Town of Lincoln Code

ESTABLISHED 1829

LINCOLN

MAINE

Adopted August 12, 2019

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ADOPTING ORDINANCE

An Ordinance to Revise and Codify the Ordinances of the Town of Lincoln.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LINCOLN THAT:

01 Town of Lincoln Code

This ordinance, consisting of Chapter 01 through Chapter 2012, both inclusive (except there from all notes and references) is hereby adopted and enacted as the "Town of Lincoln Code," and shall be treated and considered as a new and comprehensive ordinance which shall supersede all other ordinances passed by any duly constituted legislative authority of the Town of Lincoln prior to the effective date of this ordinance, except such as by reference thereto are expressly saved from repeal or continued in force and effect for any purpose.

02 Repeal

All provisions of such Code shall be in full force and effect as provided in Chapter 01 hereof and all ordinances of the Town of Lincoln not included in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided. No resolution of the Town of Lincoln, not inconsistent with any of the provisions of such Code or not specifically mentioned, is hereby repealed.

03 Matters Not Repealed

The repeal provided for in Chapter 01 hereof shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money by the Town; or authorizing the issuance of any bonds of the Town or any evidence of the Town's indebtedness; or any contract or obligation assumed by the Town; nor shall such repeal affect the administrative ordinances or resolutions of the Town Council or any prior duly constituted legislative authority, not in conflict or inconsistent with the provisions of such Code; nor shall such repeal affect any right of franchise granted by any ordinance or resolution of any preceding governing body to any person, firm or corporation; nor shall such repeal affect any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, or vacating any street or public way in the Town of Lincoln; nor shall such repeal affect ordinances prescribing traffic regulations for specific locations, prescribing through streets, parking prohibitions, parking limitations, one-way traffic, limitations on load of vehicles or loading zones, not inconsistent with such Code;

nor shall such Code affect any amendment to the zoning map on file in the office of the Town clerk; nor shall such repeal affect any ordinance establishing and prescribing the street grades of any street in the Town; nor shall such repeal affect any ordinance providing for local improvements and assessing taxes therefor; nor shall such repeal affect any ordinance dedicating or accepting any plat or subdivision in the Town; nor shall such repeal affect any ordinance authorizing any encroachment on any Town or public property; nor shall such repeal affect any ordinance or Code or parts thereof adopted by reference by any section of this Code and not included herein; nor shall such repeal be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

04 Amendments

Any and all additions and amendments to such Code, when passed in such form as to indicate the intention of the Town Council to make the same a part hereof, shall be deemed to be incorporated in such Code so that reference to the Town of Lincoln Code shall be understood and intended to include such additions and amendments.

05 Public Information

A copy of such Code, kept up to date by the Town clerk, shall be kept on file in the office of the Town clerk open to the public inspection during all business hours.

06 Separability

This Code and every provision thereof shall be considered separable; and the invalidity of any section, provision or part or portion of any section, clause or provision of this Code or any ordinance adopted and made a part hereof shall not affect the validity of any other portion of this Code or any such ordinance.

100. LINCOLN CODE ADMINISTRATIVE POLICY

Be it ordained by the Town Council of the Town of Lincoln, Maine in Town Council assembled as follows:

100.1 Title and Scope of Ordinance

This compilation shall be known as the Town of Lincoln Code and shall completely supersede all other ordinances passed by the Town of Lincoln, Maine.

100.2 Official Copies to be kept by the Town Clerk

The Town Clerk shall keep two copies of this code in a book or binder in loose leaf form, or in such other as he may consider expedient, so that all amendments thereto and all ordinances hereafter passed may be inserted in their appropriate place and all deletions may be extracted therefrom for the purpose of maintaining said two copies in such condition that they will show all effective ordinances at

any time in such manner that ready reference may be had thereto. The Town Clerk shall deliver one copy to each member of the Town Council, the Town Manager and one copy to each department head of the Town. The Town Clerk shall sell copies of said code at such a price as the Town Council may fix; however, the Town Council may direct such other distribution fees of said code as it sees fit.

100.3 Penalties: General

When no punishment is provided by an ordinance, a person convicted of an offense under any ordinance shall be fined not more than one hundred dollars ($100.00) for each offense. Whenever in this code a minimum but no maximum fine or penalty is imposed, the court may, in its discretion, fine the offender any sum of money exceeding the minimum fine or penalty so fixed, but not exceeding the sum of one hundred dollars ($100.00) .

100.4 Construction

All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the Town Council may be fully carried.

100.9 Effective Date

The Town of Lincoln Code shall take effect and be in force thirty (30) days from and after its passage.

101. CHARTER AND SEAL

1. An act to incorporate the Town of Lincoln. Enacted by the Senate and House of Representatives in the Legislature assembled in the year of our Lord one thousand eight hundred and twenty-nine (1829).
2. An act to provide a Town Manager form of Government for the Town of Lincoln. Chapter 62 of the Private and Special Laws of the State of Maine as passed by the eighty-ninth Legislature, 1939.
3. An act to grant a Council Manager charter to the Town of Lincoln, enacted by the Senate and House of Representatives in legislature assembled (H.P. 572 –L.D. 759) in the year of our Lord nineteen hundred sixty-nine (1969).
4. The design hereby annexed shall be the device of the Town Seal, and the inscription shall be as follows:

102. BOUNDARIES – JANUARY 29, 1929

That the river townships numbered two (2) and three (3) and the half township formerly granted to Joseph E. Foxcroft in the County of Penobscot, north of the Bingham purchase bounded northwest only by the Penobscot river northeasterly

by River township number four (4) belonging to the fourth range, east by township number four (4) in the second range of townships north of the Bingham purchase, south by half township number one (1) and township number two (2) in the first range of townships north of Bingham purchase, southwest by river township number one (1) belonging to the first range of townships north of Bingham purchase.

103. ADMINISTRATIVE MANUAL

The Manager is hereby authorized to issue such administrative regulations, consistent with the Town Charter and Town Ordinances, as he deems necessary to provide for the adequate functioning of all departments.

All regulations so issued shall comprise the administrative manual, which shall be distributed to all members of the Town Council, all Department Heads, and to such others as the Manager may determine to be necessary or desirable, and shall be available in the office of the Town Clerk for public inspection.

104. BONDS

Every Town officer and employee who collects, has custody of, or disburses any public moneys must, prior thereto, at the expense of the Town, furnish to the Town and maintain in full force and effect a corporate surety bond in such amount as the Town Council may determine. Until and unless bonded as required herein, no officer or employee of the Town shall handle any public moneys at any time, except employees of bonded officers doing so under their specific direction and responsibility.

105. COMPENSATION

a. The Town Council by order shall fix the salaries of officials elected or appointed by the Town Council, including the salary of the Town Manager for his services as such and for all other services rendered by him. Unless otherwise provided, all members of Boards and Commissions shall serve as members thereof without compensation.

b. Compensation for the Lincoln Town Council shall be fixed at six hundred dollars ($600.00) per annum for members and eight hundred dollars ($800.00) per annum for the Council Chairman.

106. FUNDS

Every Town official shall keep an accurate account of all moneys which may by virtue of his/her office come into his/her hands from whatever source, stating

from whom received, and on what account the same was paid; he/she shall pay such moneys to the Town at such periods as the Town Treasurer may require.

107. HEADINGS

No provisions of any ordinance shall be held invalid by reason of deficiency in any chapter, article, or section heading. It being expressly provided that such headings are not a part of any ordinance.

108. NOTICE

Notice regarding dangerous structures, abating nuisances, removing signs or signposts or any other act, the expense of which, if performed by the Town, may be collected from the property owner in an action at law, shall be served:

108.1 By delivering the notice to the owner personally or by leaving the same on signposts, or any other act, the expense of which, if performed by the Town, may be collected from the property owner in an action at law, and shall be served:

108.1.1 By mailing the notice by registered mail to such owner at his/her last known address; and

108.1.2 If the owner is unknown, by posting the notice in some conspicuous place on the premises five (5) days prior to the date set for compliance.

No person shall interfere with, obstruct, mutilate, conceal or tear down an official notice or placard posted by any Town officer unless permission is given by authorized Town officials to remove said notice.

109. OATH OF OFFICE

Every Town Officer shall be duly sworn to the faithful performance of the duties of his/her office, as provided by Section 901, Article IX of the Town Charter.

110. PENALTY – FURTHER VIOLATION

The imposition of a penalty for violation of any ordinance shall not excuse the violation, or permit it to continue; such violation shall be remedied within a reasonable time, but not in excess of thirty (30) days, and each ten (10) days that the violation is permitted to exist beyond the established period shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions. The imposition of penalties for

violation of any ordinance shall not preclude the Town Attorneys from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, removal, maintenance, or use, or to restrain, correct or abate a violation or to prevent the occupancy of a building, structure or premises, or to prevent an illegal act, conduct or business or use.

111. PROPERTY

Each official who has property responsibility shall forthwith make up a list of all such property and deposit said list over his/her signature with the Treasurer. Each Official shall at the time of making his/her annual report, include therein a complete list of property for which he/she is responsible. When any official terminates his duties, he shall check his/her property list with his successor in office or with the Town Manger if the latter so elects, and obtain a release from property liability prior to receiving his/her final salary payment due. Each official shall promptly reimburse the Town for the fair and reasonable value of any property for which he/she is unable to account if such loss is due to his carelessness or negligence.

The Town Council hereby establishes the general policy that Town property supplies or equipment may be loaned or rented to private individuals, establishments, or towns when in the opinion of the Town Manager the situation and circumstances so warrant.

112. PUBLICITY OF RECORDS

All records and accounts of every office, department, and agency of the Town shall be open to inspection by any citizen at all reasonable times and under reasonable regulations established by the Town Manager, except records as required by State Law to be kept confidential.

113. RECORD PRESERVATION

Each Department Head shall be responsible for the preservation of all public records under his/her jurisdiction and shall provide a system of filing and indexing the same. No public records, reports, correspondence, or other data relative to the business of any Department, shall be destroyed or removed permanently from the file without the knowledge and approval of the Manager. Each Department Head shall retain a copy of all communications issued by the Department Head or his/her Department.

114. REPORTS

All Department, Agency, and Office Heads shall make an annual report to the Town Manager and such other reports as may be required by the Town Council or Town Manager.

115. RESPONSIBILITY

The prohibition of any act by any ordinance of the Town, or in any amendment thereof, shall include the causing, securing, aiding, or abetting of another person to do said act.

116. RULES OF CONSTRUCTION

The following rules shall be observed in the construction of ordinances, unless such construction is inconsistent with the plain meaning of the ordinance:

116.1 Words and phrases shall be construed according to the common meaning of the language. The words "and" and "or" are convertible as the sense of any ordinance may require.

116.2 Words of the singular number may include the plural; and the words of the plural number may include the singular. Words of the masculine gender may include the feminine.

116.3 The words "street" and "streets" shall be understood as including highways, ways, avenues, courts, lanes, alleys, parks, squares, places, sidewalks, crosswalks, and bridges.

116.4 The word "inhabitant" means a person having established residence in the town.

116.5 The word "oath" includes an affirmative, when affirmation is allowed. Affirmation is allowed when a person required to be sworn is conscientiously scrupulous of taking an oath.

116.6 The word "person" as used in any ordinance, and in any amendment hereafter enacted, shall include: any individual, firm, co-partnership, corporation, company, association, club, joint venture, estate, trust, or any group or combination acting as a unit and the individuals constituting such group or unit unless the intention to give a more limited meaning is disclosed by the context.

116.7 By the words "preceding" or "following" used with reference to a section, is meant the section next preceding or following that in which it is used when not otherwise expressed.

116.8 The term "Municipal Officers" means the members of the Town Council. The Town Manager will be included only when so authorized by State or Federal Law.

116.9 The word "Town" shall be construed as if the words "of Lincoln" followed it.

117. SEPERABILITY

If any portion of any ordinance shall be held to be invalid, the intent of the Town Council is that such decision does not affect the validity of the remaining portion thereof.

118. STATE LAW

The laws of the State of Maine which are not inconsistent with the Town Charter are hereby incorporated by reference. No person shall violate any law of the State of Maine; and no enumeration of particular State laws in ordinance of the Town shall be held to be exclusive.

119. STREET NAMES

119.1 Street Names

The Town Council alone shall have the power and authority to name all accepted Town and private ways. The several streets of the Town shall continue to be called and known by the names previously given to them by official action of the various municipal officers of the Town, until the same shall be changed by the Town Council by ordinance.

119.2 Records

The Addressing Agent shall be appointed annually by the Town Manager and confirmed by the Town Council, and will be responsible for assigning numbers to all properties, both on existing and proposed roads, whether public or private, in accordance with the criteria in Section 119.3. The Tax Assessor shall be responsible for maintaining the following official records of this ordinance:

a. Lincoln maps for official use showing road names and numbers.
b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing assigned numbers.
c. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

119.3 Numbering

Numbers shall be assigned in fifty (50) foot increments along both sides of the road, with even numbers on the left side of the road and odd numbers appearing

on the right side of the road, determined by the number origin. Numbering will be at twenty-five (25) foot increments on Main Street from the traffic light at the intersection of West Broadway and the Enfield Road to the monument at the intersection of Main Street and the Lee Road. In densely built areas, the frontage interval may be reduced to conform to existing structures.

The following criteria shall govern the numbering system:

a. All number origins shall begin from the intersection of Main Street with West Broadway and the Enfield Road.
b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door. If the front door cannot be seen from the main road, the number shall be that of the interval falling closest to the driveway of said structure.
c. It is recommended that numbers shall be displayed in numerals (not spelled out), shall be four (4) inches high, and of a color that contrasts sharply with the background.
d. Every structure with more than one principal use or occupancy shall have one number assigned to the building, and each separate occupancy shall be whole numbers indicating use as apartment or suite. Example: 20 Main Street Apt 1.

120. SUITS

Every Town Officer having knowledge of any fact concerning any claim or suit for or against the Town shall report such fact forthwith to the Town Attorney and Town Manager. It shall be the duty of every employee of the Town to report at once to the Police Chief or Public Safety Director, facts which may come to his notice concerning any accident for which the Town may be liable; and the Heads of the several Departments, agencies and offices of the Town shall instruct all of their employees to report such facts and information as aforesaid. No Member of the Town Council shall act as attorney, agent, or representative of any person or corporation in making, prosecuting, or presenting before the Town Council or any Town Department, office or agency any claim or demand against the Town.

121. TERM OF OFFICE

All officers and employees of the Town shall serve at the pleasure of the appointive power in each instance, and may be removed at any time by the appointive power whose decision shall be final; subject, however, to appeal as provided by this Municipal Code, Town Charter or State Statute.

122. VACANCIES ON APPOINTIVE BOARDS

Any vacancy during the unexpired term of any member appointed to any Board or Commission by the Town Council shall be filled by the Town Council for the remainder of the term.

123. RULES OF PROCEDURE

The Town Council at its first regular meeting after the annual election shall enact its rules and order of business as provided under Section 212 of the Town Charter.

200. DEPARTMENTS

200.1 DEFINITION OF "DEPARTMENT"

When used in any ordinance, the word "Department" shall be construed to mean department, agency or office of the Town, unless the context plainly requires otherwise.

200.2 DIVISION OF ADMINISTRATIVE SERVICE

The administrative service of the Town shall be divided, under the Town Manager, into the following Departments:

Department	Head
Assessing Department	Tax Assessor
Finance Department	Treasurer
Records Department	Town Clerk
Police Department	Police Chief
Fire Department	Fire Chief
Code Enforcement Department	Code Enforcement Officer
Health Department	Health Officer
Public Welfare Department	Public Welfare Agent
Public Works Department	Director of Public Works
Public Library	Library Director
Transfer Station	Transfer Station Director
Cemetery Parks & Recreation Department	Cemetery Parks & Recreation Director

203. DEPARTMENTS

203.1 DEPARTMENT HEADS

The Heads of the Departments shall:

203.1.1 Perform Duties

Perform all duties required by his office by Charter, by ordinance, by other laws, and he shall perform such duties not in conflict therewith as may be assigned by the Town Manager.

203.1.2 Responsibility to the Town Manager

Be immediately responsible to the Town Manager for effective administration of their Departments.

203.1.3 Inaugurate Sound Practices

Keep informed as to the latest practices in their particular field and shall inaugurate, with the approval of the Town Manager, such new practices as appear to the benefit to the service and to the public.

203.1.4 Reports

Submit reports of the activities of their Departments as requested by the Town Manager and the Town Council.

203.1.5 Maintain Records

Establish and maintain a system of records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the reports required by the Town Manager.

203.1.6 Delegation of Duties

Have power to delegate to members of the Departments or divisions coming under their direction such duties and responsibilities as deemed advisable, together with proportionate authority for their fulfillment, but in no case may they delegate their over-all responsibility or any of their accountability.

203.1.7 Authority Over Employees

Have authority to appoint and remove, subject to the personnel regulations and the authority of the Town Manager, all subordinates under them.

203.1.8 Maintain Equipment

Be responsible for the proper custody and maintenance of all town property and equipment used in their Departments.

203.1.9 Appointment

Serve for indefinite terms at the pleasure of the Town Manager, unless otherwise directed by state statutes or the Town Charter, except Council Appointments.

304. COMMUNITY DEVELOPMENT PROGRAM

There shall be a Community Development Program, the head of which shall be the Town Manager.

304.1 Duties of the Community Development Director

304.1.1 Be responsible for all matters in the administration of the Community Development Program. The Town Manager may assign these duties to one or more employees.

304.1.2 Be responsible for administration of Federal and State Grants received by the Town of Lincoln for improving housing, economic development, downtown revitalization, energy programs, and other Community Development concerns.

304.1.3 Be responsible for professional planning assistance to the Town of Lincoln Planning Board.

304.1.4 Be responsible for resource development, and grants preparation.

304.1.5 Be responsible for meeting Federal and State assurances for receiving grants.

304.1.6 Be responsible for assisting the Finance Department in meeting Federal and State Financial management requirements.

400. BOARDS AND COMMITTEES

400.2 PLANNING BOARD

400.2.1 Establishment of Board
There shall be a Planning Board as authorized by and in accordance with the terms of the Revised Statutes of Maine.

400.2.2 Duties of the Planning Board
The Planning Board shall prepare and update a comprehensive plan for future growth of the Town. The Planning Board shall also be responsible for constant supervision of the zoning and subdivision ordinances and for recommending to the Town Council changes in each. Periodically, the Planning Board may also recommend items to be presented in the Capital Improvement budget for consideration.

1000. RECORDS DEPARTMENT

There shall be a Department of Records, the Head of which shall be the Town Clerk/Office Manager, who shall appoint a Deputy Town Clerk to act as his/her agent and as many Assistant Clerks as approved by the Town Manager.

1000.1 Duties of the Town Clerk:

Serve as Clerk of the Council and perform such other duties for the Council as it may require. The Clerk shall authenticate by his/her signature and be responsible

for the filing, indexing, and safekeeping of all proceedings, resolutions, proclamations and decrees of the Council which shall be open to public inspection.

Make all arrangements for elections; specifically, keep and maintain all election records and have custody of all property used in connection with elections.

Issue to every person appointed to any office by the Town Council, or by the Town Manager, a certificate of such appointment.

Publish all legal notices (and public policy as directed by the Town Council), unless otherwise provided.

File and preserve all contracts, resolutions, (annual reports/budgets) surety bonds, oaths of office, committee minutes and other Town documents not required to be filed elsewhere.

Issue all licenses and permits and collect the fees required, as provided by State Law or Town Ordinances.

Notify the Police Chief or Public Safety Director, on or within one week after the expiration date of each license or permit, when a new license or permit to take effect on such expiration date has not been applied for, except when the Town Clerk knows that no new license or permit is required.

Obtain and maintain all statistics relating to births, marriages and deaths, as required by law.

Be custodian of the official Town Seal; specifically, while attesting copies of a document as "true copies" the Clerk shall type on the document, or attach to the document, a written statement of attestation with the Town Seal. The wording of that statement will vary depending on the document and shall read:

"Attest. A true copy of an ordinance entitled (name of ordinance), as certified to me by the municipal officers of the Town of Lincoln, Maine, and adopted on the _____ day of _____,20 _____."

Date: _____ Signature: _____
Town Clerk

Perform all duties and exercise all powers incumbent upon or vested in Town Clerks generally, which are not inconsistent with the Town Charter.

Maintain in his/her office a public information service (and act as public access officer if designated by the Town Manager pursuant to the Freedom of Access Act, 1 M.R.S. § 413,) to furnish information concerning Town government relative to the public service (and transparency). All requests for information shall be compiled promptly and courteously, provided the required information is available in the office of the Town Clerk; otherwise the Town Clerk shall either,

as the applicant for information may prefer, refer the individual applicant to the proper department or request the proper agency of the Town for such information as is required, and such agency shall supply the same as quickly and reasonably as possible consistent with the extent or type of information requested. Nothing herein shall be construed to require the Town Clerk to supply or to request any other department to supply the type of information which either State law or the public interest requires to be kept confidential. Nor shall any information be prepared or supplied when the cost of doing so would result in increased expense of the Town; such information, however, shall be supplied at the expense of the applicant, provided that the estimated cost is paid for in advance to the Town Clerk or to the Department undertaking such extra expense.

Account for all money received by the Town Office in such a manner as the Treasurer/(Auditor) may prescribe.

Certificates of Military Enrollment /Discharge.
The Town Clerk shall maintain certificates of enrollment, release, or discharge from active duty, issued by the United States Government and filed by Lincoln service personnel for safekeeping. These confidential documents must be retained for a period of seventy-five (75) years following the original date of filing. The clerk is also required to accept for safekeeping, copies of certificates of discharge from military service **(Form DD 214).** A copy attested by the Town Clerk is *prima facie* evidence of its existence and validity. 30-A M.R.S.A. § 2652. Such records may only be released to the person with proper identification for a fee as set by the State of Maine.

Notify promptly the Department Heads of any Council, action of concern to them or their respective departments.

1001. INSURANCE

The Town Clerk shall file in his/her office all policies of insurance held by the Town, including but not limited to property insurance and liability insurance. All forms of insurance held by Town are to be audited by the Treasurer.

1002. ELECTIONS

1002.1 General

The provisions of the laws of the State of Maine relating to the qualifications of electors, registration, the manner of voting, the duties of the election officers and all other particulars in respect to preparation for, conducting and management of

elections, so far as they may be applicable, shall govern all municipal elections except as otherwise provided in Articles VIII and IX of the Town Charter.

1002.1.1 Application of Laws / Nomination Papers

The Clerk's and the Registrar's duties with respect to state, federal and county elections are covered in detail in Title 21-A M.R.S.A. Additional and specific responsibilities for local elections shall be found in 30-A M.R.S.A. § 2501-2556. Where a Title 21-A provision and a corresponding Title 30-A provision provide for different procedures, Title 30-A and the Lincoln Charter procedures shall be followed for a local election. Where Title 30-A is silent, most Title 21-A procedures shall apply unless the Title 21-A provisions are specifically related only to a state, county or federal election.

1002.1.2 State, Federal and County Elections coupled with Local Referendum

During these elections, the Clerk acts under the direction of the Secretary of State's Office. The Clerk's general responsibilities related to these elections are summarized in 21-A M.R.S.A.§ 505 and are as follows:

1. Administer the absentee voting procedures;
2. Instruct election officials on election laws and procedures prior to Election Day through a scheduled training;
3. Coordinate and schedule election officials *(i.e., wardens, ward clerks, and election clerks)* to work at the polls on Election Day;
4. Make arrangements in advance of Election Day for poll watchers, petition circulators and others who request to be present at the polls;
5. Prepare and deliver to and from the polls all election equipment and materials, including the ballots keeping local ballots separate from state;
6. Advise the warden on election laws and procedures on Election Day;
7. Report the return of votes cast to the Secretary of State and revise election official's information listing within the central voter registry; and attend a training session approved by the Secretary of State regarding conduct of elections every two (2) years.
8. Perform any other duties required for conducting elections.

1002. 2 Place and Time of Opening of Election

It shall be the duty of the Town Council to *fix the place and time of the opening of the polls in the election of officers, or in any special election to decide matters submitted to a vote of the citizens, and cause the same to be inserted in any warrant and notification to the inhabitants of the Town of Lincoln of such election. **To fix shall not apply if coupled with a State, Federal or County Election. In these cases, the date/time of said Election shall already be set by that agency.*

1002.3 Issuance of Election Warrants

Warrants for calling elections shall be issued by the Town Council and contain a statement of the object of the election and the time and place at which the election shall be held, and be served by a police officer, constable, or any resident of the Town by posting an attested copy of said warrant in public and conspicuous places at least seven (7) days before the time of said election, and said warrants shall be returned to the Town Clerk before the time of the election therein named.

1002.4 Publication of Ballot Questions Involving Local Control

Whenever any ordinance, order, resolve or local charter question is required to be submitted to the voters of the Town, the Town Council shall order one publication of the complete text thereof to be made in the local newspaper published in the Town. Such publication shall not be printed any less than seven (7) days or more than twenty-one (21) days prior to the scheduled election.

1002.5 Form of Warrants for Town Elections

The form of warrants for calling elections of the citizens shall be as follows:

STATE OF MAINE
Town of Lincoln, ss.

To a police officer, constable, or any resident of said Town of Lincoln,

Greetings:
In the name of the State of Maine, you are hereby required forthwith to notify and warn the inhabitants of said Town of Lincoln, qualified to vote according to law, to meet at the _____ the _____ day of _____ next at _____ o'clock _____ in the forenoon, to act upon the following:

_____

Given under our hands and the Seal of the said Town of Lincoln, this_____ day of _____ A.D. _____.

_____
_____
_____
_____
_____
_____
_____
Town Council of said Lincoln

1002.6 Form of Return of Warrant

The signing of the warrant shall take place during a meeting of the municipal officers as it constitutes a transaction of public business, and under Maine's Freedom of Access Law (1 M.R.S.A. §§ 401 to 410), such business must be transacted in the public eye.

The form of return of the warrant mentioned shall be in substance as follows:

STATE OF MAINE Penobscot, ss.
Lincoln _____ A.D. ____
Pursuant to the within warrant to me directed, I have notified and warned the inhabitants of said _____ to meet at the time and place and for this purposes therein mentioned by posting up attested copies of this warrant at the_____ same being public and conspicuous places in said Town as is said warrant directed on the _____ day of _____ A.D. _____ being seven days before said election.

_____
Police Officer, Constable, or
Resident of said Town of Lincoln

1002.7 Listing of Candidates' Names on Municipal Races held each November[1]

Candidate names shall be listed on all contest races, using the provisions in Title 21-A subsection 601 and made applicable to municipal ballots by Title 30-A subsection 2501, which appeared on the candidate's nomination paper when signatures were collected. Once the nomination papers have been turned in to the Town Clerk, a candidate having sufficient certified signatures may not withdraw or remove their name from the municipal ballot.

1002.8 Authority of Council to Submit a Question for Nonbinding Vote

The Council may submit to the electorate on its own initiative, a nonbinding question, to determine the collective views of the registered voters, to be voted upon at a regular or special Town Election. Such a question shall be titled on the Ballot as *"Nonbinding Question to Voters"* and the vote thereon shall not be binding upon the Council or any future decisions. The Town Clerk shall report to the Council the results of such a nonbinding vote at the next council meeting occurring after the date of such election or within seven (7) business days, whichever happens first.

1002.9 Write-in Vote on Municipal Races

If a voter wishes to vote for a person whose name is not on the ballot and didn't go through the nomination process, they shall write the full legal name *(first and last)* in the blank space provided at the end of the list of candidates for the office in question. The voter must also fill in the voting indicator next to the name in order to be counted. Fictitious names or a singular last / first name will not be counted, such as: *Santa Claus, Mickey Mouse, John Doe, Sally, Smith.*

1002.10 Validity of a Write-in Vote on Municipal Races

If a voter marks their ballot or casts a write-in vote without using the legal name in a manner which differs from the instructions at the top of the ballot, but in such a manner that it is possible to determine the voter's choice upon inspection *(nickname*

[1] Amended by the Town Council January 8, 2024

including a last name), then the vote for the office or question concerned shall be counted. For any other questionable write-ins, the ballot/election clerks will refer to Maine State Title 21A – *Rules for Determining Voter Intent.*

1002.11 Swearing in and Completion of FOAA Training of Elected Officials

Once elected, every Town Officer or official shall be sworn in by the Town Clerk to the faithful discharge of the duties incumbent upon him/her according to the Constitution and laws of the State of Maine and the Charter and ordinances of the Town and shall be sworn to support the Constitution of the United States and the Constitution of the State of Maine (Once the oath has been taken, a completion of Freedom of Access training must be filed with the Town Clerk within one hundred twenty (120) days pursuant to Title 1 M.R.S.A. §412).

1002.12 Registrar of Voters

The Registrar shall be appointed as provided by the State Law.

