyone for whose acts Cable Operator may be liable, under the following policies:

- (1) Workers' Compensation and any other legally required employee benefits, shall be supplied in such amounts as required by law;
  - (2) Property insurance, all risk, replacement cost basis, on all insurable Cable Operator assets in the Town;
  - (3) General Liability insurance shall be supplied in the following amount: combined single limit for bodily injury, personal injury, death or property damage in the amount of at least \$3,000,000 per occurrence (which may be supplied by a combination of primary and excess policy limits).
- (d) Non-waiver. Neither the provisions of this Section, nor any bonds accepted by the Town pursuant hereto, nor any damage recovered by the Town thereunder, shall be construed to excuse unfaithful performance by the Cable Operator or limit the liability of the Cable Operator under this Ordinance or the Franchise Agreement for damages, either to the full amount of the bond or otherwise.

## Section 7. Application

- (a) Any application for a cable television Franchise Agreement in the Town must contain the following information, except that in the case of a renewal Franchise Agreement, only the information listed under this Section 7(a)(1) through (2)(A), 2(B) and 2(C) shall be required:
- (1) The name, address, and telephone, number of the applicant.
  - (2) The most recent 10-Q or 10-K of the Cable Operator or its ultimate parent company as filed with the Securities and Exchange Commission. In the event the Cable Operator does not, at the time of application, file 10-Q or 10-K filings with the Securities and Exchange Commission, it shall instead file with the Town the following: A detailed statement of the corporate or other business entity organization of the applicant, including but not limited to, the following and to whatever extent required by the Town:
    - A. The names and business addresses of all officers and directors of the applicant.
    - B. The names and business addresses of all officers, Persons and entities having, controlling, or being entitled to have or control 15% or more of the ownership of the applicant and each Parent, Affiliate or subsidiary of the applicant and the respective ownership share of each such person or entity.

- C. The names and addresses of any Parent, Affiliate or subsidiary of the applicant, namely, any other business entity owning or controlling applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement of the nature of any such Parent, Affiliate or subsidiary business entity, including but not limited to Cable Systems owned or controlled by the applicant, its Parent, Affiliate and subsidiary and the areas served thereby.
  - D. A detailed description of all previous experience of the applicant in providing Cable Service and in related or similar fields.
  - E. A detailed and complete financial statement of the applicant, its Parents, Affiliates and its subsidiaries, prepared by a certified public accountant, for the fiscal year next preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Town's Board of Selectmen, setting forth the basis for a study performed by such lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed Cable System in the Town, or a statement from a certified public accountant certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the proposed Cable System in the Town.
  - F. A statement identifying, by place and date, any other cable television Franchise(s) awarded to the applicant, its Parent, Affiliate or subsidiary, the status of said Franchise(s) with respect to completion thereof; the total cost of completion or such Cable System(s); and the amount of applicant's and its Parent's, Affiliate's or subsidiary's resources committed to the completion thereof.
- (3) In the case of an application for an initial franchise for a new cable system serving Wiscasset, the applicant shall provide a detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:
- A. A detailed map indicating all areas proposed to be served, and a proposed construction time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served, and the



time of commencement of construction and anticipated operation date.

- B. A statement or schedule setting forth all proposed classifications of rates and charges to be made against Subscribers and all rates and charges to be made against Subscribers and all rates and charges as to each of said classifications, including installation charges and service charges and deposit agreement.
  - C. A detailed, informative, and referenced statement describing the actual equipment and operational standards proposed by the applicant. In no event shall said operational and performance standards be less than those contained in Title 47 C.F.R. Subpart K (Sections 76.601, et seq.), of the Rules and Regulations of the FCC, as amended in the future, and shall in addition comply with Section 13 herein.
  - D. A copy of the form of any agreement, undertaking, or other instrument proposed to be entered into between the applicant and any Subscriber and between the applicant and any lessee of any Channel, including provisions for reimbursement in the event of interruption of service.
  - E. A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any Persons, firm, or corporation which materially relate or pertain to or depend upon the application and the granting of the contract.
- (4) A detailed statement setting forth in its entirety the proposed Cable System design. Such statement shall include proposals concerning system architecture, Channel capacity, Channel uses, access, programming facilities, studio location, point to point service, two-way service, Subscriber privacy, and interconnection.
  - (5) Such other information as required by the Town at the time of the Franchise application.
  - (6) No Franchise, including Franchise renewals, will be granted hereunder without notice to the public and a public hearing.

## Section 8. Contract Term, Termination and Renewal

- a) Term: Any Franchise awarded by the Board of Selectmen under this Ordinance shall be for a term of not more than ten (10) years. Any renewal of a Franchise Agreement shall be upon such terms and conditions as the Board of Selectmen and the Cable Operator may mutually agree upon in accordance with the Cable Act and applicable federal law. Such renewal shall be for a period of not more than ten (10) years from the expiration of the previous Franchise.
- b) Termination: The Franchise Authority may revoke or terminate any Franchise awarded pursuant to the provisions of this Ordinance and federal law or may impose reasonable penalties upon 30 days written notice to the Cable Operator, and after hearing in the event that the Cable Operator:
  - (i) Violates any material provision of its Franchise Agreement or any rule, order or determination of the Town made pursuant to the Franchise Agreement or this Ordinance where such violation remains uncured for a period of thirty days or such time as is mutually agreed to following notice to the Cable Operator by the Town that such violation is deemed to exist;
  - (ii) Attempts to evade any material provision of its Franchise Agreement or practices any fraud or deceit upon the Town; or
  - (iii) Fails to provide or maintain in full force and effect the insurance coverages and the performance bond as required by this Ordinance and the terms of the Franchise Agreement.

Any appeal or challenge to a revocation or termination of a Franchise Agreement shall be to the Lincoln County Superior Court or the U.S. District Court for the District of Maine.

- c) Public Hearing - New Franchise and/or Renewal. Before authorizing the issuance of any such Franchise Agreement, including renewals, the Board of Selectmen shall review, in accordance with federal law, the applicant's legal, financial and technical qualifications, the proposed agreement's ability to meet current and future cable-related needs and interests of the Town in light of the costs of meeting those needs and interests, and the adequacy and feasibility of the applicant's qualifications to operate a Cable System within the Town, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing. Such public hearing shall provide a reasonable opportunity for public input on the proposed Franchise Agreement or renewal.
- (d) Restriction on Transfer or Change of Control.
  - (1) Neither this Franchise Agreement, nor any rights or obligations of the Cable Operator in or pursuant to this Franchise Agreement or the Cable System shall be transferred in part or as a whole, by assignment, trust, lease, sublease, and is not to be sold, transferred,

leased, assigned, or disposed of in part or as a whole, either by forced sale, merger, consolidation, or otherwise, nor shall title thereto, either legal or equitable, or any right or interest therein, pass to or vest in any Person, nor shall any change in control of the Cable Operator or the Cable System occur, either by any act of the Cable Operator or by any parent company of the Cable Operator, by operation of law or otherwise, in each such case without the prior consent of the Town, which consent shall not be unreasonably withheld or delayed, and which shall be expressed in writing, subject to reasonable and lawful conditions, including, but not limited to, curing any Franchise non-compliance. Any assignment or transfer without such prior written consent or without "deemed consent" under applicable federal law shall constitute a violation of a material provision of any Franchise Agreement

- (2) For purposes of this Section, any sale, assignment or any other disposition of a twenty percent (20%) ownership interest of the Cable Operator or parent company of the Cable Operator to any one Person or group of Persons acting in concert, in one transaction or a series of related transactions, shall be deemed to be a change of control of the Franchisee. The word "control" as used in this section is not limited to major stockholders but includes actual working control in whatever manner exercised.
- (3) Neither the Cable Operator nor its parent company shall enter into any third party management contract or any other arrangement for the management of the Cable System, without the prior written consent of the Town, subject to reasonable and lawful conditions, including, but not limited to, curing any Franchise non-compliance.
- (4) No consent will be required for a transfer in trust, mortgage or hypothecation to secure an indebtedness, provided that such transaction will not in any respect prevent the Cable Operator or any successor from complying with all of its obligations under its Franchise Agreement, but the exercise of any right to foreclose or seize such pledged assets shall be subject to the provisions of this paragraph. No transfer of control will be deemed to have taken place if the transfer is to an entity under common control with the Cable Operator provided such entity has equal or greater financial resources than the transferor and provided the transfer does not involve a change in the management or day to day operations of the Cable Operator.

- (5) The Cable Operator shall promptly notify the Town of any action or proposed action requiring the consent of the Town pursuant to this Section.
- (6) The Cable Operator shall submit to the Town an original and three (3) copies of its FCC Form 394 (or such other or successor form used to request consent to any such Transfer or assignment), which form shall fully describe the action or proposed action and clearly state the basis on which the Transfer or assignment should be approved. The Cable Operator shall include with the application complete responses to the informational requests attached to this Ordinance as Exhibit A. The request for approval of Transfer or assignment shall also contain all reasonably appropriate documentation and such additional information as the Town may reasonably require, provided that to the extent the Town requests additional information other than as described in Exhibit A to this Ordinance, the Town shall issue such request to the Cable Operator within 60 days of receipt of the application, and the Cable Operator shall respond to such requests for additional information within 30 days. The Transfer or assignment form shall be signed by the Cable Operator and by the proposed transferee or by its representative, evidence of whose authority shall be submitted with such petition.
- (7) The consent of the Town shall be given only after a public hearing, if such a hearing is deemed necessary by either the Town or the transferee, to consider the written request for Transfer. The Town shall complete review of the request for Transfer and make a decision thereto no later than one hundred twenty (120) days after receipt of the request for Transfer. If the Town fails to render a final decision on such request within said 120 days, such request shall be deemed granted unless the requesting party and the Town agree to an extension of time. In the event the Town requests additional information pursuant to Section 8(d)(6) of this Ordinance and the Cable Operator fails to provide responses within thirty (30) days of receipt of such request, the Town's deadline to make a decision on the transfer request, and the date by which such transfer request is deemed granted, shall be thirty (30) days after the Town's receipt of such responses.
- (8) For purposes of determining whether it shall consent to any such change of control and ownership, the Town shall inquire into the legal, financial, management and technical qualifications of the prospective controlling or owning Person, and including, but not limited to, such Person's cable-related experience and service record, if any, in other communities, the changes, if any, it intends

to make in the operations, maintenance, technology and services of the Cable System serving Wiscasset, any and all matters relative to the ability and likelihood of such Person adhering to all of the terms and conditions of this Franchise Agreement, and whether the proposed change of control and ownership is in the public interest.