1002.13 Ballot and Election Clerks

The Town Council shall appoint election/ballot clerks not later than May 1st of each general election year to serve at the voting place during the time the polls are open and as counters after the polls are closed. Election/ballot clerks must be at least eighteen (18) years of age, registered to vote, and a resident of the Town of Lincoln. The list of election/ballot clerks appointed by the Town Council must be posted at each voting place. The Town Council shall consider the following for appointment as election/ballot clerks:

a. The Town Council shall consider persons nominated by the municipal committees of the major parties to serve as election/ballot clerks. The Town Council shall appoint at least one election/ballot clerk from each of the major parties to serve at each voting place during the time the polls are open. The Town Council shall also appoint a sufficient number of election/ballot clerks to serve as counters after the polls close. The election/ballot clerks must be selected so that the number of election/ballot clerks from one major party does not exceed the number of election/ballot clerks from another major party by more than one.

b. The Town Council shall appoint at least one election/ballot clerk nominated by the municipal committee of a qualified minor party represented on the last general election ballot for each voting place at the committee's request.

c. The Town Council may also consider persons who are seventeen (17) years of age to serve as student election/ballot clerks for a specific election. All nominations for election/ballot clerks must be submitted to the Town Council not later than April 1 of each general election year. If a municipal committee of a major party fails to submit a list of nominees to serve as election/ballot clerks,

the Town Council may appoint registered voters enrolled in that party to serve as election/ballot clerks. The Town Council shall appoint at least two (2) election/ballot clerks to serve at each voting place during the time the polls are open. If required to do so by paragraph B, they shall also appoint one election/ballot clerk to serve at each voting place during the time the polls are open. Additional election/ballot clerks may be appointed as needed. In the event of a vacancy in the election/ballot clerks appointed, the Town Council shall appoint alternate election clerks who may be called into service.

The municipal officers shall appoint election/ballot clerks in the same manner listed above to serve as counters after the polls close.

If a sufficient number of election/ballot clerks are not available to serve on Election Day, the Town Clerk may appoint the necessary number of election/ballot clerks to fill the vacancies. When filling a vacancy, the Town Clerk shall first draw from the list of alternates appointed by the Town Council and make every attempt to appoint a person with the same enrollment status as the person who vacated the position. An election/ballot clerk holds office for two (2) years from the date of appointment and until a successor is appointed and qualified, except that an election/ballot clerk who is appointed to represent a qualified minor party represented on the last general election ballot holds office only for two (2) years from the date of appointment. Before assuming duties of office, election/ballot clerks are sworn by the Town Clerk and the oath is recorded.

1002.14 Compensation

Each warden, election and ballot clerk shall be paid such amount per day for each election held in the Town of Lincoln at which they shall attend, as the Town Council may determine for each election.

1002.15 Election/Ballot Clerks

The clerks shall, forthwith after each election, complete and deposit the records of their polling place and all papers connected therewith with the Town Clerk.

1002.16 Political Signs and Posters

Signs and posters bearing political messages relating to an election, primary, or referendum, are permitted providing that these signs and posters may not be placed within any public right-of-way prior to six (6) weeks before the election, primary, or referendum to which they relate and must be removed by the candidate or political committee no later than one (1) week thereafter. Such signs

and posters located in public right-of-ways shall not be affixed to any utility pole, traffic sign or device and must be free-standing. Political signs and posters may not be placed in or on any traffic islands, town parks, buildings, memorials, or cemeteries. Signs or posters erected outside of the right-of-way limits of public ways shall be limited to a maximum of fifty (50) square feet. The Town Clerk or agents of the Town Clerk, Lincoln Police Officer and/or the Code Enforcement Officer are empowered to enforce this section and order signs removed. Removed signs shall be taken to the Town Clerk's Office.

1003. FEES, LICENSES, PERMITS, AND TAXES

The following categories may require advance public notice and fees as indicated in the appendix located at the end of the manual. This section does not completely cover all licenses, permits or required taxes that may be outlined in individual department sections contained elsewhere in this manual.

1003.1 Licenses and Permits

General Provisions Applicable to Both Licenses and Permits

1003.1.1 Application Required

Any person required by the provisions of this Ordinance to obtain from the Town a license to engage in the operation, conduct, or carrying on of any trade, profession, business, or privilege or a permit to commence, proceed, or continue to perform any act, shall make a written application therefore to the Town Clerk, upon forms provided by the Town Clerk, and shall state facts as may be required. Applications shall be accompanied by the required fee plus any advertising fees required as a condition of issuing said license or permit and shall be at the applicant's expense. A Schedule of fees is located in the Appendix to this Code.

1003.1.2 Inspections

As a condition precedent to the granting of any license under this ordinance, the applicant for license consents to the on-site inspection by the appropriate Municipal Officials at all reasonable and proper times.

1003.1.3 Town Clerk's Duty

As an agent of the Town Council, the Town Clerk or his/her designee, is hereby authorized and directed to receive any and all applications required by this ordinance, unless otherwise specified. All applications for any license or permit shall be placed on the agenda for action by the Town Council unless specified otherwise. Should an application be submitted, six (6) months or less from the annual renewal date of May 31st, the Town Clerk will submit application and once approved, issue a conditional license for the time remaining.

1003.1.4 Town Clerk: Authority Limitations

The authority of the Town Clerk to issue license and permit renewals is hereby limited, as noted under each specific licensing section.

1003.1.5 Agent of the Council

The Town Clerk acts as the agent of the Town Council in all correspondence.

1003.1.6 Commercial Filings – Mercantile Partnerships, Assumed Business Names, Sole Proprietorships and DBA

Whenever two (2) or more persons become associated as partners, or otherwise, for the purpose of engaging in any mercantile enterprise, they must, before beginning business, file a certificate in the clerk's office of the municipality in which the business is to be conducted. Title 31A, M.R.S.A. §1. Fees are set forth in the Appendix.

The clerk shall keep organized files exclusively for the purpose of recording certificates of partnership and operation of a mercantile business under an assumed name and are open to public inspection.

Mercantile enterprise is a business having to do with trade or commerce or the buying and selling of merchandise.

Partnership is defined as a voluntary contract between two or more competent persons to place their money, effects, labor and/or skill, in lawful commerce or business with the understanding that there shall be a community of profits thereof between them. The primary purpose of this filing requirement is to protect the general public against fraud and deceit in extending credit. These filings will enable people dealing with Lincoln merchants transacting business under a partnership or assumed name to ascertain from public records the names of the individuals and the nature of the business.

Sole Proprietor For the same purpose, a similar requirement is imposed on any person engaging in a mercantile business as a sole proprietor, and who adopts any business name, style or designation other than his or her own name exclusively. The sole proprietor must, before commencing business, deposit in the office of the clerk of in which the business is to be conducted a certificate of sole proprietorship. The certificate must be signed and sworn to by the sole proprietor, and must state his/her name and place of residence, the name, style or designation under which the business is to be conducted, and that he or she is the sole proprietor. Title 31, M.R.S.A. § 2.

1003.1.7 Council Reservation

In accordance with Title 30-A M.R.S.A. and any other title of Maine Revised Statutes which constitutes the Council as the licensing authority or board, the Council, acting as the licensing authority of the Town of Lincoln, authorizes and directs the Town Clerk, as its agent, to issue all license and permit renewals

required to be issued by the Maine Revised Statutes or by the ordinances of the Town of Lincoln, where the applicant for such license or permit renewal satisfies the Town Clerk that all of the requirements of the Statutes or Ordinances affecting such renewal application and all recommendations required by such statutes and ordinances from the Department Heads or their agents are returned to the Town Clerk with a favorable recommendation for the issuance of such permit or license renewal.

In making its determination, the licensing authority shall determine the following:

1. The specific requirements of the license or permit under Maine Revised Statutes and of the Ordinances of the Town of Lincoln;
2. The facts with respect to the applicant meeting the requirements of the license or permit;
3. In matters in which the licensing authority has discretion, it shall make its requirements for the license or permit understandable to the applicant; and
4. The Council acting as licensing authority shall make its decision to deny the license or permit or to modify the same upon such terms and conditions as are within its authority as the licensing authority.

1003.1.8 Approval

In all instances where the approval of a Town Official is required as a condition precedent to issuance of any license or permit, the Town Clerk shall notify promptly such officer or officers, and such license or permit shall not be issued until and unless all required approval is received, as evidenced by signatures on the application.

Before any license or permit can be approved the applicant must have paid all real estate and personal property taxes, sewer user fees and other debts owed to the Town then currently due. This requirement shall apply only to those licenses and permits required under the authority of the Town of Lincoln Code.

A license or permit application shall not be denied for failure to pay taxes or fees owed to the Town where the applicant is a business with respect to which collection actions have been stayed or the underlying debt has been discharged by order of the United States Bankruptcy Court or where the underlying debt is the subject of an authorized, current workout agreement executed by the applicant and the Town Manager or Town Assessor. Workout agreements for this purpose must provide for payment in full of the underlying debt and all interest and other charges accruing thereon within 9 months or less from the agreement date. On request, the Town Manager shall certify the existence and current status of any such workout agreement to the applicant and to the Town Clerk. Except in bankruptcy cases, any license or permit issued on the basis of a workout agreement shall be revoked by the Town Clerk upon certification by the Town Manager that the license or permit holder has failed to meet its obligations under the workout agreement concerned.

For the purpose of approval of State of Maine Off-Premises Catering/B.Y.O.B Licenses, the Council Chair, Town Manager, Police Chief or Public Safety Director and Town Clerk shall have the authority to sign. A minimum of two (2) signatures is required.

1003.1.9 Suspension or Revocation

Any license or permit issued under the licensing authority of the Town of Lincoln may be suspended or revoked as follows:

A. The Town Council may, after receipt of notice in writing from the Town Manager that such license is in violation of any requirement of the Maine Revised Statutes or Town Ordinances respecting such license, following notice to the licensee and hearing thereon, suspend or revoke any license granted under the licensing authority of the Town of Lincoln. Any party aggrieved by such suspension or revocation may appeal pursuant to Rule 80B of the Maine Rules of Civil Procedures.

B. The applicant, at the hearing herein provided, shall have the opportunity to be represented by counsel, examine and cross-examine witnesses and present relevant evidence on his/her behalf. The Town Manager, or any other agent of the Town, shall have a like opportunity to present evidence in support of the Town's position for suspension or revocation.

C. The Town Council, acting as the licensing authority, may reinstate said license upon application therefore.

D. In making its determination, the Council shall determine the following:

1. The specific requirements of the license or permit under Maine Revised Statutes and of the Ordinances of the Town of Lincoln;
2. The facts with respect to the licensee or permittee meeting the requirements of the license or permit; and
3. In matters in which the licensing authority has discretion, it shall make its requirement for reinstatement, specific and understandable to the licensee or permittee.

1003.1.10 Expiration Date of Licenses

Except as otherwise provided by these Ordinances or by State Law, the term of all licenses shall be for a period of one (1) year, unless the license indicates a lesser period. Full year licenses not fully used are not subject to proration.

1003.1.11 Transferability

No license or permit issued under this ordinance shall be transferable. When a business or enterprise is transferred to a new owner, its license shall immediately terminate and unless otherwise provided by Statutes or Ordinances, the new

owner shall be required to apply for a new license under the terms of this ordinance.

1003.1.12 License Revocation Standards & Procedures: The Town Clerk may revoke a license if there appears to be violation of the terms by which the license was obtained, or when it appears the licensee or any of the officers of the firm which obtained the license are not proper persons to hold such a license, or when it appears the premises for which the license was granted is not a proper location. The licensee has the right to appeal in writing such revocation to the municipal officers within ten (10) days. The municipal officers may, after hearing, affirm, modify or repeal the decision of the Town Clerk. Failure of the licensee to appeal within the time designated shall be deemed to constitute a waiver of the right of appeal and shall constitute an affirmation of the revocation.

1003.1.13 Public Gatherings: The Police Chief or Public Safety Director is to be notified at least twenty-four (24) hours in advance of any public gathering expected to attract a group of one hundred (100) or more persons, with the exception being: **Veterans' Memorial Square and Gazebo**, which shall be fifty (50) or more persons. Such notice shall include the location and expected number of persons. Exceptions to this would be regularly scheduled activities at schools and churches or town approved community events.

1003.2 Required Business Licenses / Permits / State Agent Programs

1003.2.1 Alcoholic Beverages: Licensing Standards & Procedure

All individuals or businesses interested in obtaining a new on-premises license, transferring the location of an existing on-premises license, or renewing an existing on-premises license, must submit a State Bureau of Liquor Enforcement application to the Town Clerk, who will forward the application to the municipal officers. The municipal officers *shall* hold a public hearing on an application for the first five (5) years of application, which shall be published in a local newspaper by the Town Clerk; such notice of the hearing to be paid by the applicant as set forth in the Appendix. An applicant for the renewal of an on-premises license who has held a license for the prior five (5) years and a complaint has not been filed against the applicant within that time, is not required to have a public hearing or publish notice.

The municipal officers may approve or deny the application on a variety of grounds *(see 28-A M.R.S.A. § 653, § 701).* The municipal officers' decision is appealable first to the Bureau and then to District Court. After the applicant obtains permission from the municipal officers, the applicant must obtain a license from the Bureau of Liquor Enforcement. If the municipal officers fail to take final action on an application for a new or transfer license within sixty (60) days of the date filing the application, or on an existing on-premises license renewal within one hundred twenty (120) days, the application is deemed

approved and ready for action by the Bureau. In addition, where live music, dancing or other entertainment is performed, on premise licensees must obtain a local special amusement permit from the municipal officers, to run concurrent with the State Liquor and Fire Marshal's Dance licenses.

1003.2.2 Alcoholic Beverages: Bottle Clubs

Any person, firm, association, or corporation desiring a license to conduct or operate a bottle club must first obtain permission from the municipal officers, and must register annually with the Bureau of Alcoholic Beverages and Lottery Operations. Municipal officers may, after public notice and hearing, approve or deny the application on a variety of grounds. The notice, at the applicant's prepaid expense, must state the name and place of the hearing and must appear for at least three (3) consecutive days before the date of the hearing in a daily newspaper having general circulation in the municipality or unincorporated place where the bottle club is located or for two (2) consecutive weeks before the hearing date in a weekly newspaper having general circulation in the municipality or unincorporated place where the bottle club is located. In granting or denying an application, municipal officers shall indicate the reasons for their decision and provide a copy to the applicant. An application may be denied on one (1) or more of several grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;
B. Noncompliance of the bottle club with any local zoning ordinance or other land use ordinance not related directly to liquor control;
C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the bottle club and caused by persons patronizing or employed by the bottle club, or other such conditions that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the bottle club to use their property in a reasonable manner;
D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law at or in the vicinity of the bottle club and caused by persons patronizing or employed by the bottle club;
E. A violation of any provision of Title 28-A;
F. In the case of corporate applicants, ineligibility or disqualification under 28-A M.R.S.A. § 601 of any officer, director or stockholder of the corporation; and
G. Location of the bottle club at any amusement area, beach, or other area designed primarily for use by minors.

1003.2.3 Alcoholic Beverages: B.Y.O.B. *(Bring Your Own Bottle)* Functions

A person must apply for a B.Y.O.B. function (special events where attendees bring their own liquor) permit from the Bureau of Liquor Enforcement at least seventy-two (72) hours prior to the proposed B.Y.O.B. function. A prerequisite for the permit is the written permission of two (2) municipal officers as to the location of the function. Although the statute does not specify any reasons for denial, presumably the municipal officers may consider grounds similar to those available in the case of on-premise license applications (see 28-A M.R.S.A. § 653, § 654, § 701). In granting or denying their approval, the municipal officers should indicate the reasons for their decision on the form provided by the Bureau of Liquor Enforcement. Municipal officers who may sign the BYOB includes the following: Council Chair, Town Manager, Police Chief or Public Safety Director and Town Clerk.

1003.2.4 Auctioneers

No person shall engage in the trade or business of auctioneering in the Town of Lincoln unless such person shall have an Auctioneer license, as provided by State Law. Municipalities are prohibited from requiring local licenses for auctions which last less than two (2) full days. Auctions for charitable, educational, religious or nonprofit organizations require no licensing provided the auctioneer receives no compensation for their services.

Additional Information: *Per statutory requirement,* auctioneers are required to show to the Town Clerk or municipal law enforcement authority his or her state auctioneer's license prior to any sales taking place within the municipality.

1003.2.5 Beano/Bingo

Any person, firm, association, or corporation desiring a license to conduct or operate the amusement commonly known as "Beano/Bingo" for the entertainment of the public within the Town of Lincoln shall make application to the Town Clerk for said license and pay the appropriate fee as set forth in the Schedule of Fees in the Appendix to the Code. The Town shall, upon request, issue a "Blanket Letter of Approval" for Beano/Bingo licenses, valid for one (1) year. The fee of said "Blanket Letter of Approval" is set forth in the Schedule of Fees in the Appendix to the Code.

1003.2.6 Bowling Alleys, Pool, Shooting Galleries, Billiard Rooms

No person shall conduct, maintain, or operate any place open to the Public for bowling, playing pool, billiards or shooting galleries without first obtaining a license. Such establishments shall not "disturb the peace and quiet of a family" during operation and shall be closed to the Public between 1:00 AM local time and sunrise. The fee for said license is set forth in the Schedule of Fees located in the Appendix to the Code.

1003.2.7 Dance Halls / Dance Permits

a. For the purpose of this Ordinance, the term "Dance Hall" shall mean any room, terrace, balcony, stage or other structure wherein, or whereon dancing is permitted which is open to the general public. For the purpose of this Ordinance, the term "Public Dance Hall" shall mean any dance hall in a public building not including school buildings.

b. No person shall conduct or maintain a dance hall in the Town of Lincoln unless said person shall have a license from the State Fire Marshall's office and an amusement permit from the Town of Lincoln.

c. In addition to any license or fee required by the State of Maine, a permit shall be required for public dance halls. In cases of applicants requiring a Special Amusement Permit, the application for same shall be made to the Town Clerk on forms provided by their office for that purpose. Permits shall be for a one (1) year period and shall expire the last day in May. The fee for said permit is set forth in the Schedule of Fees located in the Appendix to the Code. A building or any part of the building used for public dancing purposes, either habitually or occasionally, must have posted at all times a proper license.

d. No person shall conduct or hold a public dance in any parking lot or other outdoor facility without first obtaining permission via license from the Municipal Officers. The license will be valid for only the event listed.

e. No Public Dance Hall shall be kept open for dancing on Sunday later than 1:00 AM. A public dance at which minors are admitted may not be held in any pavilion, hall or other building unless a law enforcement officer, or if permitted, a private security guard, is present during the dance and unless there are in such pavilion, hall or other building separate toilets for men and women. (Dances organized for students in public, private school buildings or municipal buildings are excluded from these requirements).

f. Any person who violates any provision of this section shall be guilty of a misdemeanor and shall be subject, upon conviction, to a fine as set forth in the Schedule of Fees located in the Appendix to the Code.

1003.2.8 Games of Chance

Any person, firm, association, or corporation desiring a license to conduct or operate the amusement commonly known as "Games of Chance" for the entertainment of the public within the Town of Lincoln, shall forward application to the Town Clerk. Games of Chance applications are provided by the Chief of the State Police. Once received by the Town Clerk, the application must be signed by a duly authorized officer of the organization. The application shall contain the full name and address of the organization, a full description of the game of chance, the location where the game is to be conducted and any other information deemed necessary. The Town shall also, upon request, issue a local

"Blanket Letter of Approval" for Games of Chance licenses, valid for one (1) year. The fee of said "Blanket Letter of Approval" is set forth in the Schedule of Fees in the Appendix to the Code. "Games of Chance" means any game, contest, scheme or device in which:

A. A person stakes or risks something of value for the opportunity to win something of value;
B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and
C. Chance enters as an element that influences the outcome in a manner that cannot be eliminated through the application of skill.

Examples include but are not limited to: a shuffle of a deck of cards, a roll of dice or a random drawing.

1003.3 Special Amusements / Shows - Events / Agent Permits - Records

This ordinance shall be known and may be cited as the Special Amusement/Shows/Events Ordinance of the Town of Lincoln, Maine.

1003.3.1 Purpose

The purpose of this Ordinance is to control the issuance of the permits for music, dancing, or types of entertainment in facilities or properties which may or may not be licensed by the State of Maine to sell liquor as required by 28 M.R.S.A, § 702.

1003.3.2 Entertainment, as defined.

For the purpose of this Ordinance, "entertainment" shall include any amusement, performance, exhibition, or diversion for patrons or customers of the licensed premises, whether provided by professional entertainers or by full time or part-time employees of the licensed premises, whose incidental duties include activities with an entertainment value. This definition includes music or spoken words produced or reproduced by electronic or mechanical means, including radio, television, film, tape recording, compact disc, laser disc, video disc, karaoke and similar devices.

1003.3.3 Special Amusement License

For the purposes of this Section, "licensee" shall include the holder of a license issued under the Alcoholic Beverage Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, other legal entity or any agent or employee of such licensee.

Additional Information: Without the permit described above, no licensee for sale of liquor to be consumed on the premises may allow on the premises any live music, dancing or entertainment of any sort. "Entertainment" is defined as "any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises, whether provided by professional entertainers or by full-time

or part-time employees of the licensee, whose incidental duties include activities with an entertainment value."

1003.3.4 Permit Required

No licensee for the sale of liquor to be consumed on the licensed premises shall permit, on their 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 municipal officers. The categories of a **special amusement permit** are as follows:

Class 1:	Any licensee of a food service establishment of Class A, B or C, or a holder of an innkeeper license, with entertainment which does not include dancing.
Class 2:	Any licensee of a Class A lounge, or holder of an innkeeper license, with entertainment which does not include dancing.
Class 3:	Any licensee of a Class A lounge, a food service establishment of Class A, B or C license, or holder of an innkeeper license, with entertainment, including dancing.
Class 4:	Any business that operates primarily as a function hall for the rental of space for events and holds a Class A lounge, a food service establishment of Class A, B or C license, holder of an innkeeper license, or Bottle Club Registration with entertainment including dancing.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; their residence address; the name of the business to be conducted; the business address; the nature of their business; the location to be used; whether the applicant has ever had a license and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners and corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; if the premises are owned by someone other than the applicant, the name and last known address of the landowner must be listed on the application; and any additional information as may be needed by the municipal officers in the issuing of the permit, including, but not limited to, a copy of the applicant's current liquor license.

The municipal officers shall attempt to notify the landowner, at their last known address, of the pending application. The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing at which the testimony of the applicant and that of any interested members of the public shall be taken.

The municipal officers 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 by-laws.

A permit shall be valid only for the license year of the applicant's existing liquor license. The fee for a special amusement permit is set forth in the Schedule of Fees located in the Appendix to the Code.

1003.3.5 Rules and Regulations

The Municipal Officers hereby establish the following rules and regulations:

a. No permit shall be issued for anything, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, by-laws, or rules and regulations of the municipality, and the provisions of state and federal laws.
b. Wherever reference is made in the following rules and regulations to acts or omissions forbidden on the part of the licensee, it shall be held and construed to mean acts of such licensee, or their clerk, servant or agent. Whoever is found in charge of a licensed premise, or making service or waiting on trade in such licensed premise, shall be prima facie construed to be a clerk, servant and agent of the licensee.
c. No licensee shall show effects of, nor allow any of his/her employees, agents or entertainers to consume or to show any effect of, liquor while on duty or performing on licensed premises.
d. Exotic dancing is prohibited.

1003.3.6 Inspections

Whenever inspections of the premises used for or in connection with the operation of a licensed business, which has obtained a special amusement permit, are provided for or required by ordinance or State Law, or are reasonably necessary to secure compliance with any ordinance, provision, or State Law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the municipality authorized to make the inspection at any reasonable time that admission is requested.

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance, provision, or State Law, it shall be the duty of the licensee, or the person in charge of the premises, to give any authorized officer, official or employee of the municipality requesting, the same sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, the municipal officers may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection or

take sufficient samples for analysis or who interfere with such officer, official or employee while in the performance of his duty. Provided, that no licensee or special amusement permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.

1003.3.7 Suspension or Revocation of a Permit

The municipal officers 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, by-laws or rules and regulations or false information was provided on the application.

1003.3.8 Permit and Appeal Procedures

Any licensee requesting a special amusement permit from the municipal officers 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 thirty (30) days after an application for a permit has been denied.

Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may within thirty (30) days of the denial, suspension or revocation, appeal the decision to the municipal board of appeals as defined in 30 M.R.S.A. § 2411. The municipal board of appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute 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, by-law or rule or regulation of the municipality.

1003.3.9 Penalty

Whoever violates any of the provisions of this ordinance shall be punished by a fine as set forth in the Schedule of Fees located in the Appendix to the Code, to be recovered on complaint, to the use of the Town of Lincoln, Maine.

1003.3.10 Separability

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

1003.3.11 Admission

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.

1003.3.12 Carnivals, Fairs and Circus

Any person, corporation, or firm intending to operate a carnival, fair or circus within the limits of the Town of Lincoln, shall first make application to the Municipal Officers and receive therefrom a license. Anyone who, for money or exchange of other valuable article, exhibits any images, pageantry, sleight of hand tricks, puppet show, traveling amusement show, feats of balancing, wire dancing, personal agility, dexterity or theatrical performances, is also first required to get a license of at least a 24-hour duration from the municipal officers. The fee for said license is set forth in the Schedule of Fees located in the Appendix to the Code.

1003.3.13 Exhibitions, Performances and Shows (Public*)*

No person shall conduct or operate any exhibition, performance, or show at which an admission fee will be charged, without first obtaining a license therefore. The fee for said license is set forth in the Schedule of Fees located in the Appendix to the Code. Applications shall be made to the Town Clerk who will forward to the Town Council for approval. Licenses issued shall be only for the detailed event and period requested. Should an inclement weather date be necessary, it shall also be noted on the final permit.

1003.3.14 Exotic Dancing

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

1003.3.15 Parades / Organized Races / Fundraiser Walks

No organization or person shall conduct or commence a parade/race/walk on the streets or public ways of the Town of Lincoln, without first obtaining Town Council approval.

1003.4 Other Municipal Licenses/Permits/Fee

1003.4.1 Automobiles/Motorized Equipment/Transport of Mobile Home

The Town Manager may appoint a municipal tax collector /or municipal agent from the Clerk's office, to collect excise taxes on vehicles and to receive applications for registrations and renewals of motor vehicles, trailers and semi-trailers. Any appointment made shall be reported and will be subject to the Secretary of State's approval. Once completed, the Secretary of State may authorize the municipal agents to issue licenses, registrations and renewals of licenses and registrations.

A mobile home may not be moved over a public way unless the operator of the vehicle hauling it has in possession a permit issued by the county commissioners or

municipal officers for travel over a way or bridge maintained by that county or written certificate from the tax collector of the municipality in which the mobile home is situated on the day of the move, identifying the mobile home and stating that all applicable property taxes, including those for the current tax year, have been paid or that the mobile home is exempt from taxes.

Additional Information: If a mobile home was moved into the municipality after April 1st so that no tax was assessed in the previous year and will be moved from the municipality before the commitment of the current year's taxes but after April 1st, the term "previous year's taxes" means taxes estimated by using the prior year's tax rate. A vehicle granted a permit for excess weight must first be registered for the maximum gross vehicle weight allowed for that vehicle.

1003.4.2 Burial Permits

No dead human body, including a dead fetus of twenty (20) or more weeks of gestation *(see 22 M.R.S.A. § 1596 for exceptions)*, shall be buried, cremated or otherwise disposed of or removed from the state until a funeral director or other authorized person has obtained a permit from the clerk. No such permit may be issued to anyone other than a funeral director until the Town Clerk has received a medical certificate, which has been signed by a physician or medical examiner. A certificate of release is required before a permit is issued for final disposition by cremation, burial at sea, use by science or removal from the state. The individual in charge of the burial ground or crematory, or if none, a municipal official, shall endorse all burial permits within seven (7) days of disposition, and the endorsed permit shall be returned to the clerk for filing *(see 22 M.R.S.A. § 2843 for more details).* **(No fee is owed if the disposition of human remains is paid for through the municipal general assistance program.)**

1003.4.3 Burn Permits Permitting Standards & Procedures

No person, firm or corporation may burn out of doors without a state permit, except as provided in § § 9322, 9324 and 9325. The standards for granting the burn permit are contained in 12 M.R.S.A. § 9321. Permits issued by the Public Safety Department shall be for the duration of the specific burning event, within 24-hours. Permits may also be acquired via INFORME for an administrative fee set and regulated by the State of Maine.

The following types of burning are allowed provided that a *permit has been obtained* from the Public Safety official having jurisdiction over the location where the fire is to be set and the burning must be conducted according to the terms and conditions of the permit and may not create a nuisance:

A. Recreational campfires kindled when the ground is not covered by snow if not for the sole purpose to prepare food;
B. Fires in conjunction with holiday and festive celebrations;

C. Burning of solid or liquid fuels and structures for research or bona fide instruction and training of municipal, volunteer and industrial firefighters;
D. Burning for agricultural purposes;
E. Residential out-of-door burning of highly combustible trash where municipal trash collection service is not available or will not accept those materials;
F. Residential open burning of leaves, brush, deadwood and tree cuttings unless expressly prohibited by municipal ordinance;
G. Burning on site for the disposal of materials generated from the clearing of any land (i.e., construction and demolition debris);
H. Burning for hazard reduction purposes such as, but not limited to, the burning of grass fields;
I. Burning for the containment or control of spills of gasoline, kerosene, heating oil or similar petroleum products;
J. The burning of brush and demolition debris at municipal solid waste disposal facilities; and
K. The burning of containers previously containing explosives and being disposed of in accordance with 25 M.R.S.A. § 2472.

1003.4.4 Dogs & Dog Kennel License

Per Maine Statute, Chapter 721 requires that any dog, once * six (6) months of age or having moved into the municipality, within ten (10) days must be vaccinated for rabies and also licensed annually each year. Additionally, a late fee of twenty-five dollars ($25) per dog registered after January 31st shall be charged to any owner who is not in compliance. **Puppies must be licensed prior to the seventh month.*

Exemptions from Fees:
The Town Clerk and assistant Clerks shall issue a license upon application and *without* payment of a license fee for:

- a service dog owned or kept by a person with a physical or mental disability;
- a trained search and rescue dog, or such a dog awaiting training, recognized as a search and rescue dog by the Department of Inland Fisheries and Wildlife or associated organization; and
- a dog certified by the State and used for law enforcement purposes.

7 M.R.S.A. § § 3921, 3923-A (3).

The only exception shall be wolf hybrids which can only be licensed if the owner obtained the animal prior to June 1, 2011. All other wolf hybrids must be permitted by the Department of Inland Fisheries & Wildlife.

Kennels maintained for breeding, hunting, show, training or exhibition purposes, shall be licensed by the Town Clerk once the Animal Control Officer

has inspected the facility annually, to be obtained each year by January 1. Kennel owners may not keep more than ten (10) dogs per kennel license. Kennel licenses shall not be issued to persons convicted of any *"cruelty to animals"* charge.

1003.4.5 Explosives and Flammable Liquids

No person shall store any kind of Explosives or Flammable Liquids unless they meet the full requirements of Title 25 M.R.S.A.

1003.4.6 Fishing/Hunting/Trapping Licenses

Licenses for fishing, hunting and trapping fall under the jurisdiction of the Commissioner of Inland Fisheries and Wildlife. The Clerk's Office personnel shall act as the agent when issuing such licenses.

1003.4.7 Innkeeper/Tavern Keeper

The Town Council shall meet annually during the month of May on a date and at a time and place in the municipality that they determine or at any other time if necessary. A seven (7) day public notice of the meeting at which an innkeeper or tavern keeper license request is to be considered must be provided and posted in at least two (2) public places in the municipality.

The Council may license as many persons of "good moral character" to be innkeepers or tavern keepers in the municipality as it considers necessary. The license must specify the building in which the business will be conducted and any licensing restrictions and regulations that it considers necessary. The Town Council may revoke any license previously granted under this section as provided in 30-A M.R.S.A. § 3814. Generally, the licensing authority may suspend a license for any reason it finds satisfactory and for a period of time that it considers proper. However, a license may not be revoked or suspended until an investigation and hearing have taken place and the licensee has been afforded his/her due process under law.

An "innkeeper" is a person who owns or operates an establishment which provides lodging for transients. Such an establishment "does not lose its character (as an "inn") because of its mode of construction, the appellation bestowed on it by the proprietor, or the fact that food and drink cannot be obtained therein or are available at the option of the guest."

1003.4.8 Junk Dealers, Pawnbrokers and Dealers in Second Hand Articles

No person shall, within the limits of this Town, keep or occupy any shop, storehouse, building, or place of business for the purpose, possession, storage, sale, or barter of, or trades of personal property, or articles of any kind including gold/jewelry/estate/consignment items usually handled or dealt in by junk dealers, nor shall any person keep or store any such articles in any building for any purpose, or permit the same to remain in any building after notice to remove them, or be a dealer in such articles, unless duly licensed to be a dealer in, or purchase of junk and second hand articles as hereinafter provided. Businesses

which travel from municipality to municipality, selling their wares and advertising as such, shall file a copy of their appropriate state licensing with the Town Clerk and obtain a peddler's license prior to any sales.

Any license granted under the provisions hereof, shall designate the place where such business shall be carried on and the manner in which such business shall be transacted.

Every person licensed and having a store or shop, shall put and keep in some conspicuous place in the place of business, a sign designating that he is licensed to deal in such articles, and containing his name, and shall keep a record of all purchases, name and residence of the seller, together with a description of each article bought, in a proper book which shall at all times be open for inspection by the Police Chief or Public Safety Director and/or Code Enforcement Officer, on request of either.

Should any person in any manner violate any of the provisions of this section, or violate any conditions of any license granted under this provision hereof, upon conviction thereof, shall be punished by a fine as set forth in the Schedule of Fees located in the Appendix to the Code, for each offense.

See the Appendix to the Municipal Code for the appropriate fees.

1003.4.11 Marriage Licensing Standards & Procedures

Section 651 requires that residents of Maine intending to be joined in marriage must record notice of their intentions in the office of the Clerk of the municipality in which one resides. Non-residents may apply at any Town Office provided they meet the necessary state guidelines. The parties wishing to record notice of their intentions of marriage shall submit an application for recording the notice. The application must include a signed certification that the information recorded on the application is correct and that the applicant is free to marry according to the laws of this state.

The applicant's signature must be acknowledged before an official authorized to take oaths. Applications recording notice of intentions to marry must be open for public inspection in the Clerk's office. When the application is submitted, the applicant shall provide the Clerk with the social security numbers of the parties. The record of the social security numbers is confidential and is not open for public inspection.

1003.4.12 Peddlers/Transient Seller of Consumer Goods

A peddler/transient seller is one who sells tangible commodities by phone, house to house, on the streets or in a public gathering place

32 M.R.S.A. § 14701 et seq. requires a person selling merchandise by means of personal or telephone contact and who does not have, for that purpose, any

permanent place of business within the state, to apply to and become registered by the Department of Professional and Financial Regulation prior to engaging in sales within the municipality. Upon furnishing documentation to the Town Clerk of state compliance, the Town Clerk shall issue a Peddler/Vendor/Transient Permit and formally notify the Lincoln Public Safety Department of granted permission and locations of sales.

1003.4.12.1 License

Applications for licenses shall be made to the Town Clerk, on forms provided by the municipality, and shall state thereon the description and number of vehicles, if any, intended to be operated, the kind of merchandise to be peddled, and the permanent address of the peddler. The Town Clerk shall have the authority to issue said license on behalf of the Town Council. The license shall be for a period of ~~t~~three (3) months from the date issued. The fee for said license is set forth in the Schedule of Fees.

1003.4.12.2 Permitted Location

No peddler/vendor shall ply, or offer for sale, their merchandise, service or talent on any street, sidewalk, park, or any other parking space unless said license specifies that peddling/vending in such public place is permitted there under. Peddlers/Vendors must obtain permission from the private landowners prior to selling from private parking areas.

1003.4.12.3 Public / Open Markets

Veterans' Square is available for Public/Open/Farmer's Market. St. Peter's lot is not available for a market.

Fees are set forth in the Appendix.

1003.4.12.4 Exceptions

This section shall not apply to the sale of newspapers or to the sale of commodities by a charitable or non-profit organization**.** With a thirty (30)-day notice to the Town Clerk, the Town Manager may waive vendor/permit fees for any event which is sponsored by the Town of Lincoln and/or the local, organized Chamber of Commerce. All other fees shall be waived only by approval of the Town Council.

1003.4.12.5 Fraud

Any licensed peddler who shall be guilty of any fraud, cheating, or misrepresentation, whether through himself or through an employee, while acting as a peddler, or who shall barter, sell, or peddle goods or merchandise other than those specified in his application for a license, shall be deemed guilty of a violation of this ordinance.

1003.4.12.6 Penalty

Any person, firm, or corporation violating any provision of this section shall be subject to a fine as set forth in the Schedule of Fees located in the Appendix to the Code, for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

1003.4.13 Vendors – Itinerant Vendors, Transient Units, and Sellers of Consumer Merchandise

It shall be unlawful for any person, firm, or corporation to engage in the business of any merchandise, articles, goods, foods, or ware without first having declared one's intention with the Town Clerk and securing an appropriate license. Landowners/Business Owners which offer space for charge for itinerant vendors/consignment booths must obtain a license for the facility which will cover the facility. This pertains to vehicles, push carts, temporary stands, booths, or other types of distribution units. Promoters of carnivals, festivals, flea/craft/farm markets and /or mass gatherings shall also obtain a license for the event which will cover all vendors who are recorded.

Before receiving a license issued by the Town Clerk, the Code Enforcement Officer and Police Chief or Public Safety Director may review the application to certify that the vendor will not create safety problems for either traffic and /or pedestrians and that information on file does not indicate that the applicant is a person of bad moral character. Any license issued under this section may be revoked by the Town Council after notice and hearing as provided in 30-A M.R.S.A. Section 3814. **Exempt from these fees are non-profit services, religious and municipal organizations or agencies which show proof of their status.**

1003.4.13.1 Location

No vendor may occupy an area/booth larger than one hundred forty-four (144) square feet. No vendor may operate within three hundred (300) feet, measured by a direct line, of any establishment doing business at a fixed location, which sells the same or similar food or merchandise being sold by the itinerant vendor. In addition, no vendor may operate within three hundred (300) feet, measured by a direct line, of any other itinerant vendor which sells the same or similar food or merchandise. *Vendors authorized to participate in Town sponsored carnivals, festivals, mass gatherings, farmer's/open markets or flea markets shall be exempt from this subsection.*

A full description of location peddling is to be carried out of, and a letter of agreement from the owner of record of the property that the applicant will be located on, shall be submitted.

Fees are set forth in the Appendix.

1003.4.13.2 Vendor Sanitation – Waste Disposal

Each vendor shall provide waste/recycle receptacles for the use of customers, shall keep the immediate area free of litter, and will provide for the disposal of such waste.

1003.4.14 Victualers *(Food Sales)*

Any person engaging in the business of preparing and selling any food commonly consumed by persons, either on the premises or off the premises, shall be designated a common victualer for the purpose of this Ordinance and shall obtain a municipal license therefor. The fee for said license is set forth in the Schedule of Fees located in the Appendix to the Code. State inspection and licensing must be obtained prior to issuance of municipal license. State license shall accompany municipal application.

The term "common victualer" shall include persons engaged in the restaurant, bakery, sandwich, and delicatessen business. Charitable, religious, or fraternal organizations holding less annually than twelve (12) breakfasts, dinners, or suppers shall be exempt from licensing required by this ordinance.

1003.4.14.1 One-Day: Concessions / Food Vendor

Persons desiring to operate a one-day concession within the Town at which food is commonly prepared, sold and consumed shall obtain a one-day victualers license. Said licensee shall state the time and place at which said concession is to operate. The fee for said license is set forth in the Appendix to the Code. (No charge to non-profit organizations.) Persons desiring to operate a concession within the Town at which confectionaries, beverages, or novelties are sold, shall obtain a concessions vendor license. Said license shall state the time and place at which said concession is to operate. The fee for said license is set forth in the Schedule of Fees located in the Appendix to the Code.

1003.4.14.2 Lunch Wagon / Mobile Unit Victualer

The Town of Lincoln may license any "reputable" person to maintain a vehicle for the sale of food, as meets state requirements, in such part of any public way and during such hours as the licensing authority designates. No other license will be required to operate a lunch wagon. A license may not be issued if the lunch wagon will inconvenience public travel.

1003.4.15 Vital Records Search / Genealogy Requests / Freedom of Access

As required by the State of Maine, a direct and legitimate lineage must be established prior to the release of any vital record by the Town. Should t he applicant be unable to produce copies of such records but they are available through the custody of the Town Clerk, a fee may be charged per record/ hour to research and connect as set forth in the appendix. The same shall apply to any genealogy or Freedom of Access requests.

1100. DEPARTMENT OF FINANCE

1100.1 Establishment

There shall be a Department of Finance, the head of which shall be the TREASURER, who shall be appointed by the Town Manager, with confirmation of the Town Council. The department of Finance shall secure bonding with the minimum standards listed below for each position as necessary with confirmation by the Town Manager.

Town Manager - $50,000.00
Tax Collector & Treasurer - $100,000.00
Town Clerk - $25,000.00
All other Town Employees - $2,500.00

1100.2 Duties

The Treasurer shall be responsible for financial planning, budgeting, reporting, and control. He/she shall also, under the administrative directions of the Town Manager, supervise the lease, rental, or use, and the maintenance of all Town property not used by other Departments of the Town.

1100.3 Divisions

This Department shall be divided into the following divisions:

a. Division of Accounting and Control, the head of which shall be the Treasurer, who shall be responsible for the proper pre-audit and recording of financial transactions.

b. Treasury Division, the head of which shall be the Treasurer, whose duty it shall be to collect all bills and pay for services rendered to the Town, and in all respects, comply with all laws and ordinances concerning other moneys due or coming to the Town.

1101. PROCUREMENT

1101.1 Purpose

The purpose of the Town of Lincoln procurement ordinance is to secure goods and services for the ongoing operation of the Town of Lincoln and to accomplish the following:

A. That unnecessary, duplicative, or ineligible purchases are not made.
B. That purchases are made on the basis of maximum open and free competition whenever possible.
C. That favorable prices for goods and services are obtained without sacrificing needed quality.

D. That the lowest responsible bidder be selected on the following criteria:
   a. Financial ability to complete the contract
   b. Integrity and trustworthiness
   c. Skill
   d. Judgment
   e. Ability to perform faithful and conscientious work
   f. Promptness
   g. Experience
   h. Necessary facilities and equipment to perform work
   i. Efficiency
   j. Previous performance of satisfactory work

E. That all purchases and contracts, excluding cash investments from this section, which are awarded on bid basis, whenever feasible, be awarded to a responsible Lincoln business provided that the bid is within five percent (5%) of the lowest bidder and the lowest bidder is not a Lincoln business. A Lincoln business is defined as located in or owned in substantial part, by persons residing in, the Town of Lincoln.

F. The Town Council may authorize another procurement method when said other method, in the judgment of the Council, is in the best interest of the Town.

1101.2 Procurement Methods

A. Small purchases (less than one hundred dollars ($100.00))
   a. Prices shall be solicited from best source

B. Medium purchases (one hundred one dollars to ten thousand dollars ($100.01 - $10,000.00))
   a. Must be solicited from two (2) or more sources and must have two (2) signatures on the purchase order (Town Manager and Department Head). The sources shall be in Town when possible and this section excludes utility billings.

C. Large purchases (over ten thousand dollars ($10,000.00))
   a. Written invitation to bid sent to three (3) or more sources
   b. Sealed bids opened at a public bid opening

D. Negotiated purchases
   a. Negotiated purchases in any amount may be made:
      1. When there is a true sole source supplier of goods and/or services.
      2. For professional services such as architects, lawyers, consultants, and auditors.

3. When competitive bidding has not resulted in an acceptable bid or offer.

The Finance Committee will review each department's revenue and expenditure budgets for any over expenditures or under estimates of revenues and may request from the Town Manager explanations in these areas.

The Finance Committee will advise the Town Council of any improprieties, abuse, or areas of concern with regards to the finances of the Town in a timely fashion.

1101.3 Debit Card/Store Credit Purchases

A. The Town Council recognizes that the use of purchase orders does not effectively allow for all types of purchases necessary to manage the town's departmental purchases. Therefore, the Town Council authorizes the Treasurer to administer the debit card program as outlined below. This debit card/store credit purchase section is enacted by authority granted under MRSA 30-A (5603 & 5604).

B. The Town Council hereby authorizes the use of debit cards/store credit cards for specific purchases as outlined in this ordinance. The Treasurer or their deputy will be responsible for administering the credit card program including: the opening and closing of any bank account or store credit accounts that allows the use of the debit or store credit cards, the use of the cards for purchases, reconciliation of the debit card receipts and the monthly bank or store credit statements, and other administrative duties as is associated with the debit card/store credit programs.

C. The debit card/assigned store account number will only be used for the following types of purchases that usually do not allow for the preferred procurement process of using the Town of Lincoln purchase order system. The debit card/store card will only be used for the purchases, as follows:

a. Internet purchases which do not allow for a purchase order number or an invoice to be billed must be pre-approved by the Town Manager.

b. The limit for the debit card for these types of purchases will be seven hundred fifty dollars ($750.00) per day and one thousand dollars ($1,000.00) total aggregate between Finance Committee meetings and Treasurer's Warrant approval.

c. Only the Treasurer or their deputy shall be allowed to authorize the actual internet transaction using the debit card. Store credit cards issued from the Treasurer's office may be used by a

department manager. The individual receipts and invoices will be immediately printed and turned over to be processed on the next regularly scheduled Finance committee/Treasurer's warrant date.

d. All other procurement policies will apply to these purchases including assurance that the purchase is sales tax-exempt and that all other procurement procedures have been followed.

D. Any other use of the debit card/store credit cards will be considered abuse of this program and will be subject to disciplinary action by the Personnel Director. Any charges that are disputed must be brought to the Treasurer's attention immediately by the department manager. It will be the Treasurer's responsibility to contact the banking institution about the disputed charge(s).

E. The debit card/store credit cards will be stored and secured in the Town Office safe at all times. If any cards are lost or stolen, the Treasurer must immediately report this to the issuing banking institution and the Town Manager.

1101.4 Fixed Asset/Town Owned Property Disposal Policy

1101.4.1Purpose

The purpose of this policy is to establish the minimum cost value which shall be used to determine fixed assets, which are to be recorded in the Town's annual financial statements and listed when acquiring property &casualty insurance. This policy also addresses other considerations for recording and depreciating fixed assets contained on the list and the disposal of said property.

1101.4.2.1.1 Fixed Asset Defined

Fixed assets will be defined as tangible and intangible assets that have initial useful lives that extend beyond a single reporting period. Examples of an intangible asset would be: Patents, Copyrights, and Leasehold Interests.

For purposes of this policy the term "fixed assets" shall not include, and nothing in this policy shall be deemed to apply to, real property acquired by the Town pursuant to Title 36 MRSA § 942 or any other property acquired by operation of an automatic tax lien as a result of failure to pay taxes by its owner.

1101.4.2.2 Recording Method

All fixed assets will be recorded at historical cost as of the date acquired or constructed. If historical cost information is not available, assets will be recorded

at estimated historical cost by calculating the current replacement cost and deflating costs using the appropriate price-level index.

1101.4.2.3. Fixed Asset Threshold

Any singular item acquired by the Town of Lincoln which costs at least five hundred dollars ($500) and has a lifespan of at least five (5) years shall be deemed as a fixed asset.

1101.4.2.4 Other Assets Known as General Inventory

General inventory records shall be maintained, at the discretion of the Town Manager, for all items below the fixed asset thresholds, that should be safeguarded from loss. These items will be part of a periodic physical inventory as set by the Town Manager. Examples: *calculators, receipt printers, bulletproof vests, soccer balls, library book, etc.*

1101.4.2.5 Depreciation and Useful Life of Fixed Assets

Fixed assets lives will be adjusted as necessary depending on the present conditions and use of the asset and based on how long the asset is expected to meet current service demands. Adjustments should be properly documented for reporting to the insurance carrier.

1101.4.2.6 Safeguarding and Controlling Fixed Assets

All machinery, equipment, vehicles and furniture will be recorded. As such fixed assets are purchased or disposed of, the Department Head in custody of that asset, will be responsible for preparing a fixed asset/inventory datasheet for the Town Manager, which will then be forwarded to the Finance Department to ensure proper recording prior to the purchase or disposal.

1101.4.2.7 Sale of Town Property/Fixed Assets

The town manager shall oversee the sale of surplus, obsolete or unused supplies, material and equipment whenever the same shall no longer be required for municipal services. Any item selected for disposal shall be publicly advertised via the Town's website and through local media. A copy of the advertisement and current condition of the equipment shall be filed with the Clerk's office for public inspection.

1101.4.2.8 Disposal Considerations

A written recommendation or request must be submitted to the Town Manager for final approval by the Town Council prior to the sale of surplus, obsolete or unused supplies, material and equipment with a current value equal to or greater than two hundred fifty dollars ($250.00).

Part of the material submission shall be a detailed listing of the item, its current condition and the current market value of that item.

Disposal of items which are valued less than two hundred fifty dollars ($250.00) does not require Council approval. The Town Manager has sole discretion regarding the sale or disposition of such items.

Once approved for disposal by the Town Manager or Town Council, copies of notification of sale of surplus, obsolete or unused supplies, material and equipment will be submitted to the Clerk's Office and Treasurer.

Any resident, member of the public, departments or town employees who are interested in acquiring the disposed item, must submit a notice of their intent to acquire the disposed property to the Clerk's Office. The letter of intent shall name the cash amount the applicant is willing to pay, or the services the applicant is willing to perform, in exchange for the items. Applicants wishing to exchange the property for services should include a timeline of completion and a statement of the fair market value of the services to be performed in their notice. The Town Manager or Town Council, as the case may be, shall select the winning bid, and the Town Manager may take all actions necessary to complete and formalize the sale of the item.

Items which have a market value less than two hundred fifty dollars ($250), which are broken or have no further use, may be disposed of via the Town's Transfer Station. Prior to the disposal of said item, disposal of the item shall be approved by the Town Manager and then forwarded to the Treasurer for removal of the Town's inventory list.

1102. INVESTMENTS

1102.1 Investment Objectives

Maine state statutes authorize treasurers to deposit or invest municipal funds by direction of the municipal officers.

Pursuant to State Law, the municipality of Lincoln, Maine shall adopt the following investment objectives in the management and investment of municipal funds:

A. The primary objective of the municipality's investment activities is the preservation of capital and the protection of investment principal.

B. In investing public funds, the municipality will strive to maximize the return on the portfolio but will avoid assuming unreasonable investment risk.

C. The municipality's investment portfolio will remain sufficiently liquid to enable the municipality to meet operating requirements which might be reasonably anticipated.

D. The municipality will diversify its investments to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.

1102.2 Investment Principles

The municipal treasurer shall invest funds for which there is no immediate need, sell and exchange securities so purchased, and deposit such securities for safekeeping. All investment decisions shall be made with consideration of the investment objectives contained in Subsection A of this Section and exercising judgment and care under the circumstances then prevailing.

The following investment principles shall guide the treasurer in the conduct of the municipality's investment program:

A. The municipality may purchase only legally authorized investments per State law.

B. The maturity date of new investments shall not be further than the time the municipality anticipates that it will need the funds. To maintain liquidity, new investments shall have a maturity of one (1) year or less for municipal operating funds.

C. The municipality shall not make investments for the purpose of trading or speculating, such as anticipating an increase of capital through changes in market interest rates.

D. Deposits and investment of funds can only be made in financial institutions that are insured by the FDIC or the FSLIC. Any funds deposited or invested above the one hundred thousand-dollar ($100,000.00) insurance limit must be collateralized by the financial institutions, or the excess funds must be placed with other financial institutions.

E. Cash balances in all demand deposit accounts shall not exceed compensating balances whenever possible. The Treasurer shall strive to invest at least ninety-five (95) percent of all available funds on a day-to-day basis.

F. Whenever possible, the municipality shall require financial institutions to remit interest monthly on all investments maturing after thirty (30) days.

G. Before investing funds through the service of institutions brokering money, the Treasurer shall require the institution to agree in writing to

follow the municipality's investment policies and in addition to the municipality's investment policies, the institutions shall only recommend purchasing investments in financial institutions that:

a. Have shown a profit in the current and last fiscal year and have an asset to equity ratio of 3:0.

H. Repurchase agreements can only be obtained from known and financially stable financial institutions. Repurchase agreements must be collateralized by U.S. Government securities with a market value equal or greater than the municipality's investments and be perfected under Maine statutes.

I. When possible, the Treasurer shall competitively bid all municipal investments in excess of ten thousand dollars ($10,000.00) from qualified financial institutions to ensure that funds are invested at the best rate of return.

1102.3 Reporting and Control

The Treasurer shall report in writing quarterly to the Municipal Officers for the purpose of monitoring the performance and structure of the municipal investments. The Town Manager shall establish a system of internal controls which shall be documented in writing. The internal controls shall be reviewed by the Municipal Officers and the independent auditor. The controls shall be designed to prevent losses of town funds arising from fraud, employee error, and changes in financial markets or imprudent actions by employees.

1103. DISBURSEMENT WARRANT

1103.1 Purpose

The purpose of this Ordinance is to provide an alternative to the statutory procedure for approval of warrants authorizing the Treasurer to disburse money.

1103.2 Authority

This ordinance is enacted pursuant to 30-A M.R.S.A. 3001 (municipal home rule) and 5603 (2)(A).

All warrants for the disbursement of money shall be signed by a majority of the members of the Town Council.

The municipal officers may adopt a written policy to permit the disbursement of employees' wages and benefits when a disbursement warrant has been signed by one (1) or more designated municipal officers. The policy must be filed with the Town Clerk and the municipal Treasurer and renewed annually by vote of the municipal officers. Other disbursements may be made when a disbursement warrant has been signed by the Chair or Vice Chair, or his designee, after the

Finance Committee meets to review all invoices and payrolls at their bi-monthly meetings.

1104. PUBLIC WELFARE AGENT

There shall be a Public Welfare Department to act for the Town Council, the head of which shall be the Public Welfare Agent appointed by the Town Council.

1104.1 Duties of the Public Welfare Agent

The Director of Public Welfare shall:

A. Be responsible for the planning, budgeting, reporting and control of the Town Welfare program.

B. Exercise all the powers and perform all the duties conferred or imposed by State law upon Overseers of the Poor.

1105. TAX CLUB PROGRAM

1105.1 Purpose

This ordinance is enacted for the purpose of allowing taxpayers to join a tax club program and pay taxes on a monthly basis.

1105.2 Definitions

For the purposes of this ordinance, the terms used herein shall be defined as follows:

"Taxpayer" shall mean any individual and business (commercial/industrial) that has a tax obligation, real estate and/or personal, with the Town.

"Real Estate" as defined by M.S.R.S. Title 36 Subsection 551.

"Personal Property" as defined by M.S.R.S. Title 36 Subsection 601.

"Coupon booklet" shall mean the receipt book, as designed by the Tax Collector, used for the tax club program.

"Tax club program" is a convenient program which enables any taxpayer to make monthly payments on their tax obligation.

"Town" means the Town of Lincoln.

1105.3 Authority

The Town Council shall authorize the Tax Collector on an annual basis, on such terms and conditions as outlined in this Ordinance, to allow taxpayers to join a tax

club program. To qualify for monthly payment of tax assessments, the taxpayer must sign a register indicting the taxpayer's election to comply with this ordinance. The register shall be maintained by the Tax Collector at the Town Office.

1105.4 Procedures

A taxpayer who elects to join the tax club program, shall adhere to the following regulations:

A. All accounts in the taxpayer's name, or any accounts the taxpayer may have any financial interest in, must be currently paid in full before a coupon booklet may be issued for the taxpayer's real estate and/or personal property tax obligation;

B. If the taxpayer owes both real estate and personal property taxes, and elects to join the tax club program for just one of the accounts, the taxpayer must pay the other account in full for the following tax year;

C. Tax clubs must be started no earlier than May 1 of each year for the next fiscal year, with the payment due dates set annually by the Town Council. NO CLUBS will be accepted after July 1.

D. There will be a total of twelve (12) payments. Failure to pay any amount due by its due date will result in removal from the tax club and penalties will be charged as stated in this ordinance.

E. In order to avoid the penalty, the first half of the current taxes must be paid in full by the December payment, and the second half must be paid in full by the June payment. Interest will be charged, as set by the Town Council yearly for all taxes, for any unpaid balance or for any removals from this program.

F. Monthly payments will be calculated using one hundred five (105) percent of the prior year's taxes, and adjusted on the first payment after the commitment date to reflect the current tax bill.

G. Any amount, once paid, cannot be withdrawn, refunded, or transferred to another account.

H. A taxpayer who has agreed to these terms shall be issued a coupon booklet. This booklet will need to be brought in when the taxpayer makes payment; or, if the taxpayer pays by mail, the taxpayer will need to detach the coupon and mail it with the payment.

I. If the taxpayer owes personal property and real estate taxes, the taxpayer may combine the amount due for each and make one payment. However, the personal property tax account will be credited first.

1105.5 Administration and Enforcement

The Tax Collector is hereby authorized to administer and enforce this Ordinance.

1105.6 Penalty

Any taxpayer who violates any provision of this Ordinance shall be subject to the provisions and penalty of section 1105.4-E.

1105.7 Severability

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

1106. EXEMPTING ELIGIBLE ACTIVE DUTY MILITARY PERSONNEL FROM VEHICLE EXCISE TAX

1106.1 Authority.

This ordinance is enacted pursuant to 36 M.R.S.A. § 1483-A, which authorizes an excise payment exception for qualified military personnel.

1106.2 Excise tax exemption; qualifications and application.

Vehicles owned by a Lincoln resident who is on active duty serving in the United States Armed Forces, and who is either permanently stationed at a military or naval post, station or base outside of Maine, or deployed for military service for a period of more than one hundred eighty (180) days per calendar year, and who desires to register their vehicle(s) in this State, are hereby exempted from the annual excise tax imposed pursuant to 36 M.R.S.A. § 1482.

To apply for this exemption, the resident must present to the municipal excise tax collector or designee, certification from the commander of their post, station or base, or from their commander's designated agent, that they are permanently stationed at that post, station or base, or are deployed for military service for a *period of more than one hundred eighty (180) days* during the previous calendar year of registration. Any further policies or rules imposed by the Maine Bureau of Motor Vehicles or Maine Revenue Services for qualification are in effect and the responsibility of compliance falls on the applicant to complete the registration.

1106.3 Definitions

For the purposes of this section, *"United States Armed Forces"* does include the National Guard and the Reserves of the United States Armed Forces if they meet the "*deployed for military service"* criteria listed below.

For purposes of this section, *"deployed for military service"* has the same meaning as in 26 M.R.S.A. § 814(1)(A).

1106. 4 Effective date; duration

This ordinance shall take effect immediately upon the adoption date of the Town Council and shall remain *in effect unless and until* it or 36 M.R.S.A. § 1483-A is repealed.