- (9) Any proposed controlling or owning Person or transferee approved by the Town shall be subject to all of the terms and conditions contained in the Franchise Agreement, including curing any Franchise non-compliance.
- (10) The Cable Operator shall reimburse the Town for its reasonable expenses (including attorney's fees) incurred as a result of the reviewing and acting upon the Cable Operator's request. The Cable Operator's liability for reimbursing the Town shall not exceed Two Thousand and Five Hundred Dollars (\$2,500).

#### Section 9. Fees

- a) **Franchise Fee.** As compensation for the rights and privileges granted by any Franchise awarded pursuant to the provisions of this Ordinance the Cable Operator shall pay to Grantor a franchise fee of up to five percent (5%) of the Cable Operator's Gross Annual Revenues under the Franchise Agreement. The franchise fee may be changed by Grantor subject to the five percent (5%) cap on 90 days notice to the Cable Operator, but not more frequently than once each calendar year.
- b) **Method of Computation.** Payments due the Town under the terms of the Ordinance shall be computed quarterly as of March 31, June 30, September 30 and December 31 for the preceding three months and shall be paid on or before the forty-fifth calendar day from each said computation date at the office of the Town Treasurer during regular business hours. The Town shall be furnished a statement with each payment, prepared by a financial representative of the Cable Operator, and verified as correct, reflecting the total amount of Gross Annual Revenues generated by all activities within the Town, and the above charges, deductions and computations, for the three month payment period covered by the payment. The Cable Operator shall prepare and maintain financial information and records in accordance with generally accepted accounting principles and generally accepted auditing standards in the cable television industry. At Grantor's option, the information provided by the Cable Operator shall be subject to audit by an outside firm of certified public accountants selected by Grantor. Any such audit shall be at Grantor's expense except unless such audit shall disclose an underpayment of any franchise fees of more than four percent (4%) payable for the period of the audit, in which event the Cable Operator shall reimburse Grantor for the expense of such audit. Repeated failure to pay the franchise fee on a

timely basis is a violation of a material provision of the Franchise Agreement for purposes of the termination provisions of this Ordinance. Interest shall accrue on any and all overdue franchise fees at the rate of twelve percent (12%) simple interest per annum.

- c) Rights of Recomputation. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the Town may have for further or additional sums payable as a franchise fee under this Ordinance or for the performance of any other obligation hereunder. However, there shall be an accord and satisfaction with respect to any payment not subject to an audit within thirty-six (36) months following the close of the fiscal year to which such payment relates.

## Section 10. Penalties

- 10.1. Assessment. If a Cable Operator fails to observe any obligation under this Ordinance or any Franchise Agreement, Grantor may assess the Cable Operator, and the Cable Operator agrees to pay to Grantor, a monetary penalty in accordance with the Schedule of Penalties set forth in Section 10.8-10.12 below. Such assessment shall not constitute a waiver by Grantor of any other right or remedy it may have under this Ordinance or the Franchise Agreement, or under applicable law, including, without limitation, its right to recover from the Cable Operator such additional damages, losses, costs and expenses as may have been suffered or incurred by Grantor by reason of or arising out of such breach of this Ordinance or the Franchise Agreement; provided, that any penalties collected by Grantor from the Cable Operator pursuant hereto shall be applied against, and reduce accordingly, the amount of any recoveries due Grantor pursuant to this sentence for the failure to perform for which such penalties were assessed.
- 10.2. Notification. Upon Grantor's assessing a penalty pursuant to Section 10.1 above, notice of such assessment shall be sent to the Cable Operator, with a concise statement of the reasons therefor.
- 10.3. Hearing. Within ten (10) days after receipt of a notice pursuant to Section 10.2 above, the Cable Operator may request a hearing before the Grantor's Town Manager or his/her designee. Such hearing shall be held within thirty (30) days after receipt of the request therefor. The pendency of a request of hearing shall suspend payment of the penalty until ten (10) days after receipt by the Cable Operator of the decision of the Town Manager or designee confirming the penalty in whole or in part.
- 10.4. Payment. Except as provided in Section 10.3 above, the Cable Operator shall pay the full amount of any penalty to Grantor within ten (10) days after receipt of a notice pursuant to Section 10.2 above and the cure period has expired.

- 10.5. Default. Subsequent to the notice and opportunity to cure provision herein, upon failure of the Cable Operator to make timely payment of an assessed penalty, Grantor may recover the amount of any such penalty from the performance bond or security fund pursuant to Section 6(a) above. Failure of the Cable Operator to make timely payment of an assessed penalty is a violation of material provision of the Franchise Agreement.
- 10.6. Disposition. Amounts received by Grantor as penalties assessed against a Cable Operator may be used by Grantor for any purpose it deems fit.
- 10.7. Schedule of Penalties. Pursuant to Section 10.1, 10.2 and 10.3 above, the following monetary penalties shall apply, and liability therefor shall accrue from the date of receipt of notice pursuant to Section 10.2 above, and upon failure to cure within the time period specified below, if any opportunity to cure is provided.
- 10.8. \$50.00 Per Day. The penalty for the following violations shall be fifty dollars (\$50.00) per day until the violation is cured:
- (a) Failure to maintain the Cable Operator's required insurance pursuant to Section 6(c) with the penalty beginning 30 days after Cable Operator receives written notification of the violation.
  - (b) Failure to make timely payment of the franchise fee pursuant to Section 9(b) with the penalty beginning 30 days after Cable Operator receives written notification of the violation.
  - (c) Violation of the privacy restrictions in Sections 12.7(d) of this Ordinance. This penalty shall be assessed with the penalty beginning 7 days after Cable Operator receives written notification of the violation.
  - (d) Failure to restore damaged property within the specified period pursuant to Section 11.11 with the penalty beginning 5 days after Cable Operator receives written notification of the violation.
  - (e) Failure to make and maintain records as required by Section 13.6 with the penalty beginning 30 days after Cable Operator receives written notification of the violation. This penalty shall be assessed for each such record not maintained.
  - (f) Failure to obtain and maintain the performance bond or security fund pursuant to Section 6(a) with the penalty beginning 30 days after Cable Operator receives written notification of the violation.

- (g) Failure to remove, relocate or protect the Cable Operator's system pursuant to Sections 5(d), 5(e) and 11.17 with the penalty beginning 7 days after Cable Operator receives written notification of the violation.
- (h) Failure to eliminate objectionable interference pursuant to Section 11.18 with the penalty beginning 14 days after Cable Operator receives written notification of the violation.
- (i) Failure to provide reports within the time required by Section 18 assessed for each report not provided with the penalty beginning 14 days after Cable Operator receives written notification of the violation.

10.9 \$5.00 Per Affected Subscriber Per Day. The fine for the following violations shall be five dollars (\$5.00) per Subscriber affected by the violation per day until the violation is cured.

- (a) Failure to respond to a request for repair or adjustment within the time required by Section 13.4. This penalty shall begin 24 hours after the Town notifies the Cable Operator in writing of the violation.
- (b) Failure to commence service to a Subscriber within the time required by Section 14.0 beginning 2 days after the Town notifies Cable Operator in writing of the violation.
- (c) Failure to pay a refund due a Subscriber upon termination within the time required by Section 15.6. This penalty shall begin 5 days after the Town notifies the Cable Operator in writing of the violation.
- (d) Failure to respond to a billing complaint within the time required by Section 16.3. This penalty shall begin 2 days after the Town notifies the Cable Operator in writing of the violation.
- (e) Failure to respond to a service complaint within the time required by Section 16.4. This penalty shall begin 2 days after the Town notifies the Cable Operator in writing of the violation.
- (f) Failure to pay a rebate or apply a credit for service loss within the time required by Section 13.5. This penalty shall begin 5 days after the Town notifies the Cable Operator in writing of the violation.



- 10.10. \$500.00 Fine. The fine shall be five hundred dollars (\$500.00) for the following violations beginning 60 days after the Grantor notifies the Cable Operator in writing of the violation until the violation is cured.
- (a) Failure to complete any system rebuild as required by Section 11.1 and the terms of the Franchise Agreement. This penalty shall be assessed per day until compliance is achieved.
  - (b) Failure to make service available to unserved areas within the time required by the terms of the Franchise Agreement. This penalty shall be assessed per day until compliance is achieved.
  - (c) Failure to provide access channels, facilities and equipment funding in accordance with terms of the Franchise Agreement. This penalty shall be assessed per day until compliance.
- 10.11. Violation of Subscriber Privacy. The fine for a violation of Section 12.7(e) is one thousand dollars (\$1,000) per occurrence of selling or disclosing subscriber lists, viewing habits or personally identifiable information (and not per day or per affected subscriber).
- 10.12. Failure to Provide Emergency Override Capabilities. The Cable System shall incorporate emergency audio override capabilities in accordance with FCC Emergency Alert System (EAS) standards and as required by Section 11.3. The fine for a failure of the system to perform as described in the event of a public emergency or vital public information situation, shall be one thousand dollars (\$1,000) assessed per occurrence, except to the extent the Cable System is rendered non-functional due to damage caused by factors outside of the Cable Operator's reasonable control.
- 10.13. Force Majeure. The Cable Operator shall not be assessed any penalties for any delay or failure to perform its obligations under the Ordinance if doing so is prevented by Act of God, the inability to secure materials despite the use of all commercially reasonable efforts by the Cable Operator, flood, storm, fire, explosions, strikes, riots, wars whether or not declared, insurrections, epidemics, or any law, rule or act of any court of competent jurisdiction or instrumentality of government or any other occurrence outside of the control of the Cable Operator when using all commercially reasonable efforts.
- 10.14. Further Recourse. In addition to the foregoing penalties, upon the failure, refusal or neglect of the Cable Operator to cause any work or other act required by law or by this Ordinance or the Franchise Agreement to be properly completed in, on, over or under any Street or Public Way within any time prescribed, Grantor may (but shall not be required to) cause such work or other act to be performed or completed in whole or in part and

upon so doing shall submit to the Cable Operator an itemized statement of the costs thereof. The Cable Operator shall, within thirty days after receipt of such statement, pay to Grantor the entire amount thereof.

## Section 11. Construction and Operation of Facilities

- 11.1 Design. Except as otherwise provided for in the Franchise Agreement, any Cable System serving Wiscasset shall in any event be designed and built for technical quality in conformance with the highest state of the art in the cable television industry for Cable Systems of comparable size. Not later than one year from the effective date of the Franchise Agreement the Cable System shall be designed and built for operation at a minimum of 750 MHz and a minimum eighty (80) video channel capacity, with full bi-directional capability. All downstream and upstream channels shall be activated by such date.
- 11.2 Emergency Power. The Cable System shall incorporate equipment capable of providing standby powering of the Headend and all Subheadends for a minimum of four hours.
- 11.3 Emergency Override. The Cable System shall incorporate emergency audio override capabilities in accordance with FCC Emergency Alert System (EAS) standards.
- 11.4 Subscribers' Antennae. Notwithstanding a required disconnection of a Subscriber's existing broadcast antennae and downloads to receivers connected to the Cable System, the Cable Operator shall not remove or suggest to the Subscriber the removal of such antennae and downloads. The Cable Operator shall furnish to each Subscriber so requesting, at reasonable cost, an A/B switch permitting the Subscriber to change from cable reception to home antenna reception, and back, at the option of the Subscriber. Installation of such switches at the time of initial installation of service to a Subscriber shall be without charge other than for such purchase cost.
- 11.5 Switching. The Headend or Subheadend shall have the capability of accepting programming on the upstream channels of the Cable System and simultaneously transmitting such programming on the downstream channels of the Cable System.
- 11.6 VCR/Cable Compatibility. In order that Subscribers to the Cable System have the capability to simultaneously view and tape any channel and set their VCR to record multiple channels remotely, the Cable Operator shall provide to any Subscriber, upon request, an A/B switch, installed at reasonable cost.

- 11.7 General Construction Requirements. In the construction, reconstruction, maintenance and repair of the Cable System, the Cable Operator shall utilize materials of good and durable quality and shall perform or cause to be performed all work so associated with the system in a safe, thorough and reliable manner.
- 11.8. Live Programming Origination Points. To facilitate live programming within the Town of Wiscasset each Cable Operator shall install Origination Points at the Wiscasset Town Office and such other public buildings and public locations as are designated in the Franchise Agreement.
- 11.9. Compliance With Regulations. All work, including all working conditions and facilities, associated with the construction, operation, maintenance, repair and removal of the Cable System shall comply with:
- (a) All applicable Federal and State laws, rules and regulations;
  - (b) All applicable laws, codes, ordinances, rules and regulations of Grantor; and
  - (c) The National Electric Code, National Electrical Safety Code, the National Cable Television Association Standard Code, and the National Safety Code.
- 11.10. Grantor Rights. Grantor reserves the right to inspect all construction and installation work and to make such tests as it shall deem necessary to ensure compliance with applicable laws, codes, ordinances and regulations and with provisions of this Ordinance and the applicable Franchise Agreement, and may order corrections of any violations.
- 11.11. Restoration of Damage. The Cable Operator, at its sole expense, shall restore all damage to property, both public and private, caused by the construction, operation, maintenance or repair of the Cable System, so as to return the damaged property to a condition as good as before the damage was done. Such restoration shall be made as soon as practicable after completion of work necessitating the restoration, and shall be done in a manner approved by the owner or tenant in possession. In no event shall such restoration be made later than ten days, weather permitting and subject to force majeure, after the Cable Operator's receipt of notification from the owner of the property so damaged unless otherwise mutually agreed by the Cable Operator and the property owner; provided, that if any such damage involves streets, water-mains, storm or sanitary sewers, or other public facilities, such damage shall be repaired within forty-eight (48) hours or as soon as practicable. If the Cable Operator fails to make such restoration on a timely basis, Grantor may fix a reasonable time for

such restoration and repairs and shall notify the Cable Operator in writing of the restoration and repairs required and the time fixed for performance hereof. Upon failure of the Cable Operator to comply within the specified time period, Grantor may cause proper restoration and repairs to be made and the Cable Operator shall pay the reasonable expense of such work upon demand by Grantor.

- 11.12. Identification. Each Cable Operator shall ensure that all of its vehicles are clearly identified to the general public as being associated with the Cable Operator, and that all of its employees, and the employees of any agents or contractors, who enter upon private property wear an employee identification card issued by the Cable Operator, which card shall bear a picture of said employee and shall be worn in a conspicuous place.
- 11.13. Public Ways Hazards. Any openings or obstructions in streets or other municipal or public property made by any Cable Operator shall be guarded and protected at all times by the placement of adequate barriers, fences, boarding or other protective devices at the sole expense of the Cable Operator. During the periods of dusk and darkness, the protective devices shall be clearly designated by warning lights.
- 11.14. Location of Physical Facilities. Within sixty (60) days after the effective date of any Franchise Agreement, the Cable Operator shall provide Grantor with strand maps of the Town of Wiscasset clearly showing the location of all distribution lines (indicating underground, where applicable), tower, antennae, receivers, headend, and sub-headends. Revised and corrected strand maps shall be submitted to Grantor not later than ninety (90) days after such changes or additions are made.
- 11.15. Cable Location. Insofar as practicable, the distribution system (trunk and feeder cable) shall run along public rights-of-way. Where the cable or wire facilities of all public utilities are installed underground, the Cable Operator shall install its cable distribution system underground. Vaults and pedestals shall be suitably landscaped, such landscaping to be subject to the approval of the owner or tenant in possession, which approval shall not be unreasonably withheld. In all areas where public utility lines are aerially placed, if subsequently during the term of the Franchise Agreement all such utility lines are relocated underground pursuant to applicable law under the Town's police powers, the Cable Operator shall similarly relocate its cable distribution system underground at its sole expense. Wherever possible, the distribution system shall use the existing facilities of the public utilities. Poles shall not be installed for the sole purpose of supporting a portion of the distribution system without written justification and approval of Grantor, which approval shall not be unreasonably withheld, pursuant to Grantor's law, ordinances, rules and regulations.

- 11.16. Location of Construction. All lines, cables and distribution structure, and equipment, including poles and towers, erected, installed or maintained by any Cable Operator within the Town of Wiscasset shall be located so as not to obstruct or interfere with the proper use of Streets and Public Ways and to cause minimum interference with the rights of property owners who abut any of the said Streets and Public Ways, and not to interfere with existing public utility installations. A Cable Operator shall not place new poles, towers or other obstructions in Streets or Public Ways, or relocate existing poles, towers or other obstructions, without first obtaining Grantor's approval, which approval shall not be unreasonably withheld. A Cable Operator shall have no vested right in any location, and the Cable Operator shall remove such construction at its own cost and expense whenever the same restricts or obstructs or interferes with the operation or location or any future operation or location of said Streets or Public Ways.
- 11.17. Grade or Location Changes. If at any time during the term of a Franchise Agreement Grantor shall elect to alter, or change the grade or location of any Street, or shall engage in any construction, reconstruction, widening, repairs or other public works in, on or under the Streets, any Cable Operator shall, upon reasonable notice by Grantor, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures ("fixtures") at its own expense, and in each instance comply with the Grantor's standards and specifications.
- 11.18. No Interference. A Cable Operator shall not place fixtures above or below ground where the same will interfere with any gas, electricity, telephone fixtures, water hydrants, or other utility use, and all such fixtures placed in or upon any street shall be so placed as to comply with all requirements of Grantor or other applicable authority, and fully comply with local regulations, including zoning ordinances. Each Cable System shall be constructed, operated and maintained so that there will be no objectionable interference with television reception, radio reception, telephone communications or other electronic installations in the Town of Wiscasset or with the operation of any public fire, police, rescue or safety communications system. Should any such interference occur, the Cable Operator shall promptly eliminate it.
- 11.19. Temporary Relocation. A Cable Operator shall, on request of any Person holding a permit issued by Grantor or other appropriate authority, temporarily move its fixtures to permit the moving or erection of buildings or other objects, with the expense of any such temporary removal to be paid in advance by the Person requesting same, and the Cable Operator shall be given reasonable notice to arrange for such temporary relocation. A Cable Operator shall bear any expense to temporarily move its fixtures

to permit the moving or erection of Town- owned or constructed buildings or other public infrastructure.

- 11.20. Tree Trimming. Each Cable Operator shall have the authority to trim any trees upon and overhanging Grantor's Streets or Public Ways to the minimum extent necessary to prevent the branches of such trees from coming in contact with the wires and cables of the Cable System; provided that, except for incidental trimming done by the Cable Operator employees in the course of performing their other duties, any tree trimming done by the Cable Operator shall be subject, in all respects, to Grantor's prior approval. Except in an emergency, the Cable Operator will notify the abutting property owner(s) prior to starting tree trimming work. In performing tree trimming, the Cable Operator shall employ best management practices, shall use its best efforts to avoid any unnecessary damage or injury to trees, and shall comply in all respects with any Town ordinances governing tree trimming. Except for incidental trimming performed by a Cable Operator's employees in the course of performing their other duties, Grantor may elect to perform tree trimming directly or by agents under Grantor's supervision and direction, at the Cable Operator's expense.
- 11.21. Drops. In areas where the cable distribution is located underground, drop connections to Subscriber's structure shall be underground; in other areas the drop connection shall be aerial unless the Subscriber requests underground installation and elects to pay the cost thereof. Insofar as practicable, the Cable Operator shall adhere to the Subscriber's desire with regard to point of entry of the drop connection into the structure. Within the Subscriber's structure, drop or cable runs shall be made as unobtrusively as possible. Each drop shall be grounded at the Subscriber's structure, or, at the Cable Operator's option, at such other location as may be permitted by the National Electrical Safety Code.
- 11.22. Zoning and Building Codes. Any and all construction performed by or under the auspices of a Cable Operator, and any and all facilities used or operated by the Cable Operator, shall comply with all applicable zoning and building ordinances, codes or laws of Grantor.
- 11.23. Contractors, Subcontractors and Affiliates. All contractors, subcontractors and affiliates of a Cable Operator must be properly licensed under all applicable federal, state and local laws and regulations. Each Cable Operator shall be solely and completely responsible for all acts or omissions of any such contractor, subcontractor or affiliate, or any employee or agent of any such contractor, subcontractor or affiliate in the construction, reconstruction, installation, maintenance, operation or removal of the Cable Operator's cable system.

- 11.24. Completion of Work by Grantor. Upon failure of a Cable Operator to commence, pursue or complete any work required by this Ordinance, other applicable law or by the provisions of the Franchise Agreement in any Street or other public place within the time prescribed and to the satisfaction of the Grantor, Grantor may, at its option, cause such work to be done with reasonable expenditures therefor and the Cable Operator shall pay to the Grantor the cost thereof in the itemized amounts reported by the Grantor to the Cable Operator within thirty (30) days after receipt of such itemized report.
- 11.25. Lockout Key. Each Cable Operator shall make available to any Subscribers so requesting, for lease or sale, a “parental control device” or “lockout key” which will permit the Subscriber, at his or her option, to eliminate comprehensible reception of any or all of the Basic Service or pay cable Channels. If requested, a lockout key will be installed within twenty (20) days of request.