1200. ASSESSING DEPARTMENT

1200.1 Election

There shall be a Town Assessor appointed annually by the Town Manager with confirmation of the Town Council

1200.2 Assessor Duties

The Assessor shall be responsible for determining all property values in the Town and for the continuous revision of property values to reflect actual market value. The Assessor shall maintain records of all property and revise such records to show all additions or deletions of the Town valuation

The Assessor shall be responsible for the performance of all work in connection with the assessing of property and the preparation of all assessment and tax rolls and tax notices.

1300. CODE ENFORCEMENT

There shall be a Department of Code Enforcement, the head of which shall be the Code Enforcement Officer, who shall be appointed annually by the Town Manager and confirmed by the Town Council. He/she may also be required to hold the positions of Electrical Inspector, Plumbing Inspector, Health Officer and/or Building Inspector. In addition, the Code Enforcement Officer will work in conjunction with the Fire Chief to assure that all safety regulations are being complied with.

1300.1 Duties of the Code Enforcement Officer

A. Issue building permits and see that they are applied for.

B. Make several inspections of each new building. Make notes and sketches of each building.

C. Enforce building codes. Take necessary action, including court action if necessary, on violators.

D. Be responsible for public relations regarding codes such as a report in the Town Report and explanations to individuals and groups.

E. Attend meetings of the Town Council, Planning Board, etc.

F. Know and be able to interpret and publicize state and local laws and regulations regarding all phases of buildings. This would include building, plumbing, electrical, health and fire codes.

G. Coordinate activities of the Building Inspector, Plumbing Inspector, Electrical Inspector and Health Officer.

H. Have available reports and statistics regarding building activity and growth and in what areas and directions.

I. Assist in drawing up and revising codes such as building codes, zoning ordinances and subdivision regulations.

J. He/she automatically is an ex-officio member of the Planning Board and Conservation Commission.

1300.2 Duties of the Electrical Inspector

Be responsible for issuing all electrical permits as required, and inspect all new or expanded electrical service entrance connections.

1300.3 Duties of the Plumbing Inspector

Be responsible for issuing all plumbing permits as required under any section of the Building Code. Whenever a connection to the sewer line is involved, he/she shall require approval of the Lincoln Sanitary District prior to issuance of a plumbing permit.

1300.4 Penalty

The above inspectors shall be responsible for handling building or zoning ordinance violations by notifying the violator that he/she must correct the problem. If after fourteen (14) days the violation continues, the Inspector shall then report it to the Town Manager, who, through the Town's legal counsel, shall then take necessary action to enforce compliance with the law.

1301. HEALTH DEPARTMENT

There shall be a Department of Public Health, the head of which shall be the Health Officer, appointed by the Town Manager, with the confirmation of the Town Council.

1301.1 Duties of the Health Officer

The Health Officer shall have charge and control of all functions involved with protecting and preserving the public health; he/she shall have all power provided by State law or Town Ordinance relative thereto. Among other powers, he/she shall exercise the functions of:

A. Communicable Disease Control, which shall include the power of quarantine, and detention, and the adoption of such other measurers as will prevent the spreading, or aid in the prevention of communicable diseases. The Health Officer will carry these duties out in cooperation with the appropriate State agencies and Penobscot Valley Hospital.

B. Sanitation, meaning all matters, excluding food, pertaining to the sanitary conditions affecting the public health.

C. Nursing, which shall consist of the inspection of the operation of all private infant, pre-school and school hygiene programs and their direct operation, if and when so authorized by ordinance.

1301.2 License Inspections

He/she shall inspect promptly all premises for which a license applied for (excluding food) requires certification by the Health Officer and either deliver to the Town Clerk a certificate to the effect that health laws are complied with and proper sanitary conditions exist, or promptly advise the Town Clerk of his/her refusal to so certify. All Victualers sanitation inspections shall be conducted by a Maine Department of Health and Human Services licensing agent.

1301.3 Complaints

The Health Officer shall receive and examine all complaints made by any of the inhabitants of Lincoln concerning nuisances dangerous to life and health within the limits of the Town; enter upon or within any place or premises where nuisances or conditions dangerous to life or health are known or believed by him/her to exist; and personally, or by proxy conduct sanitary examinations. He/she shall have the power and it shall be his/her duty to order the suppression and removal of nuisances and conditions detrimental to life and health known by him/her to exist within the limits of the Town.

1301.4 Penalty

Any person who shall refuse or neglect to comply with any of the lawful orders of the Health Officer shall be subject to a fine or penalty as set forth in the Schedule of Fees in the Appendix to the Code. Wherever such order required that a certain act be done or performed in a specified time, any person neglecting

or refusing to do or perform such act within the required time shall be subject to a fine or penalty as set forth in the Schedule of Fees in the Appendix to the Code.

1302. BUILDING CODE ORDINANCE: ENFORCING THE MAINE UNIFORM BUILDING AND ENERGY CODE (MUBEC) FOR THE TOWN OF LINCOLN

1302.1 Title and Authority

This Ordinance shall be known as the "Ordinance Enforcing the Maine Uniform Building and Energy Code (MUBEC) for the Town of Lincoln." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 10 M.R.S.A. § 9724(1-A), and the provisions of 30-A M.R.S.A. § 3003

1302.2 Maine Uniform Building and Energy Code (MUBEC)

The Town of Lincoln adopts and enforces the Maine Uniform Building and Energy Code ("M.U.B.E.C."), as authorized by 10 M.R.S.A. § 9724 (1-A). The Code Enforcement Officer of the Town of Lincoln shall serve as the building official as defined in 25 M.R.S.A. § 2371 and shall be responsible for issuing building permits and certificates of occupancy. The Code Enforcement Officer shall be responsible for inspecting all permitted construction for compliance with all components of M.U.B.E.C., as such components may be revised from time to time. Administration and enforcement of M.U.B.E.C., including permits, fees, violations, penalties and appeals, shall be in accordance with this Ordinance, and with Article 1311 of the Town of Lincoln Land Use Ordinance.

1302.3 Violation Penalties

Any person who violates a provision of this Ordinance or fails to comply with any of the requirements thereof, or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of the Ordinance, shall be subject to penalties in accordance with 30-A M.R.S.A. Section 4452. Each day that a violation continues after due notice has been served, shall be deemed a separate offense. Any person who violates a provision of this Ordinance or fails to comply with any of the requirements thereof, or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of the Ordinance, shall be subject to penalties in accordance with 30-A M.R.S.A. Section 4452. Each day that a violation continues after due notice has been served shall be deemed a separate offense

1302.4 Fees

The fee for a building permit and certificate of occupancy hereunder shall be as specified in the Town of Lincoln Application, License and Permit Fees under the standard schedule of fees as determined by the Town Council.

1302.5. Effective Date

This Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby are to be effective retroactively to July 1st, 2012. Residents, Building Contractors and Applicants may view the MUBEC documents at the following location; Lincoln Town Office during regular business hours.

1303. PLUMBING CODE

The Plumbing Code for the Town of Lincoln shall be the existing State of Maine Plumbing Code.

1303.1 Plumbing Permit

In accordance with the State of Maine Plumbing Code, a Plumbing Permit shall be obtained from the local Plumbing Inspector before commencing the installation of any plumbing.

1303.2 Fees

The fee for said Plumbing Permit will be charged according to the schedule established in the State Plumbing Code.

1304. MOBILE HOMES

1304.1 Purpose

The purpose of this Ordinance is to promote the health, safety and general welfare of the residents of the Town; to encourage the most appropriate use of land throughout the municipality; to prevent overcrowding of real estate; to promote a wholesome home environment; to promote the coordinated development of unbuilt areas; to provide an allotment of land in new developments sufficient for all the requirements of community life; to conserve natural resources; and to provide for adequate public services.

1304.2 Scope

The provisions of this ordinance shall govern all land and all structures within the boundaries of the Town of Lincoln, Maine except as otherwise provided for by Public Laws of the State of Maine

1304.3 Construction

A mobile home shall be considered a single-family dwelling. Exception to lot size is specifically limited to duly licensed mobile home parks, authorized by State licenses.

Before moving a mobile home onto any lot in the Town of Lincoln, proof of meeting all ordinance requirements must be furnished and a Building Permit obtained.

Built-on additions must be finished in appearance, complimentary to the mobile home, and in consonance with the area.

It is mandatory that a mobile home skirt is installed within three (3) months of the time the mobile home is placed upon any lot in the Town of Lincoln. This skirt is to be of finished appearance and complimentary to the mobile home. Exposed soft material such as canvas or tar paper is forbidden.

1304.4 Travel Trailers

Travel trailers, when not in use, may be stored on the premises of the owner. Travel trailers may not be used for residence purposes, unless in a mobile home park or in a campground.

1304.5 License - Mobile Home and Trailer Parks

Application for State license must include approval from the Town Planning Board.

1305. ELECTRICAL CODE

The National Electrical Code shall be used in the Town of Lincoln for inspection and approval of all electrical work.

1306. FLOODPLAIN MANAGEMENT ORDINANCE

1306.1 Purpose and Establishment

Certain areas of the Town of Lincoln, Maine are subject to periodic flooding, causing serious damage to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Lincoln, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Manager Ordinance.

It is the intent of the Town of Lincoln, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Lincoln has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, § 3001-3007, 4352 and 4401-4407.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Lincoln having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Lincoln, Maine.

The areas of special flood hazard, Zones A and AE, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Town of Lincoln, Maine, Penobscot County," dated September 18, 1987, which are hereby adopted by reference and declared to be a part of this Ordinance.

1306.2 Permit Required

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Lincoln, Maine.

1306.3 Application for Permit

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

A. The name, address and phone number of the applicant, owner and contractor;

B. an address and a map indicating the location of the construction site;

C. a site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

D. a statement of the intended use of the structure and/or development;

E. a statement of the cost of the development including all materials and labor;

F. a statement as to the type of sewage system proposed;

G. specification of dimensions of the proposed structure and/or development;

(Items H-K.2 applies only to new construction and substantial improvements.)

H. the elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:

1. Base flood at the proposed site of all new or substantially Improved structures, which is determined;

a. In Zone AE, from data contained in the "Flood Insurance Study – Town of Lincoln, Maine," as described in 1306.1;

or,

b. In Zone A:

(1) From any base flood elevation data from Federal, State or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to 1306.6-K and 1306.8-D;

(2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,

(3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

2. highest and lowest grades at the site adjacent to the walls of the proposed building;

3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be flood-proofed.

I. a description of an elevation reference point established on the site of all developments for which elevation standards apply as required in 1303.6;

J. a written certification by a Professional Land Surveyor or a registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

K. the following certifications are required in 1306.6 by a registered professional engineer or architect:

1. A Flood-proofing Certificate (FEMA Form 81-65, 08/99, as amended), to verify that the flood-proofing methods for any non-residential structures will meet the flood-proofing criteria of 1303.3-H-4; 1303.6-G.; and other applicable standards in 1303.6;

2. A Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of 1303.6-2-a;

3. A certified statement that bridges will meet the standards of 1303.6-M;

4. A certified statement that containment walls will meet the standards of 1303.6-N.;

L. a description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. a statement of construction plans describing in detail how each applicable development standard in 1303.6 will be met.

1306.4 Application Fee and Expert's Fee

A non-refundable application fee of fifty dollars ($50.00) shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals need(s) the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within ten (10) days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

1306.5 Review Standards for Flood Hazard Development Permit Applications

The Code Enforcement Officer shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of 1303.6 (Development Standards) have been, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications:

1. The base flood data contained in the "Flood Insurance Study – Town of Lincoln, Maine." As described in 1303.1;

2. in special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize base flood elevation and floodway data from federal, state or other technical sources, including information obtained pursuant to 1303.3-H.-1.-b; 1303.6-K.; and 1303.8-D., in order to administer 1303.6 of this Ordinance; and,

3. when the community establishes a base flood evaluation in a Zone A by methods outlined in 1303.3-H.-1.-b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

C. Make interpretation of the location of boundaries of special flood hazard areas shown on the maps described in 1303.1 of this Ordinance;

D. in the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

E. notify adjacent municipalities, the Department of Environmental Protection and the Maine Floodplain Management Program in the State Planning Office, prior to any alteration or relocation of a water course, and submit copies of such notification to the Federal Emergency Management Agency;

F. if the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:

1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to, and including the first horizontal floor only, above the base flood level. At that time, the applicant shall provide the Code Enforcement Officer with a second Elevation Certificate completed by a Professional Land Surveyor or a registered professional engineer or architect, based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of 1303.6, paragraphs F. G. or H. Following review of the Elevation Certificate data, which shall take place within seventy-two (72) hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or

2. A Flood Hazard Development Permit for flood-proofing of non-residential structures that are new construction, or substantially improved non-residential structures, that are not being elevated but that meet the flood-proofing standards of 1303.6-G.-1.-a.,b., and c. The application for this permit shall include a flood-proofing Certificate signed by a registered professional engineer or architect; or

3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than fifty (50) percent of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in 1303.6-J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of 1303.9 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and

certifications of design standards required under the provisions of 1303.3, 1303.6, and 1303.7 of this Ordinance.

1306.6 Development Standards

All developments in areas of special flood hazard shall meet the following applicable standards:

A. **All Development –** All development shall:

1. Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), and collapse or lateral movement of the development resulting from hydrodynamic or hydrostatic loads, including the effects of buoyancy;

2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. **Water Supply –** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. **Sanitary Sewage Systems -** All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. **On Site Waste Disposal Systems –** On site waste disposal systems shall be located and constructed to avoid impairment to them or contaminations from them during floods.

E. **Watercourse Carrying Capacity –** All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. **Residential –** New construction or substantial improvement of any residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated

to at least one (1) foot above the base flood elevation.

2. Zone A shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation utilizing information obtained pursuant to 1303.3-H.-1.-b.; 1303.5-B; or 1303.8-D.

G. **Non-Residential –** New construction or substantial improvement of any non-residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:

a. Be floodproofed to at least one (1) foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable;

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Food Hazard Development Permit, as required by 1303.3-K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone A shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation utilizing information obtained pursuant to 1303.3-H.-1.-b; 1303.5-B; or 1303.8-D., or

H. **Manufactured Homes –** New or substantially improved manufactured homes located within:

1. Zone AE shall:

a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one (1) foot above the base flood elevation;

b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which

support the manufactured home so that no weight is supported by its wheels and axles; and

c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

(1) over-the-top ties anchored to the ground at the four (4) corners of the manufactured home, plus two (2) additional ties per side at intermediate points (manufactured homes less than fifty (50) feet long require one (1) additional tie per side); or by

(2) frame ties at each corner of the home, plus five (5) additional ties along each side at intermediate points (manufactured homes less fifty (50) feet long require four (4) additional ties per side).

(3) All components of the anchoring system described in 1303.6-H.-1.-c. (1) & (2) shall be capable of carrying a force of 4800 (four thousand eight hundred) pounds.

2. Zone A shall:

a. be elevated on a permanent foundation, as described in 1303.6 -H.-1.-b., such that the lowest floor (including basement) of the manufactured home is at least one (1) foot above the base flood elevation utilizing information obtained pursuant to 1303.3 -H.-1.-b.; 1303.5-B; or 1303.8 -D.; and

b. meet the anchoring requirements of 1303.6-H.-1.-c.

I. **Recreational Vehicles –** Recreational Vehicles located within:

1. Zone AE shall either:

a. be on the site for fewer than one hundred eighty (180) consecutive days,

b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in 1303.6-H.-1.

J. **Accessory Structures –** Accessory Structures, defined in 1303.13, located within Zones AE and A, shall be exempt from the elevation criteria required in 1303.6-F & G. above, if all other requirements of 1303.6, as well as all the following requirements, are met. Accessory Structures shall:

1. be five hundred (500) square feet or less and have a value less than three thousand dollars ($3000);

2. have unfinished interiors and not be used for human habitation;

3. have hydraulic openings, as specified in 1303.6-L.-2., in at least two (2) different walls of the accessory structure;

4. be located outside the floodway;

5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and

6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. **Floodways –**

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development, shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in 1303.6 - K.-3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the

cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

a. will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community; and

b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study – Guidelines and Specifications for Study Contractors* (FEMA 37/January 1995, as amended).

3. In Zones AE and A riverine areas for which a regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half (1/2) the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. **Enclosed Areas Below the Lowest Floor –** New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of 1303.6 , including the elevation requirements of 1303.6 , paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts", or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in 1303.13;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

a. be engineered and certified by a registered professional engineer or architect; or

b. meet or exceed the following minimum criteria:

(1) a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of the enclosed area;

(2) the bottom of all openings shall be below the base flood elevation and no higher than one (1) foot above the lowest grade; and

(3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. **Bridges –** New construction or substantial improvement of any bridge in Zones AE and A shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings or columns) is elevated to at least one (1) foot above the base flood elevation; and

2. a registered professional engineer shall certify that:

a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of 1303.6-K.; and

b. the foundation and superstructure attached thereto are designed to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. **Containment Walls –** New construction or substantial improvement of any containment wall located within:

1. Zones AE and A shall:

a. have the containment wall elevated to at least one (1) foot above the base flood elevation;

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting

the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by 1303.3-K.

O. **Wharves, Pier and Docks –** New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and A, in and over water and seaward of the mean high tide, if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

1306.7 Certificate of Compliance

No land in a special flood hazard area shall be occupied or used, and no structure which is constructed or substantially improved shall be occupied, until a Certificate of Compliance is issued by the Code Enforcement Officer, subject to the following provisions:

A. for New Construction or Substantial Improvement of any elevated structure, the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor or registered professional engineer or architect, for compliance with 1303.6, paragraphs F, G, or H.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

C. Within ten (10) workings days, the Code Enforcement Officer shall:

1. review the Elevation Certificate and the applicant's written notification; and

3. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

1306.8 Review of Subdivision and Development Proposals

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local

ordinances or regulations, and all projects on five (5) or more disturbed acres, or in the case of manufactured home parks divided into two (2) or more lots, assure that:

A. All such proposals are consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

E. Any proposed development plan must include a condition of plan approval requiring that structures of any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with 1303.6 of this Ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing intent to transfer any interest in real estate or structure, including but not limited to a timeshare interest. The condition shall clearly articulate that the municipality shall enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

1306.9 Appeals and Variances

The Board of Appeals of the Town of Lincoln may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

A. Variances shall not be granted within any designated regulatory floodway, if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and

2. a determination that, should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:

a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,

c. that the granting of a variance will not alter the essential character of the locality; and,

d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use, provided that:

1. other criteria of 1303.9 and 1303.6 -K. are met; and,

2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of 1303.9, paragraphs A. through D. above; and,

2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structures continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of 1303.9, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in a greatly increased premium rate for flood insurance, up to amounts as high as twenty-five dollars ($25) per one hundred dollars ($100) of insurance coverage.

2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decisions to use land located in floodplain, and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in the floodplain.

G. The Appeal procedure for administrative and variance appeals is as follows:

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty (30) days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decisions appealed from.

3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

4. The person filing the appeal shall have the burden of proof.

5. The Board of Appeals shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance, and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

1306.10 Enforcement and Penalties

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;

1. the name of the property owner and address, or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

1306.11 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.

1306.12 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, by law, 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.

1306.13 Definitions

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its' most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

ACCESSORY STRUCTURE – means a small detached structure that is incidental and subordinate to the principal structure.

ADJACENT GRADE – means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

AREA OF SPECIAL FLOOD HAZARD – means the land in the floodplain having a one (1) percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in 1303.1 of this Ordinance.

BASE FLOOD – means the flood having a one (1) percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

BASEMENT – means any area of the building having its floor sub grade (below ground level) on all sides.

BUILDING – see **Structure**

CERTIFICATE OF COMPLIANCE – A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

CODE ENFORCEMENT OFFICER – any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

DEVELOPMENT – means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to, the construction of buildings or other structures; the construction of additions or substantial improvements to building or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

ELEVATED BUILDING – means a non-basement building:

a. built, in the case of a building in Zones AE and A, to have the top of the elevated flood elevated above the ground level by means of pilings, columns, posts, piers, or "stilts;" and,

b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one (1) foot above the magnitude of the base flood.

In the cases of Zones AE or A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls, with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in 1303.6-L.

ELEVATION CERTIFICATE – An official form (FEMA Form 81-31, 08/99, as amended) that:

a. is used to verify compliance with the floodplain management regulations of the National Insurance Program; and

b. is required for purchasing flood insurance.

FLOOD or FLOODING – means:

a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

    1. the overflow of inland or tidal waters

    2. the unusual and rapid accumulation or runoff of surface waters from any source.

b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining, caused by waves or currents of water exceeding anticipated cyclical levels, or suddenly caused by an unusually high water level in a natural body of water, accompanied

by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph a.1. of this definition.

FLOOD ELEVATION STUDY – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD INSURANCE RATE MAP (FIRM) – means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY – see **Flood Elevation Study.**

FLOODPLAIN or FLOOD-PRONE AREA – means any land area susceptible to being inundated by water from any source (see flooding).

FLOODPLAIN MANAGEMENT – means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS – means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING – means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

FLOODWAY – see **Regulatory Floodway.**

FLOODWAY ENCROACHMENT LINES – means the lines marking the limits on floodways on federal, state, and local floodplain maps.

FREEBOARD - means a factor of safety usually expressed in feet above a flood level, for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

FUNCTIONALLY DEPENDENT USE – means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HISTORIC STRUCTURE – means any structure that is:

a. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

c. individually listed on a state inventory of historic places, in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. individually listed on a local inventory of historic places, in communities with historic preservation programs that have been certified either:

    1. by an approved state program, as determined by the Secretary of the Interior; or

    2. directly by the Secretary of the Interior in states without approved programs.

LOCALLY ESTABLISHED DATUM – means, for purposes of this Ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to in the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

LOWEST FLOOR – means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, and building access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in 1303.6-L. of this Ordinance.

MANUFACTURED HOME – means a structure, transportable in one (1) 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 flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

MANUFACTUERED HOME PARK or SUBDIVISION – means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MEAN SEA LEVEL – means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

MINOR DEVELOPMENT – means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than fifty (50) percent of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in 1303.6-J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of material, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

NEW CONSTRUCTION – means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

100 – YEAR FLOOD – see **Base Flood.**

RECREATIONAL VEHICLE – means a vehicle which is:

a. built on a single chassis;

b. four hundred (400) square feet or less when measured at the largest horizontal projection, not including slide outs;

c. designed to be self-propelled or permanently towable by a motor vehicle; and

d. designed primarily for use as temporary living quarters for recreational, camping, travel, or seasonal use and not for use as a permanent dwelling

REGULATORY FLOODWAY –

a. means the channel of a river or other water course and the adjacent land areas that must be reserved, in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot, and

b. when not designated on the community's Flood Insurance Rate Map or Flood Boundary and Floodway Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half (1/2) the width of the floodplain, as measured from the normal high-water mark to the upland limit of the floodplain.

RIVERINE – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA – see **Area of Special Flood Hazard**

START OF CONSTRUCTION - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one hundred eighty (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 cleaning, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, foots, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

STRUCTURE – means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

SUBSTANTIAL DAMAGE – means damage of any origin sustained by a structure, whereby the cost of restoring the structure to it's before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

a. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,

b. any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

VARIANCE – means a grant of relief by a community from the terms of a floodplain management regulation.

VIOLATION – means the failure of a structure or development to comply with a community's floodplain management regulations.

1306.14 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).

1307. SIGNS

1307.1 Permit

No sign of wood, metal, or other material, which extends over any public walk or highway, shall be installed unless a permit is obtained from the Code Enforcement Officer.

1307.2 Violation

It shall be unlawful for any person to attach a sign, poster, notice or similar material, by any means to the metal street light poles on Main Street.

1310. STREET OPENING FEES

No Town Way shall be opened for the purpose of installing or repairing sewers, water, or for any other purpose, unless the individual or corporation wishing to make such opening shall first obtain from the Code Enforcement Officer a permit to do so and to pay the full cost of repairing the damage to the street caused by the opening. Said full cost shall include settling damages.

1311. LAND USE ORDINANCE

Prepared by:
JIM HASKELL & ASSOCIATES
Community Planning, Growth Management and Development Consultants
RFD Eastbrook Road, Franklin, Maine 04634

LAND USE ORDINANCE
TOWN OF LINCOLN, MAINE – AMENDMENT HISTORY
ADOPTED: DECEMBER 6, 1988

Amended: June 12, 1989 Effective: July 12, 1989

Map Changes Only: Added property lines
Changed zones of portions of Cambolasse Pond and
Long Pond (Hinkleman and Bridgeham)
Boundary Change WP & SD2
Add MR Zone Section IIIB, 11, a & b
Delete Section III B, 9, b (v & w)
Add MR Zone Section III B, 8, b, 4 (l & m)
Add cap on Building Permit Fees Section IV, M

Amended: December 11, 1989 Effective: January 10, 1990

Delete Section III B, 8, 2, p (Smart's Map 130, Lot 19)
Map Change (Hinkleman)
Delete Section V, 30, F – relettered g, h, I (MR Land Use Standards)
Section V, 30, e (60' changed to 50')
Delete Section IV F, 9 renumbered 9, 10 (Residential Activities)
Added Section III B, 8, b, 4 (k) (Lindsay Street)
Added Section III B, 11, b, (a-f)
Delete Section VI D "State and Federal"

Amended: March 12, 1990 Effective: April 11, 1990

Amend Aquifer Protection Zone

Delete Section III 8, b, q, 32 & 37
Add Section III 9, b-m
Add Section III 9, b, x Add Section III 9, b, y

Amended: April 9, 1990 Effective: May 9, 1990

Section I, G, 2 change wording (Hearing)
Section III F, 2 change wording (eliminate 1,000' notification)
Section IV 9, C (a – e) added

Amended: December 10, 1990 Effective: January 9, 1991

Amended *12 Item E delete "If in the judgment of the Lincoln Water District" and "If in the judgment of the Lincoln Planning Board"

Amended: January 14, 1991 Effective: February 13, 1991

Delete Section III 8, 2, p
Delete Section III 9, b, r (Map 130, Lot 19)

Amended: November 11, 1991 Effective: January 11, 1992

Section VII – Definitions Parking Space (changed size requirements)

Amended: April 13, 1992 Effective: May 13, 1992

Section V, 44 Signs (Sign Size requirements Commercial Zone)

Amended: July 13, 1992 Effective: July 14, 1992

Extraction of Shoreland Zoning sections of the Ordinance
Add Land Use Ordinance/Shoreland Zoning (2 separate ordinances)

Amended: June 14, 1993 Effective: July 14, 1993

Delete Section III, B, 8
Section III, C
Add Section III B, 8 Commercial Zones 1 – 4 (C1, C2, C3, C4)
Section III C, (new description)
Delete Section V – Downtown Commercial Zone and DC – 1 Zone
Add Section V – Commercial Zones 1 – 4 (C1, C2, C3, C4) to Land Use Standards
Delete Section VI, H
Add Section VII, H (new wording) Add Section VII, B Variety definition
Add Section VII, B Minor and Major Flowing Water definitions

Amended: April 11, 1994 Effective: April 11, 1994

(Emergency Preamble)
Commercial Zone 1 to include Map 139, Lot 295, Lee Street

Amended: July 11, 1994 Effective: August 11, 1994

Section VI; Schedule of Uses: Resource Management Activities, Agriculture, Agricultural Activities

Amended: August 8, 1994 Effective:September 11, 1994

Delete Fish and Wildlife Protection Zone

Amended: September 12, 1994 Effective: October 12, 1994

Section III, Establishment of Zones b, Rural Residential 1 (c) Enfield Road/Wilson Farm Road zone change from DR2, to RR1 to include: Map 47, all of Lots 40, 43, 47, 48,; Map37, Lots 36, , 32, 30, 31 and a portion of the right-of-way on Map 17 leading to the lots on Wilson Farm Road.

Amended: March 13, 1995 Effective: April 13, 1995

Add to Section V, 42 Timber Harvesting (to allow Timber Harvesting in the DR1, DR2, DR3, DR4 Zones per Harvest Plan)
Add to Section VII, Definitions: Forest Management Terms, Timber Harvesting and Licensed Professional Forester

Amended: June 12, 1995 Effective: July 12, 1995

Amended Section V, Subsection C, Land Use Standards, Minimum front yard setback (center of road) RR2, by changing the setback from 100 feet to 60 feet.

Amended: April 8, 1996 Effective: May 8, 1996

Amend Section III, Subsection 8, Areas Included with Residential Provisions, addition of note and sections f through k.

Amended: April 8, 1996 Effective: May 8, 1996

Amend Section V, Subsection C, Land use Standards, Minimum front yard setback (center of road).

Amended: April 22, 1996 Effective: May 22, 1996

Amend Residential Activities, No Mobile Home Parks from Park Avenue to Penobscot Valley/River Road Intersection.

Amended: November 12, 1996 Effective December 12, 1996

Amended Section 1311 – III, B by adding k. All properties abutting Route 2 north of Frost Street to the railroad crossing.

Amended: September 10, 2001 Effective: October 10, 2001

Amended Section 1300 – III, by combining portions of Downtown Residential Sub – Zone 2 with Downtown Residential Sub – Zone 1 and combining Downtown Residential Sub – Zones 3 and 4 with the remaining portion of Downtown Residential Sub – Zone 2.

Amended: May 13, 2002 Effective: June 13, 2002

Amended Section 1600 – I, E, by deleting reference to deed restriction or covenant.