## Section 12. Operation, Service and Maintenance of System.

- 12.1 Each Cable Operator shall construct, maintain and operate its Cable System safely and render efficient service to Subscribers during the term of any Franchise.
- 12.2 Each Cable Operator shall construct, upgrade, install, operate, maintain and remove its Cable System in conformance with Occupational Safety and Health Administration regulations, the Maine Electrical Code, the National Electric Code, the NCTA Safety Manual, the National Electric Safety Code, the Bell Telephone System Code of Pole Line Construction, the rules and regulations of the FCC, all building and zoning codes, and all land use restrictions as they may now exist or may be amended or adopted hereafter.
- 12.3 Any tower constructed for use in a Cable Operator’s Cable System shall comply with the standards contained in "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures", TIA/EIA-222-F as published by the Telecommunications Industry Association, 2500 Wilson Blvd., Arlington, VA 22201.
- 12.4 Installation and physical dimensions of any tower constructed for use in a Cable Operator’s Cable System shall comply with all appropriate Federal Aviation Agency regulations, including, but not limited to, "Objects Affecting Navigable Airspace", 14 C.F.R. 77.1 et seq., as they now exist or may be amended or adopted hereafter.
- 12.5 Any antenna structure used, in a Cable Operator’s Cable System shall comply with “Construction, Marking, and Lighting of Antenna

Structures", 47 C.F.R. 17.1 et seq., as said regulations now exist or may be amended hereafter.

12.6 Each Cable Operator shall install and maintain its wire, cable, mixers and other equipment in accordance with the requirements of the generally applicable ordinances of the Town as may be amended, and in such a manner which shall not interfere with any installations of the Town or any public utility serving the Town.

12.7 Privacy.

- (a) The Cable Operator shall respect the rights of privacy of every Subscriber of the Cable Television System and, pursuant to applicable federal law, shall not violate such rights through the use of any device or Signal associated with the Cable Television System, and as hereafter provided.
- (b) The Cable Operator shall comply with all privacy provisions contained in this Ordinance and all other applicable federal and State laws including, but not limited to, the provisions of Section 631 of the Cable Act.
- (c) The Cable Operator shall be responsible for carrying out and enforcing the Cable System's privacy policy, and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personal subscriber information is handled and protected strictly in accordance with this policy.
- (d) Except as otherwise permitted by applicable law, the Cable Operator shall not tap, monitor, arrange for the tapping or monitoring, or permit any other person to tap or monitor, any cable, line, Signal, input device, or subscriber Outlet or receiver for any purpose, without the prior written authorization of the affected Subscriber; provided, however, that the Cable Operator may conduct system-wide or individually addressed "sweeps" solely for the purpose of verifying System integrity, checking for illegal taps, controlling return-path transmission, or billing for Pay Services. The Cable Operator shall report to the affected parties any instances of monitoring or tapping of the Cable Television System, or any part thereof, of which it has knowledge, whether or not the Cable Operator has authorized such activity, other than as permitted herein. The Cable Operator shall not record or retain any information transmitted between a Subscriber and any third party, except as required for lawful business purposes. The Franchisee shall destroy all subscriber information of a personal nature after a reasonable period of time except as authorized not to do so by the affected Subscriber.



- (e) Except as otherwise permitted by applicable law, the Cable Operator shall not sell, disclose, or otherwise make available, or permit the use of, lists of the names or addresses of its Subscribers or any list or other information which identifies by name or address, Subscribers viewing habits, to any Person or agency for any purpose whatsoever without the prior written consent of the Subscriber; provided that the Cable Operator may make such lists available to Persons performing services for the Cable Operator in connection with lawful business purposes hereunder (e.g. a billing service) where the availability of such lists is necessary to the performance of such services. A Subscriber may withdraw said consent by providing written notice to the Cable Operator. Every Cable Operator shall provide annual notice to each Subscriber of the right to withdraw such authorization. In no event shall such authorization be obtained as a condition of service or continuation thereof, except as necessary to adequately provide particular services.
- (f) Upon request, the Cable Operator shall make available for inspection by a Subscriber at a reasonable time and place all personal subscriber information that the Cable Operator maintains regarding said Subscriber. A Subscriber may obtain from the Cable Operator a copy of any or all of the personal subscriber information regarding him or her maintained by the Cable Operator.
- (g) A Subscriber may challenge the accuracy, completeness, retention, use or dissemination of any item of personal subscriber information. Such challenges and related inquiries about the handling of subscriber information shall be directed to the Cable Operator's General Manager.

## 12.8 Performance Standards

- (a) Technical Standards. Subject to Section 10.13 above, all signals carried on a Cable System shall be transmitted to Subscribers without material degradation and with a quality no less than that prescribed by rules of any Federal or State regulatory agencies having jurisdiction. Anything contained in a Franchise Agreement to the contrary notwithstanding, the technical specifications, operation and performance of the system shall, at minimum, conform at all time to the specifications established by any Federal or State regulatory agencies having jurisdiction thereof, and such specifications existing on the effective date hereof, whichever is of the higher quality.
- (b) Performance Testing. At such time as the performance monitoring and testing, conducted pursuant to requirements of any Federal or

State regulatory agencies having jurisdiction, provides evidence that the Cable System's transmissions do not meet the prescribed standards, the performance monitoring and testing shall be repeated for all segments of the Cable System which do not meet such prescribed standards, upon completion of the necessary repair or adjustment, notwithstanding the lack of such requirement by the Federal or State agencies, and a report of the second test submitted to Grantor; provided, that the Cable Operator shall not be required to furnish any such reports with respect to technical problems discovered in the course of the Cable Operator's routine maintenance testing, except as may be specifically requested by Grantor in each instance. The Cable Operator shall provide and keep accurately calibrated test equipment on hand at all times for the testing of all services and operational standards outlined in this Franchise Agreement.

### Section 13 – Maintenance and Repair.

- 13.1 Maintenance Policy. Each Cable Operator shall promulgate and adhere to a preventative maintenance policy directed toward maximizing the reliability (mean-time-between-malfunctions) and maintainability (mean-time-to-repair) of its Cable System with respect to its delivery of Cable Service to Subscribers at or above the performance standard set forth herein. Whenever it is necessary to interrupt service for the purpose of making scheduled maintenance or repairs, adjustments, installations or other maintenance activities, the Cable Operator shall do so at such a time as will cause the least inconvenience to Subscribers. Except in an emergency, and except for interruptions of five minutes or less which may occur during the course of normal maintenance, and except during the rebuild of the Cable System, service is to be interrupted for planned or scheduled maintenance or repairs between the hours of midnight and 7:00 a.m where practicable.
- 13.2 Repair. Each Cable Operator shall maintain a repair department comprising qualified technicians, service vehicles and equipment to provide prompt and efficient repair service within the parameters set forth below.
- 13.3 Notice. Except in an emergency, and except for interruptions of five minutes or less, each Cable Operator shall give Subscribers at least 24 hours notice of any planned interruption of service for purposes of maintenance or repair. In an emergency, a Cable Operator shall give such notice as is reasonable in the circumstances. Notice given on the alphanumeric channels on Basic Service shall be considered sufficient. During any rebuild of the Cable System, a Cable Operator shall not be required to provide 24 hour notice of any interruption of service if such interruption is the direct result of rebuild work. However, a Cable

Operator shall be required to provide written notification to Subscribers of planned rebuild work schedules and when Subscribers may experience service interruptions. A Cable Operator shall use its best efforts to minimize the length of any service outage due to a rebuild.

- 13.4 Repair Procedure. Each Cable Operator shall have a toll free telephone number listed in the local area and so operated that requests for repairs or adjustments can be received at any time, twenty-four (24) hours per day, seven (7) days per week. A recording device or answering service may be used during non-business hours. A Cable Operator's responses to such requests shall occur no later than 24 hours after the Cable Operator's receipt of such a request; provided, the response time for service complaints other than complaints of no or unusable service shall be computed excluding Sundays and holidays.

A Cable Operator shall respond within four (4) hours to any area outage that occurs between the hours of 7:00 a.m. and 10:00 p.m. of any day, and by not later than the following 11:00 a.m. to any area outage that occurs between 10:00 p.m. and 7:00 a.m. If a Cable Operator responds to a service complaint as herein required and the Subscriber is not satisfied that the problem giving rise to the original complaint has been resolved, the Subscriber shall notify the Cable Operator thereof within forty eight (48) hours of the repair visit by the Cable Operator personnel, and the Cable Operator shall have an additional period of twenty-four (24) hours within which to correct the problem. If such second complaint is made to Grantor instead of the Cable Operator, the Cable Operator shall have a period of twenty-four (24) hours after receipt of oral or written notice from Grantor within which to make the correction. The requirements for maintenance and repair shall not apply to Subscribers' television or radio receivers or other Subscriber-owned equipment.

- 13.5 Rebate or Credit for Service Loss. Upon request, for every loss of service in excess of six (6) continuous hours, the Cable Operator shall grant a pro rata rebate or credit of the regular monthly charge to the Subscriber. In the event a Subscriber reports a loss of service to the Cable Operator, and such outage exceeds six (6) continuous hours, the Cable Operator shall grant the credit or rebate whether or not the Subscriber specifically requests it. The credit shall be pro-rated by multiplying the applicable monthly service rate by a fraction whose numerator equals the number of days of the outage and whose denominator equals the number of days in the month of the outage. In no case shall the refund be less than twenty-four (24) hours' credit. For purposes of this paragraph, loss of Basic Service shall be considered a Subscriber's receipt of less than two-thirds of the respective available channels, and loss of pay Cable Service shall be considered the loss of signal on any pay Channel. The Cable Operator shall give the Subscriber a credit no later than the next billing cycle.

13.6 Records. Each Cable Operator shall maintain records of all oral and written complaints regarding quality of service, equipment malfunctions, billing procedure, and similar matters that requires further action on the part of the Cable Operator. Such records shall show the exact date and time of receipt of all such customer complaints, identifying the Subscriber, the nature of the complaint and the exact time action was taken by the Cable Operator in response thereto, together with a description of such action. Each Cable Operator shall also maintain a record of all whole or partial system outages, including the date, approximate time and duration, type and probable cause of each outage, except for outages caused by routine testing or maintenance. Such records shall be available at the Cable Operator's local office for at least two (2) years, for inspection by Grantor as it may from time to time request, during regular business hours and upon reasonable notice, subject to any privacy restrictions imposed by law. A Cable Operator shall, within ten (10) days after receiving a written request therefor, send a written report to Grantor with respect to any complaint. Such report shall provide a full explanation of the investigation, finding(s) and corrective steps taken.