Amended: December 9, 2002 Effective January 9, 2003

Amended Permitting Authority for Signs from Planning Board to Code Enforcement.

Amended: December 9, 2002 Effective: January 9, 2003

Amended front yard setback in Industrial zone from 100 to 50 feet.

Amended: December 9, 2002 Effective: January 9, 2003

Amended Permitting Authority for one family residential from Planning Board to Code Enforcement.

Amended: September 8, 2003 Effective: October 8, 2003
Amended Minimum lot area per family for C-3 from 20,000 sq. ft. to 5,000 sq. ft.

Amended: February 9, 2004 Effective: March 10, 2004
Amended Off-Street Parking, retail stores and professional offices and public buildings and added section (d) regarding empirical determination. Amended Land Use Standards Chart, Minimum front yard setback for RR2 zone from 60 feet to 50 feet and added clause allowing Code Enforcement Officer to reduce the setback.

Amended: April 12, 2004 Effective: May 12, 2004
Amended Home Occupation to include Home Office

Amended: April 12, 2004 Effective: May 12, 2004
Added definition of Home Office

Amended: July 11, 2005 Effective: August 11, 2005
Zone Change – Mohawk Road

Amended: August 8, 2005 Effective: August 9, 2005
Setback Variance for Single-family Dwellings Emergency Preamble

Amended: September 9, 2005 Effective: October 9, 2005
Commercial Uses – Storage Rental Units / Amend Chart to DR2 - P

Amended: May 14, 2007 Effective: June 14, 2007
Amended Section 1311.5, Section V, A
Wood Boilers, Outdoor

Amended: August 11, 2008 Effective: September 11, 2008
Amended Schedule of Fees,
Wood Boiler Permit/Building Fees

Amended: May 11, 2009 Effective: June 11, 2009
1313.1 Shoreland Zoning Ordinance
In its entirety.

Amended: September 14, 2009 Effective: October 14, 2009
Amended Section 1311.11, Section VI
Land Use, Campgrounds

Amended: November 9, 2009 Effective: December 9, 2009
Amended Section 1311.4(IV)A.3

Amended: May 10, 2010 Effective: June 10, 2010
Amended Section 1311.3.3
Land Use Ordinance - Establishment of Zones

Amended: March 12, 2012 Effective: April 12, 2012
Shoreland Zoning, Section 1313.1 *(repeal and replacement)*
Per recommendation of Planning Board and Council Approval

Victualers, Section 1003.3.11 and Health Department, Section 1301.1.2 and 1301.2

Amended: April 9, 2012 Effective: May 9, 2012
Establishment of Zones, Section 1311.3
DR1 to DR2 classification.

Amended: June 11, 2012 Effective: June 12, 2012
Adopted MUBEC Section 1302 per State Law (7/1/2012) over 4000 residents.
By Emergency Preamble - Replaced and repealed previous Building Code

Amended: March 11, 2013 Effective: April 11, 2013
Amended Schedule of Fees – Building Permits

Amended: August 12, 2013 Effective: September 12, 2013
Amended Livestock Definition – Add six laying hens, no roosters…

Amended: July 14, 2014 Effective: August 14, 2014
Amended Schedule of Fees – Building Permits

Amended: Dec 9, 2016 Effective: Jan 9 2017
Amended Section 1311.7 – Definitions Marijuana growing Facility and Dispensary
Updated Land Use Tables 1311.4- Schedule of uses added 9 and 11.

1311.1 General Provisions

1311.1.1 Title

This Ordinance shall be known and may be cited as the "Land Use Ordinance of the Town of Lincoln, Maine," and will be referred to herein as the "Ordinance."

1311.1.2 Authority

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII Part Second of the Maine Constitution and Title 30A, Sections 2101 and 4323, of the Maine Revised Statutes Annotated.

1311.1.3 Purposes

The purposes of this Ordinance are as follows:

1. **COMPREHENSIVE PLAN IMPLEMENTATION**
   To implement the policies and recommendations of the Lincoln Comprehensive Plan;

2. **PRESERVATION OF THE TOWN CHARTER**
   To preserve and protect the character of Lincoln by dividing the Town into neighborhood zones according to the use of this land and buildings and the intensity of such uses;

3. **PROTECTION TO THE GENERAL WELFARE**
   To assure the comfort, convenience, safety, health and welfare of the present and future inhabitants of the Town of Lincoln.

4. **PROTECTION OF THE ENVIRONMENT**
To protect and enhance the natural, cultural, and historic resources from unacceptable adverse impacts and to integrate new development harmoniously into the Town's natural environment;

5. **PROMOTION OF COMMUNITY DEVELOPMENT**
To promote the development of an economically sound and stable community;

6. **REDUCTION OF TRAFFIC CONGESTION**
To lessen the danger and congestion of traffic on roads and highways, limiting excessive numbers of intersections, driveways, and other friction points, minimizing hazards, and insuring the continued usefulness of all elements of the existing transportation system for their planned future.

7. **BALANCING OF PROPERTY RIGHTS**
To protect property rights and values by balancing the rights of landowners to use their land for the purposes regulated by this Ordinance with the corresponding rights of abutting and neighboring landowners; to enjoy their property without undue disturbance from noise, smoke, dust, fumes, odor, glare, traffic, storm water runoff, or the pollution of ground surface water resources;

8. **REDUCTION OF FISCAL IMPACT**
To provide the means of evaluating development proposals for their fiscal impacts on the municipality's ability to provide and improve necessary public facilities and services; and

9. **ESTABLISHMENT OF PROCEDURES AND STANDARDS**
To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluating such developments; to provide a public hearing process through which Town residents may raise questions and receive answers regarding how such developments may affect them; and to provide procedures whereby aggrieved parties may appeal decisions made under this Ordinance to the Appeals Board.

1311.1.4 Applicability

This Ordinance shall apply to all areas within the Town of Lincoln. All buildings or structures hereinafter constructed, reconstructed, altered, enlarged, or moved, and the uses of buildings and land including the division of land, in the Town of Lincoln, shall be in conformity with the provisions of this Ordinance. No building, structure, land or water area shall be used for any purpose or in any manner except as provided for in this Ordinance.

1311.1.5 Conflict with Other Ordinances

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, or ordinance, the most restrictive or that imposing the higher standard, shall govern.

1311.1.6 Severability

In the event that any section, subsection, or any provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be severable.

1311.1.7 Amendments

1. **INITIATION**
   An amendment to this Ordinance may be initiated by the Town Council or by petition of the Planning Board to the Town Council, or by written petition by the registered voters of the Town as provided for in the Town Charter.

2. **HEARINGS**
   If in the judgment of the Planning Board a public hearing is warranted, the Planning Board shall hold a public hearing on the proposed amendment at least fourteen (14) days prior to the Town Council meeting. Notice of the hearing shall be posted at least ten (10) days prior to such hearing. The Planning Board shall make known its recommendation on the proposed amendment, in writing, before the vote of the Town Council.

3. **MAJORITY VOTE**
   This Ordinance may be amended or repealed by a majority vote at a duly constituted Town Council meeting if the Planning Board approves the amendment or repeal. If the Planning Board does not approve, the amendment or repeal may be enacted by a majority vote of the Town Council.

1311.1.8 Annual Administrative Report

The Code Enforcement Officer, Planning Board, and Board of Appeals each shall report annually to the Town Council on their respective experience with the administration of this Ordinance during the previous year. Their reports to the Town Council shall include any recommended amendments they may have that would:

1. Enhance their ability to more effectively meet their respective administrative responsibilities under this Ordinance; and

2. Enhance the implementation of the purpose of this Ordinance contained in 1311.1.3, paragraph 1 through 9 above.

1311.1.9 Effective Date

The effective date of this Ordinance or any amendments thereto shall be the thirtieth (30^{th}) day following its/their adoption at a Town Council meeting. A copy of this Ordinance, certified by the Town Clerk shall be filed with the Penobscot County Registry of Deeds.

1311.2 Non-Conforming Structures; Uses and Lots

1311.2.1 Burden of Proof

The burden of establishing that any non-conforming structure, use, or lot is a legal existing non-conforming use, as defined in this Ordinance, shall, in all circumstances, be upon the owner of such non-conforming structure, use or lot and not upon the Town of Lincoln.

1311.2.2 Conversion to Conformance Encouraged

Owners of all existing, non-conforming structures and uses shall be encouraged to convert such existing, non-conforming structures and uses to conformance whenever possible and shall be required to convert to conforming statues as required by this Ordinance.

1311.2.3 Continuance

The use of any building, structure, or land, which is made non-conforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued, subject to the following provisions:

1. Existing Non-Conforming Uses of Land

Continuance of non-conforming uses of land shall be subject to the following provisions:

a. No such existing, non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than that occupied at the effective date of this Ordinance, or any amendment thereto;

b. If any such existing, non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of land shall conform to the regulation specified by this Ordinance for the zone in which such land is located, and

c. An existing, non-conforming use may be moved within the boundaries of the lot provided that the Board of Appeals finds that the change in location on the lot is more appropriate regarding:

(1) Location and character;
(2) Fencing and screening;
(3) Landscaping, topography, and natural features;
(4) Traffic and access;
(5) Signs and lighting; and/or
(6) Potential nuisance.

2. Existing Non-Conforming Structures

Continuance of existing, non-conforming structures shall be subject to the following provisions.

a. No such structure shall be enlarged or altered in any way, that increases its non-conformity;

b. Should any structure, exclusive of the foundation, be destroyed or damaged by any means, exclusive of planned demolition, said structure may be rebuilt on the existing foundation to the dimensions of the structure which was destroyed provided rebuilding is begun within one (1) year; and

An existing non-conforming structure may be moved within a lot in a manner which would decrease its non-conformity in terms of setback requirements, provided that the Board of Appeals finds that the change in location is more appropriate regarding:

(1) Location and character;
(2) Fencing and screening;
(3) Landscaping, topography, and natural features;
(4) Traffic and access;
(5) Signs and lighting; and/or
(6) Potential nuisance.

3. Existing Non-Conforming Uses of Structures

Continuance of an existing, non-conforming use of a structure shall be subject to the following provisions:

a. No existing structure devoted to a non-conforming use shall be enlarged or extended;

b. An existing, non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for

such use at the time of the adoption or amendment of this Ordinance, but no such uses shall be extended to occupy any land outside such building;

c. Any existing, non-conforming use of a structure or premises may be changed to another non-conforming use provided that the Board of Appeals shall find that the proposed use is more appropriate to the zone than the existing non-conforming use;

d. If a non-conforming use of a structure or premises is superseded by a permitted use, the non-conforming use shall not thereafter be resumed;

e. If any non-conforming use of a structure ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such structure shall conform to the regulation specified by this Ordinance for the zone in which such structure is located; and

f. A structure housing an existing non-conforming use may be moved, within the lot, in a manner which would be a more appropriate location, provided that the Board of Appeals finds that the change in location is more appropriate regarding:

(1) Location and character;
(2) Fencing and screening;
(3) Landscaping, topography, and natural features;
(4) Traffic and access;
(5) Signs and lighting; and/or
(6) Potential nuisance.

4. Construction Begun Prior to Ordinance

This Ordinance shall not require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which a completed application for a local permit has been made or a permit has been issued and upon which construction has been lawfully commenced prior to the adoption of this Ordinance. Such construction shall start within sixty (60) days after the issuance of such permit.

1311.2.4 Non-Conforming Lots of Record.

A single parcel of land, the legal description of which or the dimensions of which are recorded on a document or map on file with the Registry of Deeds, which at the effective date of this date of adoption or subsequent amendments of this Ordinance, does not meet the lot area or width requirements or both, of the zone

in which it is located, may be built upon as an existing lot of record even though such lot may be contiguous with any other lot in the same ownership, provided that all other provisions of this Ordinance are met.

1311.2.5 Transfer of Ownership

Ownership of land and structures which remain lawful but become non-conforming by the adoption or amendment of this Ordinance may be transferred and the new owner may continue the non-conforming uses subject to the provisions of this Ordinance.

1311.3 Establishment of Zones

1311.3.1 Zones Established

For purposes of this Ordinance, the Town of Lincoln is hereby divided into the following zones and sub-zones:

1. Aquifer Protection Zone (AP)
    a. Aquifer Protection Sub-Zone 1 (AP1)
    b. Aquifer Protection Sub-Zone 2 (AP2)
    c. Aquifer Protection Sub-Zone 3 (AP3)

2. Flood Prone Area Protection (FP)

3. Rural Residential Zone (RR)
    a. Rural Residential Sub-Zone 1 (RR1)
    b. Rural Residential Sub-Zone 2 (RR2)

4. Downtown Residential Zone (DR)
    a. Downtown Residential Sub-Zone 1 (DR1)
    b. Downtown Residential Sub-Zone 2 (DR2)

5. Commercial Zones
    a. Commercial 1 (C-1)
    b. Commercial 2 (C-2)
    c. Commercial 3 (C-3)
    d. Commercial 4 (C-4)

6. Industrial Development Zone (ID)

7. Mobile Home Park Residential Zone (MR)

1311.3.2 Standards Establishing Zones, Zone Descriptions

1. AQUIFER PROTECTION ZONE (AP)

a. PURPOSE

The purpose of the Aquifer Protection Zone (AP) is to protect the quantity of the present and future ground water resources that recharge the South Lincoln Aquifer.

b. AREA INCLUDED
This zone shall include areas within the following Sub-Zones:

1. AQUIFER PROTECTION SUB-ZONE 1 (AP1):
The Lincoln Aquifer itself is determined by the latest geologic and engineering data.

2. AQUIFER PROTECTION SUB-ZONE 2 (AP2):
The area between the AP1 Sub-zone boundary and the center line of Pollard Brook to the East and the area between the AP1 Sub-zone boundary and the center line of the closest unnamed brook to the West or a line two hundred fifty (250) feet to the West whichever is greater.

3. AQUIFER PROTECTION SUB-ZONE 3 (AP3)
The area between the AP2 Sub-zone boundary and the boundary of the contributing watershed to the West and the area between the AP2 Sub-zone boundary and the boundary of the contributing boundary to the East.

4. EXCEPTION TO THIS ZONE:
Tax Map 131, Lots 24,25,26 and Map 119 Lots 2,3,4,5,13,14.

2. FLOOD PRONE AREA PROTECTION ZONE (FP)

a. PURPOSE
The purpose of the Flood Prone Area Protection Zone (FP) is to regulate certain land use activities in flood prone areas and to comply with the cooperative agreement between the Town of Lincoln and the Federal Emergency Management Agency, regarding the regulation of land use, to ensure flood insurance can be made available to persons in flood-prone areas.

b. AREAS INCLUDED
This zone shall include areas located within the 100 year frequency flood plain as identified after consideration of relevant data by State or Federal Agencies, historic data, and the National Cooperative Soil Survey.

3. RURAL RESIDENTIAL DEVELOPMENT ZONE (RR)

a. PURPOSE

The purpose of the Rural Residential Development Zone (RR) is to preserve areas that are presently rural in character and use; provided opportunities for those who desire low density living and are willing to live in remote areas and are willing to assume the costs of providing many of their own services and amenities.

b. AREA INCLUDED
This zone shall include areas with the following Sub-Zones

(1) Rural Residential Sub-Zone 1 (RR1): Shall include all areas within three hundred (300) feet of the centerline of the following streets or roads or as described below:

a. Bagley Mountain Road;
b. Folsom Pond Road;
c. Enfield Road beginning 174 feet South of the Penobscot Valley Avenue Intersection to the Enfield Town Line extending 300 feet from the centerline of the Enfield Road to include Map 47, all of Lots 40,47,43,48; Map 37, Lots 23,32,30,31,36,38 and a portion of the right-of-way on Map 37 leading to the lots on Bedford Farm Road;
d. Frost Street;
e. Lee Road from Map 143, Lot 3 to the Lee Town Line inclusive;
f. Phinney Farm Road;
g. Main Street North of the Railroad Track Crossing to the Winn Town Line;
h. Sweet Road;
i. Town Farm Road;
j. Transalpine Road from Southerly boundary of Map 37, Lots 56 and Map 38 Lot 9 to the Burlington Town Line;
k. Mohawk Road, Map 10, Lots 1, 1A, 2, 2A, 3, 3A, 4, 4A and 5.

(2) Rural Residential Sub-Zone 2 (RR2): Shall include the area abutting the following roads or streets or as described, plus all other land areas not included within the boundaries of any other zones as described in this Ordinance;
a. Curtis Farm Road;
b. Half-Township Road;
c. Stanhope Mill Road;

4. DOWNTOWN RESIDENTIAL ZONE (DR)

a. PURPOSE

The purpose of the Downtown Residential Zone (DR) is to preserve the character of the existing downtown residential neighborhoods and to provide a variety of residential densities and neighborhood characteristics, within the service area of existing public water and sewer.

b. AREA INCLUDED
This zone shall include areas within the following Sub-zones:

(1) DOWNTOWN RESIDENTIAL SUB-ZONE 1 (DR-1): Shall include the area within the existing lots of record at the time of the adoption of this Ordinance which abut the following streets or roads or as described herein:

a. Buckley Avenue;
b. Center Pond Drive;
c. Evergreen Drive;
d. J.R. Drive;
e. Albert Drive;
f. The rest of the lots not designated DR2 on North side of Lee Road which include Map 141, Lots 36 and Map 142 Lots 15,16, and portions of lots 9, 13;
g. Frederick Street;
h. Ariel Street; and
i. Tibbetts Drive.
j. Mountain View Drive

(2) DOWNTOWN RESIDENTIAL SUB-ZONE 2 (DR-2)[2]: Shall include the area within the existing lots of record at the time of the adoption of this Ordinance which abut the following streets or roads or as described herein:

a. Clark Street;
b. Edwards Street;
c. Fish Hill Drive;
d. Enfield Road to 175 feet South of Penobscot Valley Avenue Intersection;
e. Hillcrest Drive;
f. Pinkham Street from intersection with Enfield Road to Map 126, Lot 28,29 inclusive;
g. Penobscot Valley Avenue from 75 feet east of the railroad tracks to the intersection of Penobscot Valley Avenue and the Enfield Road;

[2] Assigned map and lot numbers were reassigned due to inconsistencies on April 9, 2012, effective May 10, 2012.

h. South side of Taylor Street from where it intersects with Enfield Road to Rocky Brook;
i. North side of Taylor Street from where it intersects with Enfield Road to end of Rocky Brook except for that area zoned as SD-3;
j. Transalpine Road to Map 37, Lot 24,25, 53-57 inclusive;
k. William Street;
l. Workman Terrace;
m. Map 126, Lot 21;
n. Area between Pinkham Street and Transalpine Road excluding J.R. Drive;
o. Map 137, Lot 169; and
p. Map 127, Lot 61.
q. Academy Street;
r. Cushman Street;
s. East Broadway;
t. Hale Street;
u. Highland Avenue;
v. Warsaw Circle;
w. Jewell Street;
x. Katahdin Avenue;
y. Lakeview Street;
z. Lancaster Street;
aa. Lee Road;
bb. Western side of Lee Road 300 feet southerly following northern side of Map 142, Lots 14 to northern boundary of Map 142, Lot 7;
cc. Libby Street;
dd. Lincoln Street;
ee. MacKenzie Avenue;
ff. Morgan Street;
gg. Pleasant Street;
hh. Porter Street;
ii. Western side of School Street from Map 137, Lot 77 north inclusive;
jj. Eastern side of School Street from Map 137, Lot 84 north inclusive;
kk. Spring Street;
ll. Sunset Lane;
mm. Whalen Street;
nn. Wilson Street;
oo. Map 132, Lots 108 and Map 127 Lot 13;
pp. Map 141, Lot 36
qq. Map 132, Lots 47,48; rr.Map 128, Lot 14.
ss. Ayer Street;

tt. DeMarey Avenue;
uu. Easy Street;
vv. Holmes Street;
ww. On Mattanawcook Street, Map 137, Lots 157,158,159,160,161
xx. Perry Street;
yy. Second Street;
zz. Washington Street;
aaa. Fox Farm Road; and
bbb. Lindsay Street.

5. COMMERCIAL DEVELOPMENT ZONE (C)

a. PURPOSE

The purpose of the Commercial Zone (CZ) is to preserve the character of the existing commercial neighborhood as the community focal point for cultural, business, and service activities, by providing a full range of public facilities within the service area of existing public sewer and water.

b. AREAS INCLUDED

This zone shall include the areas within the existing lots of record at the time of adoption of this Ordinance which abut the following streets or roads as described herein:

COMMERCIAL ZONE-1 (C-1) (Downtown Business District): Center of Pleasant Street and Stanislaus Road to Enfield Road Bridge; area shall also include:

a. Adams Street;
b. Burton Street;
c. Clay Street;
d. Depot Street;
e. Mechanic Street;
f. East Broadway;
g. Taylor Street through Map 137, Lot 164 inclusive;
h. Lee Road through Map 139, Lot 295,296, and Map 137 Lot 57

COMMERCIAL ZONE – 2 (C-2):
Mattanawcook Stream Bridge on West Broadway to and including Map 135, Lot 10 and Map 135, Lot 5 and the center of Pleasant Street and Stanislaus Road to railroad crossing in Lincoln Center. All properties abutting Main Street/West Broadway in these areas shall be included in C-2. Also included are:

a. Grindle Street;
b. Haynes Street;
c. Portion of Map 136, Lot 22;
d. Portion of Map 141, Lot 4;
e. Map 141, Lots 27, 28, and a portion of Map 130, Lot 8;
f. Fleming Street abutting SD1 Zone;
g. School Street where DR2 ends to SD1 Zone on Lake Street.

COMMERCIAL ZONE-3 (C-3):
Area beyond Map 135, Lot 10 and Map 135, Lot 5 to the Aquifer Protection Zone 1 (AP1) South Lincoln.

a. All properties including South from Map 135, Lot 10 to the AP1 Zone (AP1) South Lincoln on the East side of West Broadway up to 75' from the railroad right-of-way excluding Map35, Lot 8.

b. All properties extending South from Map135, Lot 5 West side of West Broadway to AP1 Zone South Lincoln to the SD5 Zone (Penobscot River).

COMMERCIAL ZONE-4 (C-4):
Shall include only the River Road to the ID Zone. (The zone along the River Road shall include 500' from center line of road.)

**All areas described above which fall within the Shoreland Zone shall meet requirements of the Shoreland Zone.

6. INDUSTRIAL DEVELOPMENT ZONE (ID)

a. PURPOSE

The purpose of the Industrial Development Zone (ID) is to provide land which is conveniently located with respect to transportation corridors; where municipal services are available; other conditions are favorable to the development of industry; and is so located as to limit undesirable conflict with residential and commercial development.

a. AREAS INCLUDED

This zone shall include the areas within the existing lots of record at the time of the adoption of this Ordinance which abut the following streets or roads as described herein:

a. Depot St;
b. Park Avenue.
c. Katahdin Avenue
d. Spring Street
e. Haynes Street

7. MOBILE HOME RESIDENTIAL ZONE (MR)

a. PURPOSE

The purpose of a Mobile Home Park Residential Zone (MR) is to allow existing mobile home parks to expand in their existing locations; to allow future mobile home parks to be developed in a number of environmentally suitable locations; and to protect the residential character of mobile home parks.

b. AREAS INCLUDED

This zone shall include parcels of land five (5) acres of more in size, located within any existing mobile home park and owned by the mobile home park owner and as shown on the Official Zoning Map, provided that said parcel of land, or any part of land thereof, is not also located in another, more restrictive protection zone, which shall take precedence over the requirements of this zone. This zone shall also include parcels of land, five (5) acres or more in size, located within any existing Rural Residential Zone (RR1, RR2), Shoreland Development Sub-zone 1 (SD1), Downtown Residential Sub-zone 2 (DR2), or Commercial Zone with Residential Provisions, shown on the Official Zoning Map, on which is proposed a mobile home park for all which is owned by the person/persons to whom said licenses and permits are issued:

a. Dube's Trailer Park;
b. Highland Meadows Trailer Park;
c. Homestead Trailer Park;
d. Orchard Trailer Park;

8. AREAS INCLUDED WITH RESIDENTIAL PROVISIONS

In order to allow continued residential house upgrading, the areas within the existing lots of record at the time of the adoption of this ordinance which abut the roads or streets as described herein will allow single family mobile homes for residential use only.
NOTE: One single family manufactured house unit per lot.

a. Abbie Lane: Map 139, Lots5,6,7,8;
b. Fleming Street: Map 139, Lots10,11,17,18;

c. Depot Street: Map 139, Lots19,20,21,22;
d. Map 139, Lot 15;
e. Private way, leading from Fleming Street and being located approximately 157' northerly of Abbie Lane. Said way also known as Creamery Court: Map 139, Lots12,13,14;
f. Stanislaus Road;
g. Haynes Street;
h. Fox Farm Road;
i. Easy Street
j. All properties south of railroad tracks on West Broadway to the River Road/Penobscot Valley Ave. (see setback requirements Section V, Subsection C, Land Use Standards; Notes).
k. All properties abutting Main Street North of Frost Street to the railroad crossing.[3]
l. All properties south of the River Road and stream beyond Map 144 Lot 30 to the API Zone.

**All areas described above which fall within the Shoreland Zone shall meet the requirements of the Shoreland Zone for that area.

1311.3.3 OFFICIAL ZONING MAP

Zones established by this Ordinance are bounded and defined as shown on the Official "Land Use Zoning Map of Lincoln, Maine" which together with its notations and amendments, from time to time, is hereby made a part of this Ordinance.

The official copy of the map shall be that map which bears the certification that is true and correct, signed by the Chairman of the Planning Board and attested by the Town Clerk, and on file in the office of the Town Clerk.

1311.3.4 INTERPRETATION OF ZONE BOUNDARIES

Where uncertainty exists as to boundary lines of zones or sub-zones as shown on the official "Zoning Map of Lincoln, Maine", the following rules of interpretation shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, public utilities or right-of-way's shall be construed as following such center lines;

[3] New section k added and old section relabeled "l" on November 12, 1996.

2. Boundaries indicated as being the extension of center lines of streets shall be construed to be the extension of such center lines;

3. Boundaries indicated as approximately following the center lines of streams, rivers, or other continuously flowing water courses shall be construed as following the channel center line of such watercourses;

4. Boundaries indicated as being parallel to or extension of features listed above shall be so construed. Distances not specifically indicated on the official map shall be determined by the scale of the map;

5. Where physical or cultural features existing on the ground are at variance with those shown on the official map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Planning Board shall interpret the zone boundaries; and

6. Boundaries for 100-year Flood Prone Areas (FP) and Aquifer Protection Zones (AP) are based upon the most current information available from the State or Federal agencies responsible and are subject to change as such information changes.

1311.3.5 DIVISIONS OF LOTS BY ZONE BOUNDARIES

In the event that a Zone or Sub-zone boundary line divides a lot or parcel of land of the same ownership of record, at the time of the adoption or subsequent amendment of this Ordinance. The Planning Board, after written findings of fact that such extensions will not create unreasonable adverse impacts on the existing use of the adjacent properties, may:

a. When that portion of the lot which is located in the more restrictive Zone or Sub-zone is greater than ten (10) acres, extend the regulations applicable to the less restricted portion into no more than twenty (20) percent of the more restrictive portion;

b. When that portion of the lot which is located in the more restrictive Zone or Sub-zone is less than ten (10) acres, extend the regulations applicable to the less restrictive portion into no more than fifty (50) percent of the more restrictive portion;

c. When that portion of the lot which is located in the more restrictive Zone or Sub-zone is equal to that which is located in the less restrictive Zone or Sub-zone, extend the regulations applicable to the less restrictive portion to all of the more restrictive portion;

d. Except that, no such extension shall be granted by the Planning Board into a Protection Zone or Sub-Zone.

1311.3.6 AMENDMENTS TO ZONE BOUNDARIES

The Town Council of its own accord may initiate, and Planning Board or any property owner may petition, for a change in the boundary of any Zone or Sub zone.

The Town Council shall, within forty-five (45) days of receipt of such petition, either, approve the proposed amendment, deny the proposed amendment, or schedule a public hearing thereon.

No change in a Zone or Sub-zone boundary shall be approved by the Town Council unless there is a written finding of fact based upon substantial evidence that:

1. The change would be consistent with: the standards for the Zone or Sub -zone boundaries in effect at the time; the Comprehensive Plan; and the purpose, intent, and provisions of this Ordinance; and

2. The change in zoning will satisfy demonstrated need in the community or area and will have no undue adverse impact on existing uses or resources or that a new Zone or Sub-zone designated is more appropriate for the protection and management of existing uses and resources within the affected area.

Changes in the Zone boundaries of the 100-year Flood-Prone Areas (AP) and the Aquifer Protection Zones (AP), which are based upon refined information submitted by the State or Federal agency responsible, shall be deemed to have met 1 and 2 above.

The Town Council shall not act upon any petition for a change in Zone or Sub-zone boundaries, unless notice is first given to all owners of land abutting the parcel for which a change in Zone or Sub-zone boundaries is sought. Established right-of-way's shall be excluded as abutting parcels, requiring the notification of land owners across town ways and private right-of-way's. The Town Council may require, as part of any petition for a change in Zone or Sub-zone boundaries, that the petitioner submit the names and addresses of all such surrounding landowners.

1311.4 Schedule of Uses

1311.4.1 Activities Described

Below is a matrix listing the uses permitted in the various zones under this Ordinance. The various land uses contained in the matrix are organized according to the following seven (7) activity classifications:

1. Resource Management Activities
2. Resource Extraction Activities
3. Recreational Activities
4. Residential Activities
5. Institutional Activities
6. Commercial Activities
7. Industrial Activities

1311.4.2 Symbols Used in Schedule of Uses

The following symbols contained in the Schedule of Uses have the following meanings.

1. Zone Symbols
   AP1……...Aquifer Protection Sub-Zone 1
   AP2……Aquifer Protection Sub-Zone 2
   AP3……...Aquifer Protections Sub-Zone 3
   FP……. Flood Prone Protection Area
   DR1……. Downtown Residential 1
   DR2……. Downtown Residential 2
   MR……Mobile Home Park Residential
   RR1……. Rural Residential 1
   RR2……...Rural Residential 2
   C……...Commercial Zones C-1, C-2, C-3, C-4
   ID……. Industrial Development

2. Permit Symbols
   Y……... allowed use without a permit
   C……... requires a CEO permit
   P……use requires a Planning Board permit
   N……... use prohibited within the zone

1311.4.3 Uses Substantially Similar to Permitted Uses, May be Permitted

1. USES ALLOWED WITHOUT A PERMIT
   Uses substantially similar to those allowed without a permit, but which are not listed in the Schedule of Uses, may be permitted upon a ruling by the Code Enforcement Officer that such use is substantially similar to such uses.

2. USES REQUIRING A CODE ENFORCEMENT OFFICER PERMIT
Uses substantially similar to those requiring a Code Enforcement Officer Permit, but which are not listed in the Schedule of Uses, may be permitted by the Code Enforcement Officer that such use is substantially similar to such uses.

3. USES REQUIRING A PLANNING BOARD PERMIT
Uses substantially similar to those requiring a Planning Board Permit, but which are not listed in the Schedule of Uses, may be permitted by the Planning Board.

Use permits must be obtained prior to the issuance of a Building permit by the Code Enforcement Officer. Upon Approval of use permit, Business permits shall be obtained Through the Town Clerk's Office.

1311.4.4 Uses Substantially Similar to Prohibited Uses, Are Prohibited

1. Uses substantially similar to any uses listed as Prohibited Use in the Schedule of Uses shall be prohibited.

1311.4.5 Compliance with Performance Standards Required

1. All uses permitted must occur and be maintained in compliance with the applicable requirements and performance standards contained in this ordinance.

RESOURCE MANAGEMENT ACTIVITIES

ACTIVITIES/ZONES	FP	FWP	1-3 AP1	1-3 AP2	1-3 AP3	RR1	RR2	MR	DR 1	3 DR2	C	ID
1. Wildlife and fishery management Practices	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Emergency operations conducted for public health, safety, or general welfare such as resource protection, law enforcement, and search and rescue operations	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3. Surveying and other resources analysis	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Forest management activities not including pesticide and fertilizer application	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5. NOT TO INCLUDE HOME GARDENS – Agriculture, land, clearing, tilling, fertilizer include the spreading and disposal of manure and manure sludge, limbing, planting, pesticide application, harvesting of cultivated crops, but not to include the construction and maintenance of land management roads	N	N	P	P	P	Y	Y	N	N	N	N	N
6. Agricultural; The keeping or pasturing of livestock and other similar activities, not to include ie, dogs and cats	N	N	P	P	P	C	Y	N	N	P	P	N
7. Mineral exploration to discover or verify the existence of mineral deposits including the removal of specimens or trace quantities, provided such exploration is accomplished by methods of hand sampling, including panning, hand test boring, diggings, and other non-mechanized methods which create minimal disturbance and take reasonable measures to restore the disturbed area to original conditions	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
8. Non-commercial structures for scientific, educational, or nature observation purposes, which adversely affect the resources protected by the zone in which it is located	C	C	C	C	C	C	C	C	C	C	C	C
9. Signs other than those listed as exempt in Section V	C	C	C	C	C	C	C	C	C	C	*C	*P
10. Accessory structures, uses, or services that are essential for the exercise of uses listed above	C	C	C	C	C	C	C	C	C	C	C	C

RESOURCE EXTRACTION ACTIVITIES

ACTIVITIES/ZONES	FP	1 AP1	1 AP2	1 AP3	RR1	RR2	MR	DR1	DR2	C	ID
1. Commercial timber harvesting	C	P	P	C	Y	Y	N	*PB	*PB	PB	PB
2. Harvesting for owner's personal use is exempt See note below											
3. Production	C	N	P	P	Y	Y	N	N	N	C	Y
4. Production of commercial agricultural products	C	N	P	C	Y	Y	N	N	N	C	Y
5. Mineral extraction for road purposes only, affecting an area of less than two (2) acres in size	C	P	P	C	C	C	N	N	N	P	P
6. Mineral extraction operations for any purpose affecting an area of two (2) acres or greater in size	P	P	P	C	C	C	N	N	N	P	P
7. Filling, grading, draining, dredging or alteration of a water table or water level, and not to mean, a pit or hole sunk into the earth to reach a supply of water	P	N	P	C	C	C	P	P	P	P	P
8. Accessory structures, uses, or services that are essential for the exercise of uses listed above	C	P	P	C	C	C	C	C	C	C	C
9. Marijuana Growing Facility	N	N	N	N	P	P	N	N	N	P	P

*SEE SECTION V, LAND USE STANDARDS, SUBSECTION 41, TIMBER HARVESTING

NOTE: Personal Use: to be exempt the landowner cannot sell, offer for sale, or use the products in the owner's primary wood-using plants.

RECREATIONAL ACTIVITIES

ACTIVITIES/ZONES	FP	1 AP1	1 AP2	1 AP3	RR1	RR2	MR	DR1	DR2	C	ID
1. Primitive recreational uses, including hiking, hunting, wildlife study, photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing and snowshoeing	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Trails provided they are constructed and maintained so as to avoid sedimentation of water bodies	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3. Motorized vehicular traffic on roads and trails and snowmobiling	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Campgrounds (in AP1 engineered sewage disposal systems required)	Y	N	N	P	P	P	P	N	N	N	N
5. Accessory structures, uses, or services that are essential for the exercise of uses listed above	C	C	C	C	C	C	C	C	C	C	C

RESIDENTIAL ACTIVITIES

ACTIVITIES/ZONES	FP	1 AP1	1 AP2	1 AP3	RR1	RR2	MR	DR1	DR2	C	ID
1. Single family detached dwelling	C	P	C	C	C	C	C	C	C	C	C
2. Single family mobile home	C	N	P	C	C	C	N	N	C	N	C
3. Multi family dwelling; 2-family duplexes	C	N	P	C	C	C	N	N	C	C	C
4. Multi-family dwelling; 3 or more families including apartments, group houses, and row houses	N	N	N	N	N	N	N	N	P	P	N
5. Mobile home parks	N	N	N	P	P	P	P	N	P1	P	N
6. Nursing/convalescent home, congregate housing, boarding home facility	N	N	N	C	P	P	N	N	P	P	N
7. Home occupations	N	P	C	C	C	C	C	N	C	C	C
8. In-law apartment	C	P	C	C	C	C	C	N	C	C	C
9. Accessory structures, uses, or services that are essential for the exercise of uses listed above	C	P	C	C	C	C	C	C	C	C	C

*SEE RESIDENTIAL PROVISIONS, SECTION I, SUBSECTION 8C

NOTE: 1 – No Mobile Home parks allowed from Park Avenue, Map 137, Lot 50/Tibbetts, Map 136, Lot 151 South on West Broadway to the Penobscot Valley/River Road intersection to include Map 129, Lots 13.

INSTITUTIONAL ACTIVITIES

ACTIVITIES/ZONES	FP	1 AP1	1 AP2	1 AP3	RR1	RR2	MR	DR1	DR2	C	ID
1. Hospital and medical clinic	N	N	N	P	P	P	N	N	P	P	P
2. Government facilities and grounds	N	N	N	P	P	P	N	N	P	P	P
3. Public schools	N	N	N	P	P	P	N	N	P	P	N
4. Private schools (under 15 students)	N	N	P	C	C	C	N	N	C	C	P
5. Daycare centers	N	N	P	C	C	C	N	N	C	C	N
6. Churches	N	P	P	C	C	C	N	N	C	C	N
7. Cemetery	N	N	P	C	C	C	N	N	N	C	C
8. Fraternal orders and service clubs	N	N	P	C	C	C	N	N	C	C	P
9. Summer youth camps	N	N	P	P	P	P	N	N	N	N	P
10. Museums	N	P	P	P	P	P	N	N	N	P	P
11. Conference centers	N	N	P	P	P	P	N	N	N	P	P
12. Research and development facilities	N	N	P	P	P	P	N	N	N	P	P
13. Accessory structures, uses, or services that are essential for the exercise of uses listed above	N	P	C	C	C	C	N	N	C	C	C

COMMERCIAL ACTIVITIES [4]

ACTIVITIES/ZONES	FP	1 AP1	1 AP2	1 AP3	RR1	RR2	MR	DR1	DR2	C	ID
1. Automobile sales lot	N	N	P	P	P	P	N	N	N	P	P
2. Automobile service station and repair garage	N	N	N	N	N	N	N	N	N	P	P
3. Commercial parking garage, parking lot	N	N	P	P	P	P	N	N	N	P	P
4. Major retail outlets	N	N	N	P	P	P	N	N	N	P	P
5. Grocery and variety store	N	P	P	P	P	P	N	N	P	P	P
6. Laundry, dry-cleaning establishment	N	N	N	N	N	N	N	N	N	P	P
7. Liquor store	N	P	P	P	P	P	N	N	N	P	P
8. Restaurant	N	N	P	P	P	P	N	N	P	P	P
9. Cocktail lounge	N	N	P	P	P	P	N	N	N	P	P
10. Upholstery	N	N	C	C	C	C	N	N	N	P	P
11. Marijuana Dispensary, see notes*	N	N	N	N	P	P	N	N	N	P	P
11. Small veterinary clinic	N	P	C	C	C	C	N	N	N	P	P
12. Large veterinary clinic	N	N	P	P	P	P	N	N	N	P	P
13. Professional offices, office building	N	N	P	C	C	C	N	N	P	P	P
14. Repair service (other than auto)	N	P	P	P	P	P	N	N	N	P	P
15. Commercial boat storage/storage	N	P	P	P	P	P	N	N	P	P	P
16. Commercial boat repair facility	N	P	P	P	P	P	N	N	N	P	P
17. Boat Sales	N	P	P	P	P	P	N	N	N	P	P
18. Commercial art gallery/craft	N	P	C	C	C	C	N	N	N	P	P
19. Pottery barn	N	N	N	P	P	P	N	N	N	P	P
20. Gift shop	N	P	C	C	C	C	N	N	N	P	P
21. Commercial greenhouse, gardens, etc	N	N	P	P	P	P	N	N	N	P	P
22. Takeout food services	N	N	P	P	P	P	N	N	P	P	P
23. Commercial complex; i.e. mill	N	N	N	P	P	P	N	N	N	P	P
24. Retail business establishments (not otherwise listed)	N	P	P	P	P	P	N	N	P	P	P
25. Theater	N	N	P	P	P	P	N	N	N	P	P
26. Grain and feed stores	N	N	P	P	P	P	N	N	N	P	P
27. Pet store	N	P	P	P	P	P	N	N	N	P	P
28. Health spas, fitness clubs, gym, etc.	N	N	P	P	P	P	N	N	P	P	P
29. Transient accommodations 1: Bed and Breakfast	N	P	P	P	C	C	N	N	P	C	P
30. Transient accommodations 2: Motels, Hotel, Inns 4-10 rooms	N	N	P	P	P	P	N	N	N	P	P
31. Transient accommodations: Motels, Hotels, Inns 4-25 rooms (no meals served)	N	N	P	P	N	N	N	N	N	P	P
32. Transient accommodations: Motels, Hotels, Inns 4 – 25 rooms (serving meals to guest only)	N	N	P	P	N	N	N	N	N	P	P
33. Transient accommodations: Motels, Hotels, Inns 25 or more rooms	N	N	P	P	N	N	N	N	N	P	P

[4] Council Approved changes 11/8/2021

34. Accessory structures, uses, or services that are essential for the exercise of uses listed above	N	C	C	C	C	C	C	C	C	C	C

INDUSTRIAL ACTIVITIES

ACTIVITIES/ZONES	FP	1 AP1	1 AP2	1 AP3	RR1	RR2	MR	DR1	DR2	C	ID
1. Lumber yard, saw mill and pulp mill	N	N	N	N	N	N	N	N	N	P	P
2. Transportation facility and terminal	N	N	N	P	P	P	N	N	N	P	P
3. Bulk oil and fuel storage, (in excess of 50 Gallons) except for onsite purposes	N	N	N	N	N	N	N	N	N	P	P
4. Food processing and freezing	N	N	N	N	N	N	N	N	N	P	P
5. Automobile graveyard/junkyard	N	N	N	N	N	N	N	N	N	P	P
6. Light manufacturing assembly plant	N	N	N	N	P	N	N	N	N	P	P
7. Newspaper and printing facilities	N	N	N	N	N	N	N	N	N	P	P
8. Other processing and manufacturing	N	N	N	N	N	N	N	N	N	P	P
9. Wholesale business facility	N	P	P	P	P	P	N	N	N	P	P
10. Disposal of solid waste	N	N	N	N	N	N	N	N	N	N	P
11. Solid waste transfer station	N	N	N	N	N	N	N	N	N	N	P
12. Warehousing and storage facility	N	P	P	P	N	N	N	N	N	P	P
13. Disposal of hazardous/leachable materials	N	N	N	N	N	N	N	N	N	N	P
14. Sewage collection and treatment facilities; and	N	N	N	N	N	N	N	N	N	P	P
15. Accessory structures, uses, or services that are essential for the exercise of uses listed above	N	P	P	C	C	C	N	N	N	C	C

- A Marijuana Dispensary may be located in commercial zones C-2, C-3 and C-4 after approval by the Planning Board. Existing businesses in zone C-1 looking to expand their operations to include dispensing of marijuana may petition the Planning Board for permission
- Grow facilities should be allowed in the Commercial, RR1 and RR2 zones but not in the industrial zone
- Manufacturing facilities should be allowed in the Commercial, RRI, RR2 and Industrial zone
- Testing facilities should be allowed in the Commercial and Industrial zones but not in RR1 or RR2
- Retail facilities should be allowed in the Commercial and Industrial zones but not in RR1 or RR2

TRANSPORTATION AND UTILITIES

ACTIVITIES/ZONES	FP	1 AP1	1 AP2	1 AP3	RR1	RR2	MR	DR1	DR2	C	ID
1. Land management roads and water crossings of minor flowing waters	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Land management roads and water crossing of standing water and of major waters	C	C	C	C	N	N	N	N	N	P	P
3. Road construction projects, other than land management roads, and not part of a project requiring Planning Board review	C	C	C	C	C	C	C	C	C	C	C
4. Road construction projects other than land Management roads which are part of projects requiring Planning Board review	P	P	P	P	P	P	P	P	P	P	P
5. Minor utility facilities including service drops	C	C	C	C	C	C	C	C	C	C	C
6. Major utility facilities; such as transmission lines, but not including service drops	P	P	P	P	P	P	P	P	P	P	P
7. Accessory structures, uses or services that are essential for the exercise of uses listed above	C	C	C	C	C	C	C	C	C	C	C

NOTES: SCHEDULE OF USES

1. Application for these activities in the AP1, AP2, AP3 Zones shall be submitted by the CEO to the Superintendent of the Lincoln Water District for review and comments in accordance with the provisions of Section VI, Subsection E, of this Ordinance.
2. Applications for these activities in the FWP Zone shall be submitted to the Regional Fisheries and Game Biologists for their review and comments; and, said comments are to be attached to the application prior to its submission to the Code Enforcement Officer or Planning Board.
3. Activities in these zones must meet the criteria listed below:
   a. Parcel must be a minimum of two (2) acres in size;
   b. One (1) livestock per two (2) acres;
   c. Setback of all livestock, fences and other structures must be at least fifty (50) feet from all property lines;
   d. All spreading and disposal of manure shall be accomplished in conformance with the guidelines for manure and manure sludge disposal on land, published by the University of Maine and the Water Conservation Commission in July 1972, or subsequent revisions thereof (guidelines are on file at the Code Enforcement Office).

* See Residential Provisions, Section I, Subsection 8, C

1311.5 Land Use Standards

SECTION USER'S GUIDE: This section contains general performance standards with which all development proposals submitted for approval pursuant to this Ordinance must comply.

The purpose of the regulations contained in this section is to allow maximum utilization of land while insuring against adverse impacts on the environment, neighboring properties, and the public interest. This insurance is provided by separating the area of the Town of Lincoln into zones and permitting specific land uses within each, provided that a use meets all the additional criteria specified in this Ordinance.

This regulatory approach has been termed "performance zoning" because it permits a use to be developed on a particular parcel only if the use on that parcel meets "performance" standards, which have been enacted to insure against the use causing (or having the potential to cause) adverse impacts.

The following Land Use Standards shall govern all Land Use Permits issued by the Code Enforcement Officer and the Planning Board.

In reviewing applications submitted pursuant to this Ordinance, the Code Enforcement Officer or the Planning Board shall consider the following performance standards and make written findings as to whether each applicable standard has been met, prior to issuing final approval. In all instances, the burden of proof shall be upon the applicant.

1311.5.1 General Standards

1. ACCESSORY USES

An accessory use shall not include any use injurious or offensive to the neighborhood, initially determined by the Code Enforcement Officer.

2. AGRICULTURAL COMMERCIAL ACTIVITIES IN AQUIFER PROTECTION ZONES

a. Use of "limited" or "restricted use" herbicides or pesticides as defined by the Maine Pesticides Control Board, is prohibited in the Aquifer Protection Sub-zone 1 and Sub-zone 2. Grandfathered, nonconforming uses of "limited" or "restricted uses" herbicides or pesticides required a permit from the Planning Board after the effective date of this Ordinance. After a permit has been granted, any subsequent increase or change in use of substances not listed in the original permit must first be approved by the Planning Board.

b. Application of sludge to the land, and spray irrigation of industrial wastewater or sewage, is prohibited in the Aquifer Protection Sub-zone 1 and Sub-zone 2;

c. Manure spreading for Commercial Agriculture is prohibited in Aquifer Protection Sub-zone 1, but is permitted in Sub-zone 2 if carried out in conformance with a conservation plan which meets the standards of the State Soil and Water Conservation District. The Conservation Plan must include provision for control of surface water runoff and non-point pollution. Commercial Agriculture in Sub-zone 1 must be carried out in conformance with an approved plan;

d. Home gardens can be fertilized with natural or readily available commercial fertilizer.

e. Animal husbandry and associated manure handling must be carried out in conformance with a conservation plan which meets the standards of the State Soil and Water Conservation commission and is approved by the Penobscot County Soil and Water Conservation District. The conservation plan must include provision for control of surface water runoff and non-point sources of water pollution; and

f. Stockpiling of manure is prohibited in Aquifer Protection Sub-zone 1 and 2.

3. AGRICULTURAL MANAGEMENT ACTIVITIES IN ALL OTHER ZONES

The following requirements shall apply to agricultural management activities in all Zones, other than the Aquifer Protection Zones and Shoreland Zones:

a. All spreading and 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 in July 1972, or subsequent revisions thereof;

b. All disposal of waste potatoes shall be accomplished in conformance with the "Maine Guidelines for Field Disposal of Waste Potatoes" published by the University of Maine in September 1974.

4. AIR POLLUTION

No dust, dirt, fly ash, fumes vapors or gases shall be emitted into the air from any land use or establishment so as to endanger the public health and safety, to impair safety on or the value and enjoyment of other property, or to constitute a critical source of air pollution. Air pollution control and abatement shall comply with applicable minimum Federal and State requirements.

5. "BED AND BREAKFAST" ACCOMMODATIONS

See Transient Accommodations.

6. BUFFERS

a. No structure shall be erected or any use permitted in non-residential zones unless a buffer strip of at least seventy-five (75) feet wide is provided and maintained between any adjoining residential zone and the non-residential structure or use. Such buffer area shall be for the purpose of eliminating or minimizing any adverse effects upon the environmental or aesthetic qualities of abutting properties or any type of nuisance affecting the health, safety, welfare and property values of the residents of Lincoln;

b. All buffer areas shall be designated and maintained within the seventy-five (75) foot required setback except that thirty (30) feet contiguous to the non-residential use may be used for parking and loading; and

c. The buffer requirements described in (a) and (b) above shall not apply to the Downtown Business Zone. Lots which abut a residential district shall provide a rear and/or side yard setback of at least twenty-five (25) feet.

7. CABINS AND COTTAGES, RENTAL

See Transient Accommodations.

8. CAMPGROUNDS

See Transient Accommodations.

9. CLEARING OF TREES AND VEGETATION

The following shall apply to vegetation clearing for other than road construction, reconstruction and maintenance, wildlife or fishery management practices or forest or agricultural management activities:

a. A vegetation buffer strip shall be retained to a depth of fifty (50) feet inland from the normal high-water mark of any

standing or flowing water, or from the right-of-way or similar boundary of any public roadway. Within this buffer strip, no clear-cutting is permitted; selective clearing of no more than forty (40) percent of the trees four (4) inches or more in diameter measured at four and one half (4 1/2) feet above ground level is allowed in any ten (10) year period provided that a well distributed stand of trees remains; and

b. The foregoing limitation shall not apply to clearings within fifty (50) feet of a public roadway within a Development Sub-zone. In all Sub-zones where natural vegetation is removed within fifty (50) feet of a flowing or standing body of water, or public roadway, it shall be replaced by other vegetation (except where the area cleared is built upon) that is effective in preventing erosion and retaining natural beauty.

10. CONFORMANCE WITH COMPREHENSIVE PLAN

All proposed developments shall be in conformity with the Comprehensive Plan and Policy Statements of the Town of Lincoln and with the provisions of all pertinent local ordinances and regulations, State and Federal laws and regulations.

11. CONSTRUCTION IN FLOOD HAZARD AREAS

When any part of a development is located in a Flood Hazard Area, as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation

Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

12. CONVERSIONS

Conversions of existing structures into multi-family dwelling units, in Zones permitting multi-family dwelling, may be permitted provided that:

a. Off-street parking for two (2) vehicles per dwelling unit, plus maneuvering space, will be provided;

b. Approval of conversion plans by the fire, electrical and plumbing inspector is required prior to issuance of a land use permit;

c. Each dwelling unit shall be at least three hundred (300) square feet in area for one (1) bedroom unit plus one hundred and fifty (150) square feet for each additional bedroom; and

d. Each dwelling unit shall have its own toilet and kitchen facilities and no dwelling unit will share these facilities with any other dwelling unit.

13. DRY WELLS

a. Dry wells shall be used for control of surface runoff only if other methods of control are not feasible.

14. DUST, FUMES, VAPORS, GASES, ODORS, GLARE, AND EXPLOSIVE MATERIALS

a. Emission of odors, dust, dirt, fly ash, fumes, vapors, or gases which could damage human health, animals, vegetation or property must comply with State and Federal standards.

b. No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of the light beyond its lot lines onto neighboring properties or onto any town way so as to impair the vision of the driver of any vehicle upon that town way; and

c. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the National Fire Protection Association (NFPA), Section 30, 58, and 59A.

15. EROSION AND SEDIMENTATION CONTROL

The following measures relating to conservation, erosion and sediment control shall be included where applicable as part of all projects submitted for review and approval under this Ordinance:

a. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction, and clean-up stages; and

b. Erosion of soil and sedimentation of watercourse and water bodies shall be minimized by employing the following best-management practices:

1. Stripping of vegetation, soil removal and regarding other development, shall be done in such a way as to minimize erosion;

2. Development shall preserve outstanding natural features, keep cut-fill operations to a minimum and ensure conformity with topography, so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;

3. The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site;

4. Whenever feasible, natural vegetation shall be retained, protected and supplemented;

5. The disturbed area and the duration of exposure, shall be kept to a practical minimum;

6. Disturbed soils shall be stabilized as quickly as practicable;

7. Temporary vegetation or mulching shall be used to protect disturbed areas during development;

8. Permanent (final) vegetation and mechanical erosion control measures, in accordance with the standards of the County Soil and Water Conservation District or Maine Soil and Water Conservation Commission, shall be installed as soon as possible after construction ends;

9. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods;

10. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (gravel pits, etc.) shall not be permitted within one hundred (100) feet of any property line;

11. During grading operations, methods of dust control shall be employed wherever practical;

12. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation, to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible;

13. It is the responsibility of any person performing any activity on or across a communal stream, watercourse or swale, or upon the floodway or right-of-way thereof, to maintain as nearly as possible the present state of the stream, watercourse, swale, floodway, or right-of-way during the duration of such activity and to return it to its original or equal condition after such activity is complete; and

14. Maintenance of drainage facilities or watercourse originating and completely on private property, is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

16. HOME OCCUPATIONS

a. The purpose of the Home Occupation provision is to permit the conduct of those businesses which are compatible with the zones in which they are allowed. Home occupations are limited to those uses which may be conducted within a residential dwelling without substantially changing the appearance or condition of the residence or accessory structures;

b. Any home occupation or profession, which is accessory to and compatible with a residential use, may be permitted if:

1. It is carried on in a dwelling unit or in a structure customarily accessory to a dwelling unit;

2. It is conducted by a member or members of the family residing in the dwelling unit; and

3. It does not materially injure the usefulness of the dwelling unit or accessory structure for normal residential purposes.

c. All home occupation shall conform to the following conditions:

1. The home occupation shall be carried on wholly within the dwelling or accessory structure;

2. The home occupation shall be conducted by a member or members of the family residing in the dwelling unit;

3. There shall be no exterior display, no exterior sign other than those permitted in Section V, no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building;

4. Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare, or activity at unreasonable hours, shall not be permitted;

5. The traffic generated by such home occupation shall not increase in volume so as to create a traffic hazard or disturb the residential character of the immediate neighborhood;

6. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of the maximum number of users the home occupation may attract during peak operating hours;

7. The Home Occupation may utilize:

a. Not more than twenty percent (20%) of the dwelling unit floor area, provided that for the purpose of this calculation, unfinished basement and attic spaces are not included;

b. Unfinished attic and basement spaces; and

c. One accessory structure. The floor area utilized in the accessory structure shall not exceed fifty (50) percent of the total floor area of the dwelling unit;

8. The Code Enforcement Officer shall refer any inquiries for a land use permit for a home occupancy to the Board of Appeals if, in his opinion, there is any doubt as to whether the proposed use fails to meet any of the requirements; and

9. Home Occupations which involve use or storage of hazardous or leachable materials in excess of normal residential use are not permitted.

17. INDUSTRIAL PERFORMANCE STANDARDS

The following provisions shall apply to all permitted industrial uses:

a. Danger

No material which is dangerous due to explosion, extreme fire hazard, chemical hazard or radioactivity shall be used, stored, manufactured, processed or assembled except in accordance with applicable State and Federal codes and regulations;

b. Vibration

With the exception of vibration necessarily involved in the construction or demolition of buildings, no vibration shall be transmitted outside the lot where it originates.

c. Wastes

No offensive waste shall be discharged or dumped into any river, stream, watercourse, storm drain, pond, lake, or swamp. Industrial waste water may be discharged to municipal sewers only and in such quantities and quality as to be compatible with commonly accepted municipal sewage treatment operations subject to the approval of the Town. The disposal of industrial waste waters by means other than the municipal sewage system must comply with the laws of the State of Maine; and

d. Those standards of Subsection 14 of this Section regarding dust, fumes, vapor, gases, odors, glare and explosive materials.

18. JUNKYARDS

No junkyard, as defined in this Ordinance, shall be established, operated or maintained without first obtaining a non-transferable land use permit issued in accordance with State licensing and local requirements, and the following provisions:

a. Junkyards shall be located a minimum of two hundred (200) feet from the edge of the right-of-way's; and shall be setback one hundred (100) feet from all side and rear lot lines;

b. Junkyards shall be located a minimum of three hundred (300) feet from any public park, facility, or grounds; and

c. Junkyards shall be entirely screened from the view by earth berms, plantings or fences, which shall be well constructed and properly maintained at a minimum height of six (6) feet, and sufficient to accomplish the complete screening from ordinary view.

In addition, the following provisions apply to the operation of all junkyards, as defined in this Ordinance:

d. Upon arrival at the junkyard, all petroleum and other hazardous fluids shall be drained from all vehicles, and appropriate safety precautions, such as the removal of door and trunk locks, shall be taken to avoid injury and accidents;

e. No vehicles may remain intact in the yard for more than thirty (30) days, and complete processing of vehicles into salvage materials shall be accomplished within four (4) months;

f. All junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent area;

g. No open burning of salvage material or junk shall be permitted on the premises. Waste fluids and unusable

materials shall be disposed of in an environmentally sound manner; and

h. The Planning Board or Code Enforcement Officer may apply more stringent restrictions and limitations, and stipulate reasonable conditions, which shall be attached to the permit covering the operation and use of the junkyard.

19. LAND NOT SUITABLE FOR DEVELOPMENT

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the Minimum Lot Size Law:

a. Land which is situated below the Normal High-Water mark of any water body;

b. Land which is located within 100-year frequency flood plain, as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance

Administration, unless the sub divider shows proof through the submittal of materials prepared by a Registered Land Surveyor, which show that the property in question lies at least two (2) feet above the 100-year flood level. The elevation of filled or made land shall not be considered;

c. Land which is part of a right-of-way, or easement, including utility easements; and

d. Land which has been created by filling or draining a pond or wetland.