#### Section 14. Time of Installation.

Service to any Subscriber served by a standard aerial Drop shall commence by not later than seven (7) business days after service is requested; service to any Subscriber served by a standard underground Drop shall commence by not later than forty-five (45) days after service is requested unless additional time is required by severe weather or other circumstances outside of Cable Operator's control. The Cable Operator shall exert every reasonable effort to commence service to a Subscriber served by a non-standard Drop as expeditiously as possible. A standard Drop, for which the Subscriber shall be charged the Cable Operator's standard installation fee, is a drop running not more than two hundred (200) feet from feeder cable to the Subscriber's structure; provided, that any installation which requires Cable Operator to cross a street underground shall be considered a non-standard installation. An aerial Drop in excess of two hundred (200) feet in length shall be considered a non-standard installation. If the Cable Operator schedules an appointment with a Subscriber for an installation, repair or other service call, and the Cable Operator fails to arrive at the Subscriber's premises within one (1) hour of the scheduled time or scheduled window of time (which window shall not exceed four (4) hours) for reasons not caused by the Subscriber unless rescheduled in advance by the Cable Operator, the Cable Operator shall, in the case of an appointment for a standard installation, make no charge to the Subscriber for the standard installation, and in the case of a repair or other service call, shall apply a minimum twenty dollar (\$20.00) credit to the Subscriber's account to reduce the cost of any make-up or late repair or service call.

Section 15      Subscriber Rates and Charges.

- 15.1      Regulation. Grantor shall have the right to regulate charges to Subscribers for Cable Service to the extent allowed by law.
- 15.2      Rate or Service Discriminations: Special Classifications. No Cable Operator shall subject any person to any prejudice or disadvantage, preference or advantage in connection with rates, charges, service facilities, rules or regulations. Nothing herein shall prohibit the establishment of a graduated scale of rates for classified schedules to which any Subscribers within such classification shall be entitled.
- 15.3      Connection Charges. Subscribers shall be assessed no special connection charges other than standard installation charges for cable drops from any Cable Operator's distribution plant up to two hundred (200) feet. Subscribers requiring drops over two hundred (200) feet shall be charged only for the incremental cost of extending the drop beyond two hundred (200) feet.
- 15.4      Rates and Programming.
- (a)      Each Cable Operator shall give the Town and each Subscriber thirty (30) days written notice of any change in Subscriber rates or charges. At the Town's request, exercised by the Town giving the Cable Operator at least ten (10) days' notice thereof, the Cable Operator shall attend, and respond to questions, at any public meeting held by the Town concerning the rate increase. Notice to Subscribers of rate changes shall be by mail. Each Cable Operator shall also provide each Subscriber at least annually with a detailed explanation of downgrade and upgrade policies and the manner in which Subscribers may terminate Cable Service. Subscribers shall have at least thirty (30) days from receipt of notification of any rate increase to either downgrade service or terminate altogether without any charge.
- (b)      Each Cable Operator shall give the Town and each Subscriber thirty (30) days written notice of any change, including additions or deletions, or change in Channel position, in the programming carried on the Cable System, as well as any retiering of such programming, and any other changes in the programming service offered by each Cable Operator. At the request of the Town, with at least ten (10) days' notice, each Cable Operator shall meet with the Town at a public meeting to discuss programming issues and options and to hear and consider the input of the Town and the public.

(c) Each Cable Operator shall use its best efforts to provide a wide diversity of programming options to its Subscribers. Each Cable Operator shall provide the following broad categories of programming:

- (1) public broadcasting programming;
- (2) educational programming;
- (3) news programming;
- (4) music programming;
- (5) sports programming;
- (6) children's programming;
- (7) religious programming;
- (8) arts and/or cultural programming; and
- (9) family programming.

(d) Rate schedules shall be provided to Subscribers annually.

15.5 Billing Practices. Each Cable Operator shall set forth, in writing its billing and collection practices and policies, and procedures for ordering changes in or termination of services and refund policies, and shall furnish a copy thereof to each new Subscriber and to Grantor, and thereafter to Grantor and all Subscribers at such time as there is a change in such policies.

15.6 Pro-Rated Service. In the event a Subscriber's service is terminated, monthly charges for service shall be pro-rated on a daily basis and, where advance payment has been made by a Subscriber, the appropriate refund shall be made by the Cable Operator to the Subscriber within thirty (30) days of such termination.

15.7 Disconnection for Non-Payment. A Cable Operator shall have the right to disconnect a Subscriber for failure to pay an overdue account; provided, that:

- (a) The Cable Operator's billing practices and policy statement set forth the conditions under which an account will be considered overdue;
- (b) At least twelve (12) days prior to the proposed disconnection, the Cable Operator mails to the Subscriber written notice of intent to disconnect for delinquency in payment;
- (c) The Subscriber's account is at least sixty (60) days delinquent at the time said notice is mailed, and
- (d) The disconnection occurs at least twelve (12) days, and not more than sixty (60) days, after the mailing of the above written notice.

15.8 Notice of Rates and Programming. All rates and charges associated with the provision of Cable Service and the lease of Channel space shall be published. A written schedule of all such rates currently in effect, including special and promotional rates, shall be available and obtainable in person or by mail upon request during business hours at each Cable Operator's business office.

- (a) At least once each calendar year, each Cable Operator shall provide to each Subscriber and the Town a complete schedule of all services, rates and charges for Cable Service provided by the Cable Operator and of the programming offered and channel alignment. Such information shall also be provided to all new or prospective Subscribers prior to installation or commencement of service.
- (b) Such information shall be written in plain English and shall include, but shall not be limited to, the following: all services, tiers and rates, deposits, if applicable, installation costs, additional television set installation charges, service upgrade or downgrade charges, stolen or lost converter charges, charges for lockout devices and for connecting video cassette recorders to the Cable System.

15.9 General Customer Service. Each Cable Operator shall comply with any and all customer service standards provided under Maine law, Federal law, FCC regulations, including those regulations found at 47 C.F.R. §76.309, and as promulgated by the cable industry, (such as NCTA standards), as well as with the provisions of the applicable Franchise Agreement. To the extent of any difference or conflict in the requirements of this Ordinance, the Franchise Agreement, State and federal law, FCC regulations and/or cable industry standards, the strictest of such standards shall govern.

## Section 16 Subscriber Complaints.

16.1 Complaint Policy. Each Cable Operator shall promulgate within one hundred twenty (120) days a written policy statement setting forth the procedure for reporting and resolving Subscriber complaints and shall furnish a copy thereof to each new Subscriber and to Grantor, and thereafter, annually, to Grantor and all Subscribers. Such notice shall comply in all respects with the Cable Act, FCC Regulations, Maine law and this Ordinance.

16.2 Cable Operator Response. Each Cable Operator shall receive Subscriber complaints at its business office serving Grantor and shall handle all such complaints promptly but in no event later than as set forth below.

- 16.3 Billing Complaints. In the case of a billing complaint, the Cable Operator shall respond to the complainant by no later than five (5) business days following receipt of the complaint.
- 16.4 Service Complaints. In the case of a service complaint not requesting repair or adjustment, the Cable Operator shall respond to complainant within five (5) business days following receipt of the complaint.

Section 17. Preferential or Discriminatory Practices Prohibited.

A Cable Operator shall not, as to rates, charges, service, service facilities, rules, regulations, or in any other respect, make or grant any undue preference or advantage to any person, nor subject any person to any prejudice or disadvantage.

Section 18. Reports and Records.

- 18.1 General Report Filing Requirements. The Town may require each Cable Operator to maintain and file such reports, contracts and statements which are reasonably necessary to monitor compliance with this Ordinance and the Franchise Agreement, including but not limited to ownership, accounting, auditing and operating statement, engineering reports, and other data, which the Town shall deem necessary or appropriate to administer the provisions of this Ordinance.

Records which shall be available for inspection and review by the Town shall include, but not be limited to:

- (a) All correspondence among the Cable Operator and any of his agents, and all regulators or other government agencies pertaining to the operation of the Cable System in the Town necessary to monitor compliance.
  - (b) All reports, applications, and other documents sent to, or required by, any government agency pertaining to the operation of the Cable System in the Town necessary to monitor compliance.
  - (c) All oral and written complaints received by the Cable Operator or its agents from the Subscribers in the Town for the preceding two (2) years of the term of the Franchise, and the disposition thereof.
  - (d) All financial records reasonably necessary to determine compliance with and carry out the provisions of this Ordinance and any Franchise Agreement necessary to monitor compliance.
- 18.2 Annual Report. Not later than April 1 of each year of the Franchise Agreement, each Cable Operator shall submit an annual report to the



Town for the prior calendar year, which report shall include at a minimum:

- (a) Total number of Subscribers in Wiscasset, including a breakdown of Subscribers taking basic Cable Service, Cable Programming Service and premium services as of December 31 of the prior calendar year.
- (b) The increase or decrease in the number of Subscribers over the prior calendar year for Wiscasset.
- (c) A specific description of any line extensions in Wiscasset in the prior calendar year.
- (d) Any price or programming changes in the prior year.
- (e) A description of any technological upgrades or enhancements in Cable Service over the past year.
- (f) A listing of any system outages in Wiscasset over the prior year in excess of one hour, including the affected locations, the date, time, duration, cause of the outage, and steps taken to address the outage.
- (g) A summary of customer complaint records for the prior year, including an identification of any significant customer service issues raised in Wiscasset in the prior year and any resolution or changes in service resulting.
- (h) A summary of the most recent FCC proof of performance tests and measurement records interpreted in laymen's language describing the Cable System's compliance or lack of compliance with the FCC Technical Standards set forth in 76 C.F.R. §76.601 et seq. as the same may be modified in the future, identifying any instances of non-compliance and describing all measures taken or under way to achieve compliance.
- (i) A list of any material violations by the Cable Operator of the technical rules of the FCC, including but not limited to violations of rules and regulations regarding signal quality and safety during the past 12 months, and describing all measures taken or underway to achieve compliance.
- (j) A copy of the Cable Operator's most recent S.E.C. Forms 10 K and 10Q.

After delivery of the Annual Report, each Cable Operator shall, at the request of the Town, attend a meeting with the Town to review and discuss any issues or questions raised in the grantor's review of the Annual Report.

Section 19. Rights Reserved to the Town.

- (a) Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, the right of the Town to acquire the property of the Cable Operator, either by purchase or through the exercise of the right of eminent domain and nothing herein contained shall be construed to contract away or to modify or abridge, whether for a term or in perpetuity, the Town's right of eminent domain.
- (b) Neither the awarding of a franchise nor any provision hereof shall constitute a waiver or bar to the exercise of any governmental right or power of the Town.
- (c) The Town Manager is hereby authorized and empowered to adjust, settle, or compromise any controversy or charge arising from the operations of a Cable Operator under this Ordinance, either on behalf of the Town, the Cable Operator, or any Subscriber, in the best interest of the public.
- (d) The Town shall have the right to inspect all construction of installation work for a Cable System and to make such inspections as it shall find necessary to insure compliance with the terms of this Ordinance, and Franchise awarded pursuant hereto, and any other pertinent provisions of the law.
- (e) Upon revocation or denial of a renewal under the formal process of the Cable Act of any Cable Franchise, the Town shall have the right to require the Cable Operator to remove at its own expense all portions of the Cable System from all Streets and Public Ways within the Town.
- (f) Nothing in this Ordinance or the Franchise shall encumber or prohibit the Town from the collection of property taxes, of whatsoever kind, allowed by state law.

Section 20. Right to Appeal Reserved to the Cable Operator.

Should the Cable Operator become dissatisfied with any major decision or ruling of any Town official, the Cable Operator may, by written request received by the Town within 30 days of the date of the decision or ruling, appeal the matter to the Town's Board of Selectmen. The Town's Board of Selectmen may accept, reject

or modify the decision appealed and may adjust, settle or compromise any controversy or cancel any charge arising from the operations of the Cable Operator or from any provision of this Ordinance or any Franchise Agreement entered into pursuant to this Ordinance. Any further appeal shall be taken to the Lincoln County Superior Court or the United States District Court for the District of Maine.

Section 21. Rules, Regulations and Procedures.

- (a) The Municipal Officers of the Town shall, either directly or through their designees conduct public hearings and issue such appropriate orders as it may deem necessary to enforce the provisions of this Ordinance and any Franchise Agreements, including the revocation of Franchise Agreements and the assessment of penalties for violations, as well as to correct any deficiencies in the operation of the system.
- (b) All such orders of the Municipal Officers shall not be in conflict with those that have been or may be adopted by the Federal Communications Commission for the operation of such Cable Systems, except that unless preempted, such ordinances, regulations, rules and orders may be more detailed, more strict or more restrictive than applicable FCC regulations.
- (c) As part of its enforcement authority, the Municipal Officers have the authority to bring legal action for damages, penalties and for injunctive relief. In the event that the Town brings legal action to enforce the provisions of this Ordinance or the Franchise Agreement, and the Town prevails in the action, the Town shall be entitled to recover its costs, including reasonable attorneys fees, incurred in the prosecution of any such action.

## EXHIBIT A

### INFORMATION TO BE PROVIDED WITH ANY FUTURE REQUESTS FOR APPROVALS OF SALES, TRANSFERS, CHANGES IN CONTROL

1. Identify any circumstances in the past ten years when Buyer/Transferee was unable to pay any of its debts when due including the date, creditor, matter at issue, amount and current status.
2. Provide evidence of Buyer/Transferee's authority to conduct business in Maine, including a copy of all filings made to obtain such authority.
3. Describe in detail the ownership and management structure of the Seller/Transferor Maine cable systems upon completion of the transaction with Buyer/Transferee. Provide an ownership flowchart that identifies the legal entities that will be in the chain of ownership of the Buyer/Transferee upon completion of the transaction, including the nature of each entity and who will own each such entity.
4. Identify all cable systems currently owned, managed or operated by Buyer/Transferee, including the locations and numbers of subscribers for each, and a list of the name and address of all municipal franchise authorities with a contact person with each franchise authority.
5. Describe in detail Buyer/Transferee's plans for any rebuilds or upgrades of the cable system serving Wiscasset after the closing, including (a) the specific time schedule for the rebuild or upgrade (b) the anticipated cost of the rebuild or upgrade, (c) a detailed description of the nature of the rebuild or upgrade, and (d) a detailed description of the architecture of the rebuilt system.
6. Provide a copy of the anticipated complete rate schedules and service offerings to be offered to subscribers in Wiscasset by Buyer/Transferee after the closing of the transaction.
7. Provide a copy of any Buyer/Transferee customer service standards, repair or maintenance policies, complaint resolution policies, or other similar customer policies or protocols that will be in Wiscasset after acquisition by Buyer/Transferee.
8. Describe in detail any and all planned management changes, operational changes, technical changes, changes to customer service functions (including changes in the telephone, MIS and billing systems), and changes in engineering and technical support, for the cable system serving Wiscasset.

9. Provide a copy of the latest SEC Forms 10-K and 10-Q of Seller/Transferor and Buyer/Transferee.

## GLOSSARY

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Throughout these Ordinances of the Town of Wiscasset:

The word "person" includes a firm, association, organization, partnership, trust, company, corporation, or any other legal entity, as well as an individual; the present tense includes the future tense; the singular includes the plural; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", "arranged to be used", and "occupied"; the word "building" includes the word "structure"; the word "dwelling" includes the word "residence"; and the word "lot" includes the words "plot" or "parcel". Terms not defined in the GLOSSARY shall have their customary dictionary meanings.

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**ACCESSORY STRUCTURE OR USE:** A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure. [6-88, 3-91]

**ACO:** Animal Control Officer appointed by the Selectmen and supervised by the Police Chief. The ACO shall be appointed by the Selectmen in accordance with 7 MRSA Section 3947 as may be amended from time to time. [3-97]

**ACTIVITY:** The specific use or uses to which a premises is put.

**ADJACENT GRADE:** The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**AGRICULTURE:** The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities. [3-91]

**AGGRIEVED PARTY:** An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.[3-91]

**ANIMAL AT LARGE:** Any animal off the premises of the owner and not under the control of any person by means of personal presence or physical restraint which will reasonably control the conduct of said animal. [3-97]

**ANIMAL SHELTER:** Any duly licensed facility for the care of animals where impounded animals are held pending legal disposition. [3-97]

**AREA OF A SHALLOW FLOODING:** A designated AO and AH zone on community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. [3-91]

**AREA OF SPECIAL FLOOD HAZARD:** The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Hazard Boundary Map cited in Article I of the Flood Plain Management Ordinance.

**AUTOMOBILE GRAVEYARD/JUNKYARD:** a field, yard or other area used to store 3 or more unserviceable, discarded, worn-out or junked motor vehicles or parts of such vehicles. [9-2000]

**AUTOMOBILE RECYCLING BUSINESS:** the business premises of a person who purchases or acquires salvage vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles. [9-2000]

**BASE FLOOD:** The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

**BASEMENT:** Any area of the building having its floor subgrade (below ground level) on all sides.

**BOAT:** Anything that floats capable of transporting a person on the water and of any size and shape and propelled by any means including drifting in the tide or wind. [3-86]

**BREAKAWAY WALL:** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. [3-91]

**BUFFER STRIP:** A visual and sound barrier consisting of evergreen trees and shrubs and may include a fence. This barrier is to divide different types of land use or different districts. [3-97, 3-98]

**BUILDING:** A structure having a roof supported by columns or walls used for the support, shelter housing or enclosure of persons, animals, goods or property of any kind. [3-70, 3-83]

**BUILDING INSPECTOR:** The legally designated building inspection authority of the Town of Wiscasset.

**BUSINESS DIRECTIONAL SIGN:** A sign which is located off the premises of the business and whose function is to direct the public to the specific location of the business.

**BYLAWS:** The phrase "Town Bylaws" is interpreted as "Town Ordinances".

**CAMPGROUND:** Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters. [3-91]

**CAMPGROUND OR RECREATIONAL VEHICLE PARK:** Any premises established for overnight use for the purpose of temporary camping, and for which a fee is charged.

**CERTIFICATE OF COMPLIANCE:** A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of the Flood Plain Management Ordinance.

**CHANNEL:** a clear area for navigation of a width and location to be determined by the Harbormaster.[3-94]

**CLUSTER HOUSING:** An alternative form of residential land development which permits single dwelling units in a subdivision to be grouped or clustered on smaller sites so that the residual land area shall be available for recreation and other outdoor living purposes.

**COASTAL WETLANDS:** All tidal and sub tidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. [12-89]

**CODE ENFORCEMENT OFFICER - CEO:** A person appointed by the Selectmen to administer and enforce the regulations of the Town of Wiscasset.[3-02]

**COMMERCIAL FISHING ACTIVITIES:** Activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing such as the manufacture or sale of ice, bait and nets and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats. [12-89]

**COMMERCIAL VESSEL:** any vessel from which the owner obtains a substantial portion of his income, or which is operated as part of a business enterprise whether owned or not owned by an individual. [3-94]

**COMPREHENSIVE PLAN:** Any part or element of the overall plan or policy for development of the town, as defined by 30-A MRSA Sec. 4301(3) and any amendments thereto.



**DANGEROUS DOG:** A dog which has bitten a person who was not a trespasser on the owner's premises at the time of the incident, or a dog which causes a reasonable person, acting in a peaceable manner outside the owner's premises, to be put in apprehension of imminent bodily harm. [3-97]

**DENSELY DEVELOPED AREA:** Any commercial, industrial or compact residential area of 10 or more acres with a density of at least one principal structure per 2 acres. [12-89]

**DEVELOPMENT:** Any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

**DIMENSIONAL REQUIREMENTS:** Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height. [3-91]

**DISPLAY ADVERTISING SIGN:** Any painted, printed or stenciled advertising device whether erected on a frame structure or mounted or painted on a building conveying a message promoting a business enterprise of any kind.

**DOMESTICATED ANIMAL:** A mammal accustomed to home life, or tamed for man's use, such as dogs, cats, ferrets, livestock, and wildlife hybrids. [3-97]

**DOWNTOWN BUSINESS DISTRICT:** That contiguous portion of the Business District commencing at the Wiscasset sewage disposal plant and abutting the Village Waterfront District. This constitutes that portion of the Business District which is defined in Article VI, Section EE.1.