20. LIGHTING DESIGN STANDARDS

All exterior lighting shall be designed to minimize adverse impact on neighboring properties.

21. LOT SIZE, SETBACK AND COVERAGE REQUIREMENTS

See B; Dimensional Requirements in this Section.

22. MANUFACTURING HOUSING

a. INTENT: It is the intent of this Ordinance to provide a wide variety of housing alternatives to all economic levels within the community, while continuing to ensure the minimum standards of health, safety and welfare of the

community. To this end, this Ordinance allows the sitting of all types of manufactured housing within designated areas of the Town of Lincoln, regardless of their construction date or compliance with all the standards of the Manufactured Home and Construction Safety Standards of the Department of Housing and Urban Development, adopted in 1975. The Town does hereby require, however, that all manufactured housing situated within the Town of Lincoln meet certain minimum safety and design criteria.

b. MINIMUM SAFETY STANDARDS: All manufactured housing as defined in this ordinance, regardless of the date of manufacture, and situated within the Town of Lincoln after the effective date of this Ordinance, shall meet or exceed the following minimum safety standards before a "Certificate of Occupancy" shall be issued by the Code Enforcement Officer in conformation with Section VI, H of this Ordinance.

c. HUD APPROVAL SUFFICIENT: All manufactured homes constructed after 1975 and bearing the seal of the Department of Housing and Urban Development which certifies the Manufactured Home built pursuant to the provisions of the Manufactured Home Construction and Safety Standards as revised, shall be deemed to have fulfilled the requirements of this section.

d. MINIMUM ELECTRICAL SAFETY STANDARDS: All manufactured housing, as well as all site-built homes, shall meet the following minimum safety requirements for electrical installation and maintenance, as provided for by the National Electrical Code as said code pertains to the following:

(1) 100 Ampere Entrance required;
(2) Copper wiring required;
(3) Two means of grounding required; and
(4) Ground faulting receptacles required.

In addition, all electrical installation or modifications to existing manufactured housing shall be inspected by and certified by an electrician license by the State of Maine or the municipal Code Enforcement Officer.

e. MINIMUM FIRE PREVENTION STANDARDS: All manufactured housing, as well as all site-built homes, shall

meet the following minimum fire safety requirements as provided for by the National Electrical Code and the Manufactured Housing Construction Standards of 1975, established by the Department of Housing and Urban Development (HUD):

(1) All homes shall contain at least one (1) operable AC smoke detector centrally located within the home and one operable smoke detector in each of the bedrooms;

(2) All homes shall have at least one (1) operable fire extinguisher which is readily accessible at all times;

(3) The installation and maintenance of all heating systems including vents and chimneys, and encompassing secondary and tertiary as well as primary heating sources, shall meet the standards of NFPA 211. In addition, no wood stove shall be used for heating purposes in a residential structure in any home in the Town of Lincoln without first being inspected by the Lincoln Fire Department for safe installation;

(4) All automatic dryers, whether electric or gas, must meet the venting requirements of the Manufactured Home Construction Standards of 1975 as established by HUD; and

(5) All manufactured homes must meet the egress requirements of the Manufactured Home Construction Standards of HUD, to wit, all manufactured homes shall provide for at least two (2) means of egress from each bedroom, one of which must be directly to the outside of the home and may be accomplished by way of a window of suitable size which can be opened easily without tools, and two, doors exiting directly to the outside of the home separated by distances as established by standards.

f. MINIMUM PLUMBING STANDARDS: All manufactured housing shall meet the minimum standards of the Maine Plumbing Code, as amended.

g. MINIMUM STRUCTUTRAL STANDARDS: All manufactured housing shall meet the minimum standards as pertain to the structural integrity of the home as set forth in the Town of Lincoln Building Code for all single-family homes built within the town, Section 1302.

h. MINIMUM DESIGN STANDARDS: All manufactured housing will be situated and maintained in such a manner as to blend harmoniously with other residential structures in close proximity. To this end, all manufactured housing located within the Town of Lincoln after the effective date of this Ordinance shall:

(1) Have and maintain external siding which is residential in appearance for the Manufactured Home as well as any additions thereto or accessory structure located on the same lot;

(2) Be located on a permanent foundation which may include at a minimum a gravel pad and skirting of a material which is residential in appearance; and

(3) Provide a safe means of egress and ingress to and from the manufactured home (stairs with handrails).

23. MINERAL EXPLORATION AND EXTRACTION

The following requirements for mineral exploration and extraction activities shall apply in all zones except as otherwise hereinafter provided:

a. The following requirements shall apply to mineral exploration activities:

(1) All excavations, including test pits and holes, shall be promptly capped, refilled, or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety;

(2) Mineral exploration activities or associated access ways where the operation of machinery used in such activities results in the exposure of mineral soils, shall be located such that, an unscarified filter strip of at least the width indicated below is retained

between the exposed mineral soil and the normal high-water mark of the surface water areas:

Average slope of land between exposed mineral soil and normal high water (percent)	Width of strip between exposed mineral soil and normal high-water mark (feet along surface of ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

The provisions of this subsection (2) apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet, the provisions of this subsection do not apply where access ways cross such waters;

(3) Except when surface waters are frozen, access ways for mineral exploration activities shall not utilize stream channels bordered by Protection Zones, except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with this Ordinance, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged;

(4) Access way approaches to stream channels shall be located and designed so as to divert water runoff from the access way in order to prevent such runoff from directly entering the stream; and

(5) In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all areas of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary, to insure effective stabilization.

b. The following requirements shall apply to mineral extraction activities in all Sub-Zones:

(1) No portion of any ground area disturbed by the extraction activity on a face sloping toward the water, shall be closer to the normal high-water mark of a flowing or standing body of water than is indicated by the following table provided, however, no portion of such ground area on a back face shall be closer than fifty (50) feet:

Average slope of land between exposed mineral soil and normal high water (percent)	Width of strip between exposed mineral soil and normal high-water mark (feet along surface of ground)
0	50
10	90
20	130
30	170
40	210
50	250
60	290
70	330

(2) No portion of any ground area disturbed by the extraction activity shall be closer than twenty-five (25) feet from any public roadway or seventy-five (75) feet from any property line in the absence of the prior written agreement of the owner of such adjoining property;

(3) Within two hundred fifty (250) feet of any water body, the extraction area shall be prevented from soil erosion by ditches, sedimentation basins, dikes, dams, or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body. Any such control device shall be deemed part of the extraction area for the purposes of sub-section (1) above;

(4) A natural vegetation screen of not less than fifty (50) feet in width shall be retained from any facility intended primarily for public use, excluding privately owned roads; and

(5) If any mineral extraction operation located within seventy-five (75) feet of any property line or public roadway or facility intended primarily for public use, excluding privately owned roads, is to be terminated or suspended for a period of one (1) year or more, the site shall be rehabilitated by grading the soil to a slope of two (2) horizontal to one (1) vertical, or flatter.

24. MOBILE HOME PARK STANDARDS

Notwithstanding other provisions of this Ordinance relating to bulk, and use, the Planning Board in reviewing Site Plans for proposed mobile home parks, may modify said provisions related to space, bulk and use to permit innovated approaches to environmental design in accordance with the following standards:

a. There shall be compliance with all State and local codes and ordinances;

b. All utilities shall be installed underground wherever possible. All transformer boxes, substations, pumping stations, and meters shall be located and designed so as not to be unsightly or hazardous to the public;

c. No mobile home parks shall be located closer than twenty (20) feet to a street or adjacent mobile home;

d. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot, such access shall have a minimum fifty (50) foot right-of-way and twenty (20) foot road width. All park streets shall be well drained, maintained in good condition, and adequately lighted at night;

e. Dead end streets shall be limited in length to one thousand (1000) feet and at the closed end shall be provided with a turn-around having a minimum radius of fifty (50) feet;

f. Walkways not less than two (2) feet in width shall connect each mobile home to a sidewalk, to a street or to a driveway connecting the street;

g. Off-street parking in all mobile home parks shall be furnished at the rate of at least two (2) car spaces for each mobile home. Parking spaces shall be properly graveled

and shall be located at a distance not to exceed two hundred (200) feet from the mobile home that it is intended to serve;

h. Mobile home stands shall provide adequate foundation for the placement of a mobile home; and

i. All individual mobile homes shall be equipped with skirting or other type of enclosure.

25. MUNICIPAL SERVICE

The proposed development shall not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

26. OFF-STREET PARKING

a. Off-street parking, either by means of open-air spaces or by garage space, in addition to being permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any zone;

b. Required off-street parking spaces shall be provided;

c. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, alterations and change in use:

(1) Dwelling: Two parking spaces for each dwelling unit;

(2) Transient Accommodations

a. Bed and Breakfast accommodations and motels, hotels, boarding houses, and inns, with 10 rooms or less – two (2) parking spaces plus one (1) space for each guest room; and

b. Motels, hotels, boarding houses, and inns with more than 10 rooms – one (1) parking space for each guest room plus one (1) space for each four (4) employees.

(3) Schools – 5 parking spaces for each room plus one (1) for each four (4) employees;

(4) Health Institutions (bed facilities only) – one (1) parking space for every three (3) beds, plus one (1) for each employee based on the expected average employee occupancy;

(5) Theaters, churches, and other public assembly places – one (1) parking space for every four (4) seats or for every two (2) feet or major fraction thereof of assemblage space if no fixed seats;

(6) Retail Stores – one (1) parking space for every 200 square feet of retail area, plus one (1) space for every two (2) employees, unless public parking is provided;

(7) Restaurants, eating and drinking establishment – one (1) parking space for every four (4) seats, plus one (1) space for every two (2) employees, unless public parking is provided;

(8) Professional Offices and public buildings – one (1) parking space for every two hundred (200) square feet of gross leasable area, exclusive of cellar and bulk storage areas, unless public parking is provided;

(9) Other commercial recreation establishments (mini golf courses, touring/sightseeing buses, etc.) the number of spaces deemed appropriate by the Planning Board;

(10) Industrial – one (1) parking space for each 1.5 employees, based on the highest expected average employee occupancy, plus visitor and customer parking to meet the needs of specific operations.

d. The Code Enforcement Officer, in consultation with the Planning Board, may accept an empirical determination of overall parking needs of such a complex prepared by a qualified analysis.

27. OFF-STREET LOADING REQUIREMENTS

Adequate off-street loading areas shall be provided.

28. OIL AND CHEMICAL STORAGE

a. All storage of petroleum or liquid petroleum products shall be in conformance with the provisions of Title 38 MRSA, Section 560 et seq. which, among other things, establishes a ten (10) year compliance schedule for the discontinuance and removal of non-conforming oil storage facilities and requires qualified personnel to oversee the removal of certain underground facilities; and

b. When applicable, the applicant shall have the burden of proof to assure the Planning Board or Code Enforcement Officer that all provisions of the above statutes have been met before the issuance of any permits may take place.

29. PESTICIDE APPLICATION

Pesticide application in any of the zones shall not require a permit, provided such application is in conformance with applicable State and Federal statutes and regulations.

30. POLLUTION LEVELS

All pollutant introduced into soil on the site shall not exceed a concentration in the ground water that is greater than the guideline established for it in the Safe Drinking Water Standard, EPA Health Advisory, or NAS Health Advisory. Any violation of this standard shall be caused to order the immediate stop of the use or activity responsible for the contamination. The land owner shall be responsible for the cost of all remedial actions.

31. PRESERVATION AND ENHANCEMENT OF THE LANDSCAPE

The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be planted that will define, soften or screen the appearance of off-street parking areas, building and other structures from the public right-of-way and abutting properties in order to enhance the physical design of proposed developments of more than three (3) residential lots, and to minimize the encroachment of the proposed uses on neighboring land uses.

32. REFUSE DISPOSAL

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner.

The impact of particular industrial or chemical wastes or by-products upon the town sanitary landfill (in terms of volume, flammability or toxicity) shall be considered and the applicant may be required to dispose of such waste elsewhere, in conformance with all applicable state and federal regulations. The applicant may be required to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

33. RETENTION OF OPEN SPACES AND NATURAL OR HISTORIC FEATURES

a. In any development of more than three (3) residential units, the developer may be required to provide up to ten (10) percent of his total area as open space;

b. Reserve land may be dedicated to the Town as a condition of approval; and

c. Development plans may be required to include a landscape plan that will show the preservation of any existing trees larger than seventy-five (75) inches circumference breast height, the replacement of trees and vegetation, graded contours, streams and preservation of scenic historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer.

34. ROADS AND WATER CROSSINGS

All roads and water crossings shall be constructed in accordance with State guidelines and shall have minimal erosion and sedimentation.

35. SAND AND GRAVEL EXTRACTION

a. Extraction shall not be allowed below five (5) feet above the average seasonal high-water table. No ditches, trenches, pumping or other methods shall be used to lower the water table or permit more gravel extraction than could occur under normal conditions.

b. Access roads into and around the put shall not be oiled, salted, or paved;

c. The pit shall not be used for storage or dumping of any substances that could produce a harmful leachate, both

during operation of the put and following its permanent closure;

d. Storage of hazardous materials and petroleum products in the pit is prohibited; and

e. Refueling and oil changes in the pit are prohibited in the Aquifer Protection Sub-Zones 1 and 2 unless adequate protection and containment is provided.

36. SEWAGE DISPOSAL

a. Subsurface Sewage Disposal

No permit shall be issued for a project with subsurface sewage disposal unless:

(1) There is an area of suitable soils according to the Subsurface Waste Water Disposal Rules of sufficient size to accommodate the proposed systems;

(2) An acceptable plan to construct the absorption area is prepared in accordance with the Subsurface Waste Water Disposal Rules; and

(3) In lieu of (1) and/or (2) above, the applicant demonstrates that any deficiencies of the soil for purposes of sewage disposal can and will be overcome by a suitable engineering solution;

(4) No more than one dwelling unit shall be connected to a wastewater disposal system in the Aquifer Protection Sub-Zones 1 and 2;

(5) Disposal of hazardous materials to subsurface waste disposal systems, including organic solvents designed for cleaning septic systems, is prohibited in the Aquifer Protection Sub-Zones 1 and 2; and

(6) Wastewater disposal systems in Aquifer Protection Sub-Zones 1 and 2 shall be pumped out every three (3) years. Homeowners shall retain the receipt for paying the tank pumper to demonstrate compliance to the Code Enforcement Officer.

No development shall be permitted which utilizes, for onsite subsurface sewage disposal purposes, any soil listed in the Soil Suitability Guide as having a very poor rating for the proposed use, unless the proposed sewage disposal system is approved under the Subsurface Waste Water Disposal Rules.

b. Sewage Sludge Disposal

The following requirements shall apply to sewage sludge disposal wherever allowed: All septic sludge disposal shall conform with the "Maine Guidelines for Septic Tank Sludge Disposal on the Land" published by the University of Maine at Orono and the Maine Soil and Water Conservation Commission in April, 1974.

37. SIGNS

a. Conformance of Signs

No sign shall hereafter be erected, altered or maintained within the limits of the Town of Lincoln, Maine except in conformance with the provisions of this section.

b. Signs Prohibited

No signs, whether new or existing, shall be permitted within the Town of Lincoln, Maine, which causes a sight, traffic, health or welfare hazard, or results in a nuisance, due to illumination, placement, display or obstruction of existing signs.

c. On-Premises Signs

Owners or occupants of real property may erect and maintain on-premises signs which advertise sale or lease thereof or activities being conducted thereon, provided that said signs are in conformance with the regulations set forth below:

(1) The maximum size for each individual sign in a Residential Zone shall not exceed four (4) square feet;

(2) The maximum size for each individual sign in the Commercial Zone or Industrial Zone shall be determined by the Planning Board on the basis of the existing character of the area;

(3) The maximum aggregate area of all signs for an individual use in a residential zone shall not exceed six (6) square feet;

(4) On-Premises signs, other than wall or projecting signs, shall not extend more than the maximum building height in the applicable zone, above ground level, and shall not have a supporting structure which extends more than two (2) feet above such sign;

(5) Projecting signs must be at least nine (9) feet above pedestrian level and may project no more than three (3) feet from the building

(6) No sign shall be permitted which is erected or maintained on any tree or painted or drawn upon any rock or other natural features or any utility pole;

(7) A sign identifying the name, address and profession or occupation of a permitted home occupation or lawfully existing non-conforming home occupation is permitted, provided that such sign does not exceed four (4) square feet in area, and is not internally illuminated; and

(8) Directional signs solely indicting ingress and egress placed at driveway locations, containing no advertising material or display area, not exceeding two (2) square feet, and not extended higher than four (4) feet above ground level, are permitted.

d. Temporary Signs

The following temporary signs are permitted, provided said signs conform to all standards of this section and all other municipal, federal and state ordinances, statutes and/or regulations:

(1) Temporary Signs Giving Notice
Signs of a temporary nature, such as political posters, advertisements of charitable functions, notices of meetings, other non-commercial signs of a similar nature, are permitted for a period not to exceed thirty (30) days, provided that the persons who posted the signs shall be responsible for their removal.

(2) Temporary Yard Sale Signs
Temporary Yard Sale Signs are permitted provided they do not exceed the size standards of Subsection e. of this section and provided they are removed within twenty-four (24) hours of the completion of the sale. Yard Sales which extend for more than four (4) consecutives are considered a commercial use.

e. Sign Requirements

(1) No sign shall project over a walkway or interfere in any way with normal flow of foot or vehicular traffic. All free-standing signs shall be set back a minimum of five (5) feet from the property lines in all zones except the downtown commercial zone on Main Street between where it intersects with West Broadway and Clay Street;

(2) No sign shall contain, include, or be illuminated by flashing, blinking, intermittent, or moving lights;

(3) Signs may be illuminated only by shielded non-flashing lights so as to effectively prevent beams or rays of lights from being directed at neighboring residential properties or any portion of the main traveled way of a roadway, are of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof, except in the Commercial Zone.

f. Exempt Signs
The following signs are exempt from the provisions of this section, except as otherwise provided for herein:

(1) Signs erected by a government body; and

(2) Traffic control signs, signals, and/or devices.

38. SITE CONDITIONS

a. During construction, the site shall be maintained and left each day in a safe and sanitary manner, and any condition which could lead to personal injury or property damage, shall be immediately corrected by the developer upon an order by the Code Enforcement Officer or other authorized personnel. The developer shall make provision for disposal of oil and grease from equipment and the site area should be regularly treated to control dust from construction activity.

b. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, and excess of scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the Code Enforcement Officer prior to issuing an occupancy permit; and

c. No change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot of site other than as shown on an approved site plan. Minimal changes in elevation or contours necessitated by field conditions may be made only after approval by the Code Enforcement Officer. All the changes necessitated by field condition shall be shown on the final plan and indicated as a change from the preliminary or final plan or if final approval has been granted, the changes shall be shown on the as-built plans.

39. SOILS

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, 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, prepared by a State-certified soils scientist or geologist based on an on-site investigation. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soils Survey as modified by on-site factors such as depth to water table and depth to refusal.

40. TEMPORARY STORAGE

Portable or mobile trailers, vans, and similar vehicles or temporary buildings may be used for storage, only upon approval of the Code Enforcement Officer and only for a temporary period not to exceed six (6) months.

Such approval may be granted by the Code Enforcement Officer and may be extended for successive periods of six (6) months each, if a finding can be made that the use:

a. Does not diminish area requirements as set forth for the zone in which it is located;

b. There is a valid temporary need which cannot be met within the principal structure and that adequate economic hardship can be shown;

c. The initial approval, or any renewal, of the use will not in any way be detrimental to the neighboring properties, including aesthetic appearance;

d. The use is not intended as a permanent or long term use;

e. The use is not intended to circumvent building area limitations for the zone in which it is located or to prolong the use of facilities which have been outgrown;

f. Will be adequately screened from neighborhood properties and the street;

g. Will not be used as or intended for advertising for on or off premises purposes; or

h. Is not intended for retail sales.

The above provisions do not prohibit the use if such temporary facilities as construction or job site office or equipment storage facilities during construction, provided that no advertising other than the contractor's name shall be permitted and that such signs meet the sign requirements of this Ordinance.

41. TIMBER HARVESTING

a. All timber harvesting operations shall conform to the following standards:

1. Harvesting operations shall be conducted in such a manner and at such a time such that all minimal soil disturbance results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters;

2. Except when surface waters are frozen, skid trails and skid roads shall not utilize stream channels except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with the applicable provisions of this Ordinance, such crossings shall only use channel beds which are composed of gravel, rock, or similar hard surface which would not be eroded or otherwise damaged;

3. Except as otherwise provided, skid trail and skid road approaches to stream channels shall be located and designed so as to divert water runoff from the trail or road in order to prevent such runoff from directly entering the stream;

4. All timber harvesting within the Downtown Residential 1, 2, 3 and 4 Zones shall comply as follows:

   a. Applicant must submit to the Lincoln Planning Board, a timber harvesting plan prepared by a Licensed Professional Forester. Also, within one (1) year of completion of the harvest, the applicant must submit to the Lincoln Planning Board a certificate of completion signed by a Licensed Professional Forester indicating that the harvest was conducted according to State Law.

NOTE: Information sheet/guidelines for Timber Harvesting Plan is available at the Code Enforcement Office.

42. TOPSOIL AND VEGETATION REMOVAL

a. Topsoil shall be considered part of the development and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations;

b. Except for normal thinning, landscaping, cutting of trees to provide access to direct sunlight and as provided for under timber harvesting standards, existing vegetation shall be left intact to prevent soil erosion. The Planning Board shall require a developer to take measures to correct and prevent soil erosion in the proposed development.

43. TRANSIENT ACCOMMODATIONS: "BED AND BREAKFAST"

"Bed and Breakfast" accommodations shall be permitted in the private, year-round residence of the host family who live on the premises provided that:

a. The maximum number of guests at any time is six (6) persons;

b. The maximum number of guest rooms is three (3);

c. Breakfast is the only meal provided by the host family;

d. One (1) sign not to exceed four (4) square feet is permitted on the premises;

e. The "Bed and Breakfast" operation shall not have any adverse effect on the neighbors.

44. TRANSIENT ACCOMMODATIONS: RENTAL CABINS AND COTTAGES

To insure the health, safety and welfare of guests and the occupants of the neighboring properties, the following requirements shall be met:

a. Each cabin or cottage site shall meet the minimum lot size requirements of a single family detached dwelling in the applicable zone;

b. A minimum of two hundred (200) square feet off-street parking plus maneuvering space shall be provided for each cabin or cottage;

c. Each cabin or cottage shall be set back a minimum of fifty (50) feet from the exterior lot lines, and seventy-five (75) feet from the normal high-water elevation of any body of water;

d. Each cabin or cottage shall be provided with a safe and adequate means of sewage, garbage and rubbish disposal, water and water supply, and fire protection;

e, Adequate storm water drainage shall be provided for each cabin or cottage site; and

f. Each cabin or cottage site shall be appropriately landscaped.

45. TRANSIENT ACCOMMODATIONS: CAMPGROUNDS

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

a. A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site;

b. The area intended for placement of the recreational vehicle, tent or shelter site, and utility and services buildings, shall be set back a minimum of fifty (50) feet from the exterior lot lines of the camping area, and seventy-five (75) feet from the normal high-water elevation of any body of water; and

c. Screening shall be required to shield the campground from abutting areas.

46. TRANSIENT ACCOMMODATIONS II

Transient accommodations are those accommodations provided for compensation, in a converted existing building, where a maximum of ten (10) guest rooms are provided under the following provisions:

a. There is no increase in total volume or floor space of the existing structures;

b. There shall not be constructed any exterior stairway or fire escape, enclosed or otherwise, above the ground floor which is visible from the street on which the building fronts;

c. Breakfast is the only meal provided, if any; and

d. The business is licensed and inspected by the State of Maine in accordance with Maine State statutes.

47. UTILITIES

a. Electric, cable television, and telephone lines may be required to be underground. Any utility installations remaining above ground shall be located so as to have a harmonious relation to neighboring properties and the site;

b. Underground utilities shall be installed prior to the installation of the final gravel base of the road; and

c. The size, type, and location of street lights and utilities shall be shown on the plan and approved by the Planning Board.

48. WATER QUALITY PROTECTION

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters, so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness to be harmful to human, animal, plant or aquatic life.

49. WOOD BOILERS, OUTDOOR

a. An outdoor wood boiler is any equipment, device, or apparatus, or any part thereof, that is installed, affixed to a structure, or free standing, or situated outdoors, for the purpose of combustion of fuel to produce heat for any interior space or for a swimming pool, jacuzzi, or hot tub.

b. Wood Boilers are to be operated and maintained within the manufacturer's specifications and guidelines.

c. Fuel is seasoned wood, corn or other combustibles recommended by the manufacturer.

d. A permit is required.

1. No person shall install, use, add, replace, or maintain a wood boiler within the Town of Lincoln without first having obtained a permit from the

Code Enforcement Officer on forms provided. The permit fee shall be ten dollars ($10.00).

2. Owners of wood boilers existing and operable at the time this Ordinance takes effect shall be required to submit a permit within sixty (60) days in order to continue operation. Existing and operable boilers shall be retrofitted to comply with specifications outlined in this ordinance. Existing and operable boilers shall not be required to meet the setback requirements, provided wood boilers shall be setback from property lines to the full extent possible.

e. Specifications and setback requirements.

1. Distance Requirement. No wood boiler shall be installed within two hundred (200) feet from the nearest neighbor's dwelling.

2. The stack height of any existing and operable outdoor wood boiler that does not meet the above setback requirements of 1. Above, shall have a minimum stack height of fourteen (14) feet and a maximum height not to exceed twenty (20) feet.

50. REDUCED SETBACKS

The Code Enforcement Officer and Planning Board, for proposed new dwelling units in existing developed portions of Downtown Residential Sub-Zones 1, 2, 3, and 4, may reduce the road setbacks below those required in Section V, Sub-Section B of this Ordinance by employing one of the following methods of calculations:

1. When only one (1) of the adjoining lots has an existing dwelling located on it with a nonconforming setback, the reduced road setback for the proposed new dwelling unit shall be established as follows:

a. First, establish a setback baseline on the existing dwelling by drawing a line between those two corners of the lot which are closest to the road;

b. Second, establish a setback baseline on the lot of the proposed dwelling by drawing a line between those two corners of the lot which are closest to the road;

c. Third, establish the grandfathered setback line of the existing dwelling by drawing a line touching that point of the existing dwelling which is closest to the road and parallel to the setback base-line established in a, above; and

d. Fourth, establish the new setback line for the proposed dwelling by drawing a line, starting at the point on the common property line where the grandfathered setback line intersects, parallel to the setback baseline of the lot of the proposed dwelling; provided that:

(1) The minimum road setback line shall not be greater than the minimum road setback provided for in Section V, Subsection B;

(2) The reduced road setback line shall not be less than ten (10) feet from the property line nearest the road, whether accepted by the Town or not, or thirty-five (35) feet from the centerline of the road, whichever is the greater distance, in Downtown Residential Sub-Zones 1, 2, 3 and 4.

2. When both adjoining lots have existing dwellings located on them with nonconforming setbacks, the reduced road setback for the proposed new swelling unit shall be established as follows:

a. First, establish a setback baseline on the lot of the existing dwelling on the right by drawing a line between those two corners of the lot which are closest to the road;

b. Second, establish a setback baseline on the lot of the existing swelling on the left by drawing a line between those two corners of the lot which are closest to the road;

c. Third, establish a setback baseline on the lot of the existing dwelling by drawing a line between those two corners of the lot which are closest to the road;

d. Fourth, establish the grandfathered setback line of the existing dwelling on the right by drawing a line touching that point of the existing dwelling which is closest to the road and parallel to the setback baseline established in a, above;

e. Fifth, establish the grandfathered setback line of the existing dwelling on the left by drawing a line touching that point of the existing dwelling which is closest to the road and parallel to the setback baseline established in b, above;

f. Sixth, draw both the grandfathered setback lines of the lots on the left and right across the lot of the proposed dwelling and parallel to the setback baseline of the lot of the proposed dwelling; and

g. Seventh, establish the new minimum setback line as either equal to the line established in f, above in the event both lines coincide, or as a line one half the distance between those lines established in f, above in the event there is a distance between them, provided:

(1) The road minimum setback line shall not be greater than the road setback provided in Section V, Subsection B;

(2) The reduced road setback line shall not be less than ten (10) feet from the property line nearest the road, whether accepted by the Town of not, or thirty-five (35) feet from the centerline of the road, whichever is greater distance, in Downtown Residential Sub-Zones 1, 2, 3 and 4.

C. LAND USE STANDARDS

Requirements/Zones	RR1	RR2	AP1	AP2	AP3
Minimum lot size	20,000 sq. ft.	80,000 sq. ft.	3 acres	2 acres	2 Acres
Minimum lot area per family	10,000 sq. ft.	80,000 sq. ft.	3 acres	2 acres	2 Acres
Minimum road frontage	100 ft	200 ft	200 ft	200 ft	200 ft
Minimum lot width	50 ft	100 ft	200 ft	200 ft	200 ft
Minimum front yard setback (center of road)	50 ft	60 ft	50 ft	50 ft	50 ft
Minimum side yard setback	10 ft	25 ft	35 ft	35 ft	25 ft
Minimum rear yard setback	10 ft	25 ft	50 ft	50 ft	25 ft
Maximum lot coverage	*25%	*15%	10%	15%	15%
Maximum building height	40 ft	40 ft	40 ft	40 ft	40 ft

*Percentage of lot coverage in the Rural Residential 1 and 2 Zones may be extended with Planning Board approval after Section V, Subsection 16, (Erosion and Sedimentation Control) of the Lincoln Land Use Ordinance has been reviewed.