**DRIVEWAY:** (This definition applies only in Shoreland Districts A, B, &C.) A vehicular access-way less than five hundred (500) feet in length serving two lots or less. [3- 91]

**DWELLING:** A structure, whether or not affixed to the earth, containing one or more dwelling units. [3-69, 3-83, 3-97]

**DWELLING UNIT:** Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, designed and equipped for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes but shall not include trailers or recreational vehicles. [3-69,3-83, 6-89]

**ELDERLY CONGREGATE HOUSING:** a building or group of buildings on a single lot which provides housing for elderly households with shared community space and supportive facilities. Supportive facilities may include but are not limited to shared dining facilities, administrative facilities, care facilities, common areas, recreational spaces, maintenance

facilities, and similar facilities necessary for the operation of the complex or the provision of services to the residents and may include residential accommodations for the staff that provides services or activities for the residents. An elderly congregate housing development shall include either or both dwelling units and residential care units. [3-01]

**ELDERLY HOUSEHOLD:** a household which includes at least one elderly person who is 55 years old or older, and no occupant less than 55 years of age unless such occupant is the spouse or companion of the elderly person. [3-01]

**ELEVATED BUILDING:** A non-basement building (1) built, in the case of a building in Zones A, AE, or X (see Flood Plain Management Ordinance) to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts"; and (2) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood. In the case of Zones A, AE, or X "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of flood waters. [3-91]

**ELEVATION CERTIFICATE:** An official form (FEMA Form 81-31, May 90 as amended) that (1) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and (2) is required for purchasing flood insurance. [3-91]

**ENGINEER:** Town Engineer or Professional Engineer licensed in the State of Maine.

**ENTERTAINMENT:** Any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by a full-time or part-time employee of the licensed premises whose incidental duties include activities with an entertainment value.

**ERECT:** Build, construct, assemble, affix, attach, create, paint or draw.

**ESSENTIAL SERVICES:** Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services. [3-91, 11-08]

**EXPANSION OF A STRUCTURE:** (This definition applies only in Shoreland Districts A, B, & C.) An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached decks, garages, porches and greenhouses. [3-91]

**EXPANSION OF USE:** The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use. [3-91]

**FEMA:** Federal Emergency Management Agency

**FLOOD, FLOODING:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in the preceding paragraph.[6-87]

**FLOOD ELEVATION STUDY:** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations. [3-91]

**FLOOD HAZARD BOUNDARY MAP (FHBM):** An official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community. [6-87, 3-91]

**FLOOD INSURANCE STUDY:** See "Flood Elevation Study". [3-91]

**FLOODPLAIN, FLOOD-PRONE AREA:** Any land area susceptible to being inundated by water from any source. (See FLOODING). [6-87]

**FLOODPLAIN MANAGEMENT:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations: [6-87]

**FLOODPLAIN MANAGEMENT REGULATIONS:** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction. [6-87]

**FLOOD PROOFING:** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. [6-87]

**FLOODWAY:** The channel of a river or other water course and the adjacent land areas that must be reserved to allow for the discharge of a 100-year flood without cumulatively increasing the water surface elevation of the 100-year flood by more than one foot. In

Zone A and AE (See Floodplain Management Ordinance) the channel of a river or other water course and the adjacent land area to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limits of the floodplain. [6-87, 12-89, 3-91]

**FLOODWAY ENCROACHMENT LINES:** The lines marking the limits of floodways on federal, state, and local floodplain maps. [6-87]

**FLOOR AREA:** (This definition applies only in Shoreland Districts A, B, & C.) The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks. [3-91]

**FORESTED WETLANDS:** Wetlands dominated by woody vegetation that is 6 meters (approximately 19.7 feet) tall or taller. [3-92]

**FOUNDATION:** The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls. [3-91]

**FREEBOARD:** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway condition: [6-87]

**FRESHWATER WETLAND:** Freshwater swamps, marshes, bogs and similar areas which are:

1. Of ten or more contiguous areas; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition. This definition of a wetland does not include a Forested Wetland. [3-91, 3-92]

**FUNCTIONALLY WATER DEPENDENT USE:** A use which cannot perform its intended purpose unless for floodplain management purposes it is located or carried out in close proximity to water. The term included only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [3-91]

**GARBAGE:** All food wastes.

**GRAVEL SURFACE:** The layer of gravel which lies above the sub-grade and forms the traveled way.

**GREAT POND:** Any inland body of water which in a natural state has a surface area in excess of 10 acres and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres except where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner. [12-89]

**GREAT POND CLASSIFIED GPA:** Any great pond classified GPA, pursuant to Title 38 Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds. [3-91]

**GROUND SIGN:** An outdoor sign which is directly and permanently supported and physically separated from any other structure.

**HARBOR:** In the Port and Harbor Ordinance harbor shall include all tidal waters unless the context indicates otherwise. [3-94]

**HAULER:** Any person who collects, transports, or disposes of garbage, rubbish or waste material for a fee.

**HEIGHT OF A HABIT ABLE STRUCTURE:** Habitable structures include, but are not limited to, such structures as home, offices, barns, warehouses and similar structures designed to accommodate people living or working in them. The height of a habitable structure is the vertical distance between the average finished grade of the ground at the exterior base of the structure and the highest part of the structure, excluding any portion of the structure, which is measured pursuant to the definition of "height of a non-habitable structure". [12-03]

**HEIGHT OF A STRUCTURE:** The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.[3-91]

**HEIGHT OF NON-HABIT ABLE STRUCTURE:** Non-habitable structures include, but are not limited to, such structures as chimneys, spires, towers, antennas and similar projects not designed for human occupancy, work, or storage of materials. The height of a non-habitable structure is the vertical distance between the average finished grade of the ground at the exterior base of the structure and the highest part of the structure. When a non-habitable structure is situated on a habitable structure, the base of the non-habitable structures shall be deemed to be the base of the habitable structure. [12-03]

**HIGH-WATER ELEVATION, NORMAL:** Along non-tidal waters, the elevation where vegetation changes from predominantly aquatic to predominantly terrestrial. Along tidal waters, the mean high-water elevation as established by U.S.C.G. Survey.

**HIGH-WATER LINE:** See Normal High Water Line.

**HIGH-WATER MARK:** See Normal High Water Line.

**HISTORIC STRUCTURE:** Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district. [3-91]

**HOTEL OR MOTEL:** Any business which rents more than seven rooms on the premises whether or not the owner of the hotel or motel is dwelling on the premises.

**IMPOUNDMENT:** To seize and hold in legal custody, such as impoundment of an animal. [3-97]

**INDUSTRIAL USE:** The use of land, buildings or structures for assembling, fabricating, finishing, manufacturing, packing, shipping or processing goods or products. [12-03]

**INDIVIDUAL PRIVATE CAMPSITE:** An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms. [3-91]

**LICENSEE:** The holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation or other legal entity, or any agent or employee of any such licensee and any person, individual, partnership, firm, association, corporation or other legal entity, or any agent of the same, who charges admission or fees to patrons or customers in or around the licensed premises.

**LICENSED PREMISES:** The building and/or land in or on which the licensee provides entertainment.

**LOCALLY ESTABLISHED DATUM:** An elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the

National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used. (See Floodplain Management Ordinance) [6-87]

**LOT:** These Ordinances rely in general on the definition of LOT found in 30-A MRSA 4401.

**LOT AREA:** (This definition applies only in Shoreland Districts A, B, & C.) The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots. [3-91]

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements in Article VI of the Floodplain Management Ordinance. [6-87]

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. [6-87]

**MANUFACTURED HOME PARK OR SUBDIVISION:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. [6-87]

**MARINAS:** A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities. [3-91]

**MARINE ACTIVITIES:** The construction, repair, storage, loading and unloading of boats, chandlery and other commercial activities designed and intended to facilitate maritime trade. [12-89]

**MARKET VALUE:** The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels. [3-91]

**MEAN SEA LEVEL:** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929. [6-87]

**MINERAL EXPLORATION:** (This definition applies only in Shoreland Districts A, B, & C.) Hand sampling, test boring, or other methods of determining the nature or extent of

mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition. [3-91]

**MINERAL EXTRACTION:** Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site. [3-91]

**MINOR STREET:** A street which is used primarily for access to the abutting properties (in a subdivision).

**MINOR SUBDIVISION:** A subdivision of not more than 4 dwelling units each on its own lot. If subsequent minor subdivisions are situated relative to other(s) so that in combination they equal a regular subdivision in terms of dwelling units or lots within an area, then the requirements for a regular subdivision apply to the subsequent one(s). [6-89]

**MOBILE HOME:** A structure designed as a dwelling unit for location on a permanent foundation, and containing sleeping accommodations, a toilet, a tub or shower bath and kitchen facilities, including major appliances and furniture, with plumbing and electrical connections provided for attachment to outside systems; and designed to be transported after fabrication on its own wheels. A mobile home shall contain not less than 450 square feet of gross floor area. [3-69, 3-83] (See Title 30-A MRSA Section 4358).

**MOBILE HOME PARK:** A plot of land laid out to accommodate at least three mobile homes. (See Title 30-A MRSA Section 4358).

**MOBILE SIGN:** A sign mounted on a movable chassis with or without wheels. [3-93]

**MOORING:** Any equipment used by a craft for anchoring purposes and which equipment is not carried aboard such craft when underway. [3-94]

**MRSA:** Maine Revised Statutes, as Amended

**NEW STRUCTURE OR STRUCTURES:** Any structure for which construction begins on or after September 23, 1988, or in the floodplain area on or after June 29, 1987 structures for which the start of construction commenced on or after the effective date of floodplain management regulations adopted by the community. The area included in the expansion of an existing structure is deemed to be a new structure. [3-91]

**NON-CONFORMING LOT:** A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located. [3-91]

**NON-CONFORMING STRUCTURE:** (This definition applies only in Shoreland Districts A, B, & C.) A structure which does not meet any one or more of the



following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect. [3-91]

**NON-CONFORMING USE:** (This definition applies only in Shoreland Districts A, B, & C.) Use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect. [3-91]

**NORMAL HIGH WATER LINE:** That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high water line is the upland edge of the wetland, and not the edge of the open water. [12-89, 3-91]

**NORMAL HIGH WATER OF COASTAL WATERS:** That line on the shore of tidal waters reached by the shoreward limit of the rise of the medium tides between the spring and the neap. [6-88]

**ONE HUNDRED YEAR FLOOD:** See BASE FLOOD. [6-87]

**OPEN SPACE USE:** A use not involving: a structure; earth moving activity; or the removal or destruction of vegetative cover, spawning grounds of fish, aquatic life, bird and other wildlife habitat.

**OUTDOOR SIGN:** Any letter, symbol, number or combination of these which is visible from the traveled portion of the public way. A double faced sign shall be considered a single sign. [6-85]

**OUTSTANDING RIVER SEGMENT:** The Sheepscot River from the railroad bridge in Wiscasset northerly to the town line. [12-89]

**OWNER:** Any person or persons, firm, association or corporation owning, keeping or harboring a dog. (See Article IX, Dogs in Heat).

**PARKING SPACE:** A minimum area of two hundred (200) square feet exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles.

**PERSON:** An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity. [3-91]

**PERSON:** (Article V, Public Dumps only) Any individual, corporation, partnership, association, municipality, state agency or any other group or legal entity.

**PIERS:** Docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland:

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months. [3-91]

**POND:** Any inland body of water which has a surface area at normal high water of 10 acres.

**PREMISES:** One or more parcels of land which are in the same ownership or are contiguous or separated only by a road or water body, including all buildings, structures and improvements.

**PRINCIPAL USE:** A use other than one which is wholly incidental or accessory to another use on the same premises. [3-91]

**PRINCIPAL STRUCTURE:** A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises. [6-88, 12-89, 3-91]

**PRIVATE CONSULTING FORESTER:** Someone who holds a degree in Forestry from an accredited School of Forestry.

**PROFESSIONAL BUILDING:** A building maintained by an individual or firm for the practice of a profession such as physician, dentist, lawyer, engineer, architect, teacher, accountant, realtor, insurance broker and other professional occupations.

**PROJECTING SIGN:** An outdoor sign which is attached to a wall and extends more than 18 inches at a 90 degree angle from the wall and clears the ground or sidewalk by at least eight feet.

**PUBLIC SEWER:** Either a sanitary sewer or a storm sewer system. [3-98]

**PUBLIC WAY:** Any way designed for vehicular use and maintained with public funds.

**QUARANTINE NOTICE:** A legal order issued by the Police Department requiring the owner of an animal to comply with certain confinement, isolation, and observation procedures, or risk seizure of the animal. [3-97]

**RECENT FLOOD PLAIN SOILS:** The following soil series as described and identified by the National Cooperative Soil Survey. [3-91]

**RECREATIONAL VEHICLE:** A vehicle or attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which

may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles. [3-83, 3-91]

**REGULATORY FLOODWAY:** See FLOODWAY.

**RESIDENTIAL CARE UNITS:** rooms in Elderly Congregate Housing designed with sleeping and sanitary facilities, but which do not include kitchen facilities. [3-01]

**RESIDENTIAL DWELLING UNIT:** A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles. [3-91]

**RESIDENTIAL STRUCTURE:** (See Dwelling Unit)

**RESUBDIVISION:** The division of an existing subdivision or any change of lot size therein or the relocation of any street or lot in a subdivision.

**RIPRAP:** Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less. [3-91]

**RIVER:** A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth. [12-89,3-91]

**RIVERINE:** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc. [6-87]

**ROAD:** A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles. [3-91]

**ROOF SIGN:** An outdoor sign which is displayed above the eaves of a building.

**RUBBISH:** All non-food wastes.

**SANITARY SEWER:** A sewer intended to only carry wastewater from homes, businesses and industries. [3-98]

**SETBACK:** The nearest horizontal distance from the normal high-waterline to the nearest part of a structure, road, parking space or other regulated object or area. [3-91]

**SHARED COMMUNITY SPACE:** Space designed to be used in common for the enjoyment and leisure of residents of Elderly Congregate Housing. [3-01]

**SHARED DINING FACILITIES:** a room or rooms designed for the serving of meals to residents sitting together, plus the kitchen and ancillary facilities required for meal preparation in conjunction with Elderly Congregate Housing. [3-01]

**SHORE FRONTAGE:** The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation. [3-91]

**SHORELAND AREA:** Land within 250 feet, horizontal distance, of the normal high-water mark of any pond, river or salt-water body.

**SHORELAND ZONE:** The land area located within two hundred and fifty(250) feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream.[3-91]

**SIGN:** A name, identification, description, display or illustration which is affixed to, or painted or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, place, activity, person, institution, organization, or business. An outdoor sign. Markings on commercial vending machines shall not be deemed signs under this ordinance. [3-93]

**SIGN AREA:** The area of the smallest square, rectangle, triangle, circle or combination thereof which encompasses the lettering, numbering, picture, insignia, background, or border. The structural supports of a sign are to be excluded in determining the signable area. [3-93]

**SOLID WASTE FACILITY:** Area of town owned land used for the collection and disposal of town resident solid waste. This can mean any facility authorized and approved by State laws for solid waste.

**START OF CONSTRUCTION:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. [6-87]

**STORM SEWER:** A sewer separate from the sanitary sewer that carries unpolluted drainage from storms, surface drains, cellar drains, foundation drains, industrial cooling water, roof leaders, sump pumps and street wash; but does not include any sanitary waste. [3-98]

**STREAM:** A free-flowing body of water from the outlet of a great pond or the point of confluence of 2 perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or joins another water body or wetland within a shoreland zone. [12-89, 3-92]

**STREET:** A way for vehicular traffic, however designated, serving more than one residential unit or more than one lot.

**STRUCTURE:** A combination of materials forming a construction, such as buildings, platforms, radio and television and wireless facility towers, water tanks and towers, trestles, bridges, piers, sheds, storage bins, walls, and display signs. Structure does not include fences or retaining walls. The word “structure” shall be construed as if followed by the words “or parts thereof”. For floodplain management purposes, a walled and roofed building; a gas or liquid storage tank that is principally above ground is also a structure. [6-87, 6-88, 3-97, 3-02]

**SUBDIVISION:** A subdivision shall mean the division of a tract or parcel of land as defined in Title 30-A, MRSA, Section 4401(4) and amendments thereto. The term subdivision shall also include campgrounds and mobile home parks, cluster housing, shopping centers, industrial development, and motels, and apartment, condominium, or cooperative housing units, whether for sale or lease with three or more units; and shall also include the division of a new or existing structure into 3 or more dwelling or commercial units or the construction of 3 or more dwelling or commercial units on a single parcel within any 5-year period. [6-89, 12-89]

**SUBDIVISION PLANS - FINAL:** The final plan presented in proper form for signature by the Planning Board and for recording in the Lincoln County Registry of Deeds, as described in Section 3 (of Article VII, Subdivision Regulations).

**SUBDIVISION PLANS - PRELIMINARY:** Three copies of the preliminary drawings to be submitted with the application, indicating the proposed layout of the subdivision, topographical features, and soil test results for each lot, as described in Section 4.

**SUB-GRADE:** The shaped and compacted foundation of a road lying beneath the traveled way.

**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. [3-91]

**SUBSTANTIAL IMPROVEMENT:** Any reconstruction, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure

before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term, does not however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure." [3-91, 6-91]

**SUBSTANTIAL START:** Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.[3-91]

**SUBSURFACE SEWAGE DISPOSAL SYSTEM:** A collection of treatment tank(s),disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspools(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1. [3-91]

**SUSTAINED SLOPE:** A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area. [3-91]

**TAXICAB:** Any motor vehicle used or to be used for the conveyance of persons for hire from place to place within Wiscasset, or from anyplace in Wiscasset to and across the town line of any adjoining town, except a motor vehicle subject to regulation by the Maine Public Utilities Commission, and motor vehicles collecting fares by tickets or coupons sold for interstate transportation.

**TEMPORARY OR SEASONAL BUSINESSES:** Those for profit and not for profit activities in Wiscasset which operate and set up less than six months out of the year. [3-95]

**TIMBER HARVESTING:** The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction. [3-91]

**TRACT OR PARCEL OF LAND:** All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel unless the road was established by the owner of land on both sides of the road. [12-89]

**TRIBUTARY STREAM:** A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. [3-91]

**UNDOMESTICATED ANIMAL:** A mammal considered to be wild by the Department of Inland Fisheries and Wildlife. [3-97]

**UNDUE HARDSHIP** is defined (in Article I, Section 5.3.2.c.) by the following criteria:

- \* That the land in question cannot yield a reasonable return unless a variance is granted; and,
- \* That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
- \* That the granting of a variance will not alter the essential character of the locality; and
- \* That the hardship is not the result of action taken by the applicant or a prior owner.

**UNDUE WATER POLLUTION** is defined by the State of Maine Primary Drinking Water Standards in groundwater and surface water at any existing or planned well sites within the subdivision; or at waterbodies and wetlands wholly, or partially within the subdivision as defined appropriately in the Subsurface Wastewater Disposal Rules (Chapter 241, State Plumbing Code), in the State Protection of Natural Resources Act (Section 480-B), and in the permit requirements of the Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act; or at any point on the boundary of the subdivision. Whether or not pollution will occur shall be determined by hydrogeologic studies utilizing site-specific hydrogeologic, soils, and test data including background nitrate-nitrogen levels, and performed by professionals certified by the State to make such studies; [3-89]

**UPLAND EDGE:** The boundary between upland and wetland. [3-91]

**URBAN AREA:** The Compact Area indicated on the compact area map of Wiscasset published by the Maine Department of Transportation and dated 1976, a copy of which is made a part of this ordinance. [6-83]

**VARIANCE:** A grant of relief by a community from the terms of a floodplain management regulation. [6-87]

**VEGETATION:** All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 above ground level. [3-91]

**VIOLATION:** The failure of a structure or other development to fully comply with a community's floodplain management regulations or ordinance. [6-87]

**VISIBLE:** Capable of being seen without visual aid by a person of normal visual acuity.

**VOLUME OF A STRUCTURE:** (This definition applies only in Shoreland Districts A, B, & C.). The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof. [3-91]

**WALL SIGN:** an outdoor sign which is attached flat to, painted on or pinned away from the wall and does not project more than 18 inches from the wall.

**WALL SIGN AREA:** the area of the facade of a building up to the roof line, excluding windows, doors, and major architectural features.

**WASTE MATERIALS:** Garbage and rubbish.

**WATER BODY:** any great pond, river, stream or tidal area. [3-91]

**WATERCRAFT:** any type of vessel, boat, barge, float or craft used or capable of being used as a means of transportation other than a seaplane. [3-94]

**WATER CROSSING:** Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. [3-91]

**WETLAND:** A freshwater or coastal wetland. [3-91]

**WETLANDS ASSOCIATED WITH GREAT PONDS AND RIVERS:** Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river. [3-91]



## Index to Town of Wiscasset Ordinances

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All references are to Article, Section, and indicated subsection(s) of the Town of Wiscasset Ordinances. A reference includes all subsections of the specified reference. For example, the reference "Bicycles, IX.3.28" indicates that information about Bicycles is found in Article IX, Section 3.28 and all its subsections (3.28.1, 3.28.2, and 3.28.3). Similarly, the reference "Preliminary Plan - requirements(Subdivision), VII.2.2.3" refers to all the subsections (a) - (k) of Section 2.2.3 of Article VII.

For Definitions of Terms not listed in the Index, also see the Glossary.

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