LAND USE: Requirements/Zones	C-1	C-2	C-3	C-4	ID
Minimum lot size	5,000 sq. ft	5,000 sq. ft.	20,000 sq. ft.	30,000 sq. ft.	80,000 sq. ft.
Minimum lot area per family	1,000 sq. ft.	5,000 sq. ft.	20,000 sq. ft.	30,000 sq. ft.	80,000 sq. ft.
Minimum lot frontage	50 ft.	50 ft.	100 ft.	100 ft.	200 ft.
Minimum lot width	30 ft.	30 ft.	50 ft.	50 ft.	100 ft.
Minimum front yard setback (road center)	0 ft.	30* ft.	50* ft.	75 ft.	50 ft.
Minimum side yard setback	0 ft.	5 ft.	10 ft.	10 ft.	25 ft.
Minimum rear yard setback	10 ft.	10 ft.	10 ft.	10 ft.	40 ft.
Maximum lot coverage	100%	80%	90%	90%	90%
Maximum structure coverage	90%	50%	75%	75%	75%
Maximum building height	40 ft.	40 ft.	40 ft.	40 ft.	60 ft.

*SEE SECTION V LAND USE STANDARDS: SUBSECTION C REDUCED SETBACK CRITERIA **MOBILE HOME PLACEMENT FROM THE RAILROAD TRACKS WEST BROADWAY TO THE RIVER ROAD/PENOBSCOT VALLEY AVE. INTERSECTION MUST MEET A THREE HUNDRED (300) FEET SETBACK FROM ROAD CENTER ***HEIGHTS GREATER THAN SIXTY (60) FEET MAY BE APPROVED BY THE PLANNING BOARD/CEO AFTER CONSIDERATION OF FIRE AND AIR SPACE REGULATIONS.

LAND USE STANDARDS

LAND USE: Requirements/Zones	DR1	DR2	MHP w/s	MHP
	10,000	5,000	5,000	20,000

Minimum lot size	sq. ft.	sq. ft.	sq. ft.	sq. ft.
Minimum lot area per family	10,000 sq. ft.	1,000 sq. ft.	1,000 sq. ft.	20,000 sq. ft.
Minimum road frontage	100 ft.	50 ft.	50 ft.	100 ft.
Minimum lot width	50 ft.	30 ft.	30 ft.	50 ft.
Minimum front yard setback (road center)	50 ft. *	30 ft *	30 ft.	50 ft.
Minimum side yard setback	15 ft. [26]	5 ft.	10 ft.	10 ft.
Minimum rear yard setback	10 ft. [27]	5 ft.	5 ft.	10 ft.
Maximum lot coverage	40%	75%	50%	25%
Maximum building height	40 ft.	40 ft.	15 ft.	15 ft.

* CODE ENFORCEMENT OFFICER MAY REDUCE REQUIRED SETBACK PURSUANT TO THE PROVISIONS OF SECTION V, SUBSECTION C. **TWENTY THOUSAND (20,000) SQ. FT. WITHOUT TOWN SEWER.

1311.6 Administration and Enforcement

SECTION USER'S GUIDE: This section contains provisions for the administration of this Ordinance including specific provisions for certificates of compliance, conditions of approval, and public hearings.

1311.6.1 Creation of Administering Bodies and Agents

1. Code Enforcement Officer.

The Code Enforcement Officer shall be appointed by the Town Council.

The Code Enforcement Officer shall approve or deny those applications on which he is employed to act as provided in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this ordinance.

2. Planning Board.

The Planning Board of the Town of Lincoln is hereby designated as the Planning Board heretofore established by the Lincoln Municipal Code, Section 402.1.

The Planning Board shall approve, approve with conditions, or deny those applications on which it is empowered to act as stated in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

3. Board of Appeals

The Board of Appeals for the Town of Lincoln is hereby designated as the Board of Appeals heretofore established by the Charter of the Town of Lincoln, Section 1303.3.2.

1311.6.2 Approval Required

After the effective date of this Ordinance, no person shall engage in any activity requiring a permit under this Ordinance without first obtaining the approval of the Planning Board or Code Enforcement Officer, as provided herein.

No building permit (except permits for single family and two-family dwellings) shall be issued, except after review by the Fire Marshal, to determine that all plans for construction comply with applicable statutes, ordinances, codes and regulations promulgated to reduce fire hazards.

1311.6.3 Application Required

Application for approval shall be submitted in writing on forms, provided to the Code Enforcement Officer, who shall oversee the permitting process and record keeping. The Code Enforcement Officer may require the submission of additional information deemed necessary to determine conformance with the provisions of this Ordinance.

Fees are set forth in the Appendix.

1311.6.4 Other Permits Required Before Approval

Applications for approval under this Ordinance will not be considered complete for processing until all other required local permits have been secured and evidence that they have been secured has been provided, unless state or federal regulations require local approval first.

Fees are set forth in the Appendix.

1311.6.5 Water District Review

All applications for building permits within the Aquifer Protection Zones shall be forwarded by the Code Enforcement Officer to the Superintendent of the Water District for review and recommendation. If no reply is received from said Water District within five (5) working days of submission of the application, it will be deemed that said Superintendent and Board of Directors have no objections to the issuance of a building permit.

If, in the judgment of the Lincoln Planning Board, a hydrogeological study of the proposed use or activities impact on ground water is warranted, the applicant shall require, at his/her own expense, to submit one of his/her applications for a permit.

In all instances in the AP1 and AP2 Protection Subdistricts, it shall be the burden of proof on the applicant to prove beyond a reasonable doubt that

the use or activities proposed will not have an adverse impact on ground water.

In no instances shall the Planning Board or Code Enforcement Officer issue a permit for uses or activities in the AP1 and AP2 Protection Sub district without first making a determination that no adverse impact on ground water is likely to result from such use or activity.

1311.6.6 Positive Findings Required

Approval may be granted by the Code Enforcement Officer or Planning Board, after receipt of a complete application, only upon a positive finding by the Code Enforcement Officer or Planning Board that the proposed use:

1. Is a permitted use in the zone in which it is proposed to be located;
2. Is in conformance with the applicable standards of Section V of this Ordinance;
3. Will not result in unsafe or unhealthful conditions;
4. Will not result in undue land, water or air pollution;
5. Will not result in undue erosion and sedimentation;
6. Will avoid problems associated with development in flood hazard areas;
7. Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
8. Will conserve significant natural historic resources;
9. Will conserve visual points of access to waters as viewed from public facilities; and
10. Will conserve actual points of public access to waters.

1311.6.7 Conditions of Approval

The Planning Board and the Code Enforcement Officer may, in approving applications, attach such terms and conditions in addition to those required elsewhere in this Ordinance, that they find necessary to further the purposes of this Ordinance. Such terms and conditions may include, but are not limited to, specification for:

1. Type of vegetation cover;
2. Increased setbacks or dimensional requirements;
3. Specific sewage or other waste disposal facilities;
4. Specific water supply facilities;
5. Landscaping and planting screens;
6. Periods of operations;
7. Operational controls;
8. Professional inspection and maintenance;
9. Specific storage and display requirements;
10. Restrictive covenants;
11. Location of parking lots and signs;

12. Type of construction;
13. Any other term of condition of approval necessary to fulfill the purpose of this Ordinance.

Violations of any of these terms or conditions shall be considered a violation of this Ordinance. If the violation is not corrected within thirty (30) days of receipt of Notice of Violation, unless an extension of time is granted by the Code Enforcement Officer or Planning Board, said violation may void all permits.

1311.6.8 Commencement of Work

Following the issuance of a permit, if no substantial start in construction or in the use of the property has taken place within one (1) year of the date of permit, the permit shall lapse and become void. Prior to the expiration date, the Code Enforcement Officer may extend permits up to one (1) additional year.

Activities which are not commenced or substantially completed within the time limits provided above, shall be subject to new application and the approval issued under this Ordinance shall be considered void, unless extension is received thirty (30) days prior to expiration.

Activities may be extended for up to one (1) year by the Planning Board if application is submitted not later than thirty (30) days prior expiration.

1311.6.9 Certificate Of Occupancy Required

After a building, structure or part thereof has been erected, altered, enlarged, moved, or sold, pursuant to approvals under this Ordinance, a Certificate of Occupancy shall be obtained from the Code Enforcement Officer for the proposed use before the same may be occupied or used. A Certificate of Occupancy is required for the following:

1. Any increase in the number of dwelling units in a building;
2. Establishment of a home occupation;
3. Change in the use of non-conforming structure or lot;
4. Occupancy and use, or change of use, of vacant land, except for the raising of crops; and
5. Rental or leased units.

1311.6.10 Public Hearings

In scheduling public hearings under this Ordinance, the Planning Board shall notify the Town Council at least twenty (20) days in advance of the date, time and place of the hearing. The Town Clerk shall publish a notice of the hearing at least seven (7) days in advance in a newspaper of general circulation in the area at least two (2) times and shall post such notice in at

least two (2) conspicuous public places at least seven (7) days in advance of the hearing.

The Town Clerk shall notify by certified mail, all abutters of the property involved including owners of property on the opposite side of the road, at least seven (7) days in advance of the hearing, of the nature of the application and the time and place of the public hearing. The owners of the property shall be considered to be those against who taxes are assessed.

Within thirty (30) days of the public hearing, the Planning Board shall reach a decision on the proposed development plan and shall inform the applicant and the Town Manager in writing within seven (7) days of its decision stating its reasons. The Planning Board shall prepare detailed, written findings of fact, based on sufficient evidence presented at the public hearing, as well as its conclusions and the reasons or basis thereof. These findings shall not be based on feelings or unsubstantiated allegations, but upon the evidence contained in the record of the hearing.

1311.6.11 Enforcement

1. NUISANCES

Any violation of this Ordinance shall be deemed to be a nuisance.

2. CODE ENFORCEMENT OFFICER

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he/she shall notify in writing the person responsible for each violation, indicting the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

3. LEGAL ACTIONS

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Town Council, upon notice from the Code Enforcement Officer, is hereby authorized and direct to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.

4. FINES

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 a minimum of one hundred dollars ($100.00) and maximum of two thousand five hundred dollars ($2,500.00) for each violation.

5. CONTRACTOR LIABILITY

Any contractor involved in any activity regulated by the provisions of this Ordinance may be held liable for violating this Ordinance in the necessary permits for said activity have not been obtained.

1311.6.12 Appeals

1. VARIANCES

a. Variances may be granted by the Board of Appeals from the restrictions imposed by this Ordinance on lot size, lot coverage and setback, only where strict application of this Ordinance, or a provision thereof, would cause undue hardship to the petitioner and his property.

b. The words “undue hardship” shall mean:

(1) That the land in question cannot yield a reasonable return unless a variance is granted;

(2) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

(3) That the granting of a variance will not alter the essential character of the locality, and

(4) That the hardship is not the result of action taken by the applicant or prior owner.

c. A variance from required setback for a single-family dwelling that is the primary year-round residence of the primary petitioner, must not exceed twenty (20) percent of standards in place at the time of the granting of the variance unless written consent from the abutting owners is obtained. A variance shall not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. The Board may also impose conditions it deems necessary to assure complete conformance to the variance.

d. Set-back variance for single-family dwellings. Under this subsection a variance from a set-back requirement may be permitted from a set-back requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

(1) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
(2) The granting of a variance will not alter the essential character of the locality;
(3) The hardship is not the result of action taken by the applicant or a prior owner;
(4) The granting of the variance will not substantially reduce or impair the use of abutting property; and
(5) That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

This subsection is strictly limited to permitting a variance from a set-back requirement for a single-family dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed twenty (20) percent of a set-back requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. An ordinance may allow for a variance under this subsection to exceed twenty (20) percent of a set-back requirement, except for minimum set-backs from a wetland or water body required within Shoreland Zones by rules adopted pursuant to Title 38, chapter 3, subchapter I, article 2-B[1], if the petitioner has obtained the written consent of an affected abutting landowner.

e. A variance is authorized to allow a property to become accessible to a person with a disability who is living on the property without the need for showing of a hardship. The Board may however impose conditions on the variance. (Disabilities under Title 5, Section 4553)

f. Each petitioner for a variance shall submit to the Board of Appeals statements in writing, which may be accompanied by diagrams or photographs which shall become part of the record of such petition, demonstrating the following;

(1) The nature of the hardship to the property under appeal; and the physical circumstances that allegedly would occasion such undue hardship;
(2) That such physical circumstances are peculiar to the property under appeal, and are not substantially duplicated on other property adjoining or nearby in the same neighborhood or the same zone; and
(3) That the relief sought would not adversely affect property adjoining or nearby in the same neighborhood or the same convenience, and would not be contrary to this Ordinance of the Lincoln Comprehensive Plan.

2. ADMINISTRATIVE APPEALS

The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or Code Enforcement Officer in the administration of this Ordinance. Such hearings shall be held within thirty (30) days in accordance with State law. Following such hearing, the Board of Appeals may reverse the decision of the Planning Board or Code Enforcement Officer only upon a written finding that the decision is contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board or Code Enforcement Officer.

3. APPEALS TO SUPERIOR COURT

An appeal may be taken within thirty (30) days after any decision is rendered by the Board of Appeals, by any party to Superior Court, in accordance with State Law.

1311.7 DEFINITIONS

A. CONSTRUCTION OF LANGUAGE

In this Ordinance, certain terms of words should be interpreted as follows:

a. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;
b. The present tense includes the future tense, the singular number includes the plural and the plural includes the singular;
c. The word “shall” is mandatory;
d. The word “may” is permissive;
e. The words “used” or “occupied” includes the words “intended”, “designed”, or “arranged to be used or occupied”; and
f. Terms not defined shall have the customary dictionary meaning.

B. DEFINITIONS

For the purpose of interpreting this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein.

ABUTTING: Having a common border with, or being separated from such common border, by alley or easement.

ACCESS: A means of approach or entry to or exit from property.

ACCESS DRIVE: A private roadway primarily intended to transport vehicles from a public or private way to a point within private property.

ACCESSORY STRUCTURE OR USE: See Structural Terms.

ACRE: A measure of land containing forty-three thousand, five hundred sixty (43,560) square feet.

AGGRIEVED PERSON: A person whose interest is damaged or adversely affected by a decision, an action, or the failure to act by the Planning Board or Code Enforcement Officer.

AGRICULTURE: Land clearing, tilling, fertilizing, including the spreading of disposal of manure and manure sludge, limbing, planting, pesticide application, harvesting or cultivated crops, but not to include the construction, creation or maintenance of land management roads.

AGRICULTURAL: The keeping or pasturing of livestock and other similar or related activities, not to include household pets, i.e., dogs and cats.

ALLEY: A thoroughfare, either used or shown on any recorded description of the subject parcel(s), which is not more than thirty (30) feet wide and which affords only a secondary means of access to abutting property.

ALTERATION: As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress.

APPEAL: A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Ordinance as expressly authorized by the provisions of this Ordinance.

ATTIC: That part of a building which is immediately below, and wholly or partly within, the roof framing.

AUTOMOBILE SALES LOT: A lot arranged, designed, or used for the storage and display for sale of any motor vehicle and where no repair work is done except minor incidental repair of automobiles or trailers displayed and sold on premises.

AUTOMOBILE SERVICE STATION (filling station): Any premises used for supplying gasoline and oil at retail, directly to the customer, including the sale of minor accessories and minor service to automobiles.

AUTO REPAIR GARAGE: Place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding or conditioning of motor vehicles; collision repair, such as body, frame, or fender straightening and repair; over-all painting and undercoating of automobiles.

AUTOMOBILE GRAVEYARD: A yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn-out junked automobiles.

BASEMENT: The substructure of a building that is partially or wholly below ground level, which may or may not be used for living space.

BUFFERS: Units of land, together with a specified type and amount of planting thereon, and any structures which may be required between land and uses to eliminate or minimize conflicts between them.

BUILDING AREA: Total of areas taken on a horizontal plate at the main finished grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.

BUILDING FRONT LINE: Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches, whether enclosed or unenclosed, but does not include steps.

BUILDING HEIGHT: The vertical distance between the mean elevation of the finished grade of the building and the highest point of the roof. For those structures with multiple roofs, each roof shall be considered in relation to the finished grade of the building and the highest point of the roof.

CAMPGROUND: Any land area specifically designed and developed, containing two (2) or more individual campsites which accommodate that segment of the traveling public seeking temporary camping accommodations for tents, recreational vehicles and/or towed travel trailers for compensation. Accessory uses, subject to a Site Plan review, include camper services and facilities such as shower and laundry facilities, electricity, fresh water, propane

and gas sales, ice, outlet for camping supplies and equipment, recreational services, etc.

CERTIFICATE OF OCCUPANCY: Official certification that a premise conforms to provisions of the zoning ordinance (and building code) and may be used or occupied. Such a certificate is granted for new construction or for alteration or additions to existing structures. Unless such a certificate is issued, a structure cannot be lawfully occupied.

CLUSTER DEVELOPMENT: The development, according to an approved plan, of a large tract of land where three (3) or more buildings are constructed on lots smaller than normally required in the zone where located, provided the overall density of the development of the tract does not exceed the density of requirements of the zone, and land not built upon is permanently preserved as common "open space". The term also refers to a Planned Unit Development.

CODE ENFORCEMENT OFFICER: A person appointed by the municipal officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector and the like where applicable.

COMMERCIAL COMPLEX: (Shopping Mall) Commercial premises owned or managed as a single entity, which accommodate more than one (1) retail or service business, including professional offices, and contain more than twelve thousand (12,000) square feet of gross floor area, including department stores and grocery stores with more than twelve thousand (12,000) square feet of gross floor area.

CONDOMINIUM: As defined in the "Maine Condominium Act of 1983", the term means real estate, portions of which are designated for separate ownership, and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, duly recorded pursuant to this Act. A condominium is a legal form of ownership, not a land development type. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

CONDOMINIUM CONVERSION: A building, that at any time before creation of the condominium, was occupied wholly or partially by one (1) or more persons other than purchasers and persons who occupy with the consent of purchasers.

D.B.H. (Diameter Breast Height): A measurement of the size of a tree equal to the diameter of its trunk measured at four and one-half (4 ½) feet above the natural grade.

DAY CARE FACILITY: As defined in Title 22, MRSA, Section 1673, as a house or other place in which, a person or combination of persons, maintains or

otherwise carries out a regular program for consideration, for any part of a day, providing care and protection for three (3) or more children under the age of sixteen (16) and unrelated to the operator, not to include nursery schools, summer camps, formal public or private school, and further defined by the Department of Human Services as follows:

DAY CARE CENTER: A day care facility as defined in the State statutes for thirteen (13) or more children on a regular basis; and
DAY CARE HOME: A day care facility as defined in State statutes for three (3) to twelve (12) children on a regular basis.

DECK: An accessory attachment to principal structure. It shall be constructed primarily of wood and shall not be enclosed. It shall not have a roof, canopy or awning, nor shall it have framed or screened walls. It shall be supported above ground on posts or beams and shall not have a foundation. It may contain railings with screening and gates to enclose pets or children.

DEDICATION: The transfer of property interest from private to public ownership for a public purpose. The transfer may be fee simple interest or of a less-than-fee-simple interest, including an easement.

DEVELOPER: The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including the holder of an option or contract to purchase.

DEVELOPMENT: The division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings or land, any extension of any use of land or any clearing, grading, or other movement of land, for which permission may be required pursuant to this Ordinance.

DRAINAGE: The removal of surface or ground water from land by drains, grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and includes the means necessary for water supply preservation and prevention or alleviation of flooding.

DWELLING: See Structural Terms.

EASEMENT: Authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

ELEEMOSYNARY: A non-profit establishment for public use.

EMERGENCY OPERATIONS: Emergency operations 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 form the threat of destruction or injury.

ENLARGEMENT OR TO ENLARGE: An "enlargement" is an addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. To "enlarge" is to make an enlargement.

ESSENTIAL SERVICES: The construction, alteration or maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection, supply or disposal systems. Such systems may include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm, and police boxes, traffic signals, hydrants, and similar accessories, but shall not include buildings which are necessary for the furnishing of such services.

EXTENSION OR EXTEND: An increase in the amount of existing floor area used for an existing use within an existing building. To "extend" is to make an extension.

FAMILY: Two (2) or more persons related by blood, marriage, adoption or guardianship, or not more than five (5) persons not so related, occupying a dwelling unit and living as a single housekeeping unit; such a group to be distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel.

FOOD PROCESSING FACILITY: A place housing an operation which changes the chemical composition or physical properties of food materials for human consumption. An example would be a creamery where dairy products such as butter, cheese and ice cream are made. The term does not include slaughterhouses nor does it include restaurants where food is prepared and sold at retail.

FOREST MANAGEMENT TERMS:

1. Forest Management Activities: Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other similar associated activities, but not the construction or creation of roads.

2. Timber Harvesting: means the cutting or removal of at least fifty (50) cords of timber for the primary purpose of selling or processing forest products.

3. Licensed Professional Forester: "Licensed Professional Forester" means a person licensed pursuant to Title 32, Chapter 75.

FRONTAGE, ROAD: The horizontal distance between the intersections of the side lot lines with the front line.

GARAGE, COMMERCIAL: A structure used for parking or storage of automobiles, generally available to the public and involving payment of a charge for such parking or storage. A garage used solely in conjunction with a multiple-family dwelling or hotel shall not be construed to be a commercial garage, but rather a permitted accessory structure and use, even though not on the same premises as the multiple-family dwelling or hotel.

GARAGE, RESIDENTIAL: An accessory building for parking or temporary storage of automobiles of residential occupants of the premises, or a part of the residence usually occupying the ground floor area of principal one-or-two family dwellings. Not more than one (1) space may regularly be used by the private passenger automobile of a person not resident on the premises.

GRADE: In relation to buildings, the average of the finished ground level at the center of each wall of a building.

GREENHOUSE, COMMERCIAL: An enclosed building, permanent or portable, which is used for the growth and sale of small plants at wholesale or retail.

GREENHOUSE, NON-COMMERCIAL: An accessory building to a residence designed or used for the growth of small plants.

GROCERY STORE: A small neighborhood establishment retailed in food and related commodities, as distinguished from a supermarket, defined as a "Major Retail Outlet".

GUEST ROOM: A room in a hotel, motel, tourist home or "bed and breakfast" residence offered to the public for compensation, in which room no provision is made for cooking.

HOME OCCUPATION: A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building, or structural accessory thereto, which use is accessory, incidental and secondary to the use of the building for dwelling purposes, and does not change the residential character or appearance of such building. Not to exceed one (1) full time employee outside of family members.

HOME OFFICE: A business where there shall be no outwardly visible signs that business is being conducted. This is to accommodate technological types of business, including but not limited to activities conducted by mail, phone, internet, fax or email. A home office shall have no "through the door customers",

no increase in traffic, no sign or other advertisement on the property. In addition, no unnecessary noise or unnecessary odors shall be created. Employees of a home office are to be limited to current residents of the household from which business is being conducted. Home offices are allowed without a permit.[1]

HOSPITAL: An institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff office.

IMPERVIOUS SURFACES: Surfaces which do not absorb water, specifically all buildings, parking areas, driveways, roads, sidewalks and any other areas of concrete or asphalt. In the case of lumber yards, areas of stored lumber constitute impervious surfaces.

INDUSTRY: Use of premises for assembling, fabricating, finishing, manufacturing, packaging, or processing. These include but are not limited to assembly plants, laboratories, power plants, plumbing stations and repair shops.

IN-LAW APARTMENT: See Structural Terms.

JUNKYARD: A yard, field or other area used as a place of storage for discarded, worn-out or junked plumbing, heating supplies, household appliances, furniture, discarded scrap and junked lumber, old or scrap copper, brass, rope rags, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous and non-ferrous material, including garage dumps, waste dumps and sanitary landfills.

KENNEL, COMMERCIAL: Any place in or at which any number of dogs or cats are kept for the purpose of sale or in connection with boarding, care, training, or breeding, for which a fee is charged.

KENNEL, NON-COMMERCIAL: An accessory building to a residence designed or used for the accommodation of dogs or cats owned by the occupant of the residence.

LAND USE PERMIT: A permit for a proposed land use activity as defined in this Ordinance and issued by the Planning Board or Code Enforcement Officer in accordance with the provisions of the Ordinance.

LIGHT MANUFACTURING: The fabrication or processing of materials into a finished product. Fabrication relates to the stamping, cutting or otherwise shaping of the processed materials into useful objects/products. Light manufacturing, does not include the refining or other initial processing of basic raw materials such as metal ores, lumber or rubber.

LIVESTOCK:[5] The housing or pasturing of animals, not including animals kept as pets, i.e. dogs, cats, rabbits and birds. Pet birds are limited to parrots, parakeets and other domesticated birds and no more than six (6) laying hens.

LOADING SPACE: An off-street space of berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts a street, alley or other appropriate means of access.

LODGING TERMS

TRANSIENT ACCOMMODATIONS I: (Also referred to as "Bed and Breakfast") are those accommodations provided for compensation as a business in the private year-round residence of the host family, consisting of a maximum of three (3) guest rooms and six (6) guests at any one time, not including children of the paying guests under twelve (12) years of age. Breakfast is the only meal, if any, to be provided for compensation.

TRANSIENT ACCOMMODATIONS II: Are those accommodations provided for compensation as a business in a converted, existing building where a maximum of ten (10) guest rooms are provided at any one time.

TRANSIENT ACCOMMODATIONS III: Include commercial hotels, motels, and inns where over ten (10) guest rooms are provided as accommodations for compensation as a business. Any accessory structures or uses such as gift shops are considered separate uses or structures and shall meet the provisions of this Ordinance as such.

TRANSIENT ACCOMMODATIONS IV: See Campgrounds.

LOT: A parcel of land undivided by any street or public road and occupied by, or designated to be developed for, one (1) building or principal use and the accessory buildings or use incidental to such building, use, or development, including such open spaces and yards as are designed, and arranged or required by this Ordinance for such building, use, or development.

LOT AREA: The area contained within the boundary lines of a lot.

LOT, CORNER: A lot abutting two (2) or more streets at their intersection.

LOT COVERAGE: The percentage of the lot covered by impervious surfaces.

LOT DEPTH: The mean horizontal distance between the front and rear lot lines, measured within the lot boundaries.

[5] Amended by Town Council 7/0 on August 12, 2013

LOT FRONTAGE: Lot width measured at the street lot line. When a lot has more than one street lot line, lot width shall be measured, and the minimum lot width required by this Ordinance shall be provided, at least on one street.

LOT LINE: A line bounding a lot which divided one lot from another, or from a street or any other public or private space, as defined below.

1. Front Lot Line: In case of a lot abutting only one street, the street line separating such lot from such street, in the case of a double frontage lot, each street line separating such lot from a street shall be considered to be the front lot line, except where the rear yard requirement is greater than the front yard requirement in which case one of the two (2) opposing yards shall be a rear yard. In the case of a lot with no road frontage, the front of the lot line shall be considered to be the line parallel to the front of the building.

2. Rear Lot Line: That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot lines shall be opposite the lot line along which the lot takes access to a street.

3. Side Lot Line: Any lot line other than a front or rear lot line.

LOT OF RECORD: Any validly recorded lot which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

LOT STANDARDS: The combination of controls which establishes the maximum size of a building and its location on the lot. Components of lot standards, also known as “space and bulk” regulations in size and height of building; location or exterior walls at all levels with respect to lot lines, streets and other buildings, building coverage; gross floor area of buildings in relation to lot area, open space (yard) requirements; and amount of lot area provided per dwelling unit.

MAJOR RETAIL OUTLET: A retail commercial establishment with an interior customer selling space, excluding back room storage, office space, and processing space, or more than five thousand (5,000) square feet.

MANUFACTURED HOUSING: A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site.

For the purposes of this Ordinance, three (3) types of manufactured housing will be referred to:

1. NEWER MOBILE HOMES: Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards and complies with the Manufactured Housing Construction and Safety Standards Act of 1974, et seq., which, in the traveling mode, are fourteen (14) feet or more in width and are seven hundred and fifty (750) or more square feet and are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation;

2. OLDER MOBILE HOMES: Those units constructed before June 15, 1976, and not in compliance with the Manufactured Housing Construction and Safety Standards Act of 1974, which are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, but does not include those smaller units commonly called “travel trailers”, and

3. MODULAR HOMES: Those units which the manufacturer certifies are constructed in compliance with the State’s Manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained herein.

MARIJUANA CAREGIVER RETAIL STORE: "Caregiver retail store" means a store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

MARIJUANA MANUFACTURING FACILITY: "Manufacturing facility" means a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in marijuana extraction under section 2423-F.

MARIJUANA R**EGISTERED** D**ISPENSARY OR** D**ISPENSARY:** "Registered dispensary" or "dispensary" means an entity registered under section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana plants or harvested marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

MARIJUANA TESTING FACILITY: "Marijuana testing facility" means a public or private laboratory that:
A. Is authorized in accordance with section 2423-A, subsection 10 to analyze contaminants in and the potency and cannabinoid profile of samples; and [PL 2017, c. 447, §2 (AMD); PL 2017, c. 452, §3 (AMD).]
B. Is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the department.

MEDICAL CLINIC: An office building used by members of the medical professions for the diagnosis and out-patient treatment of human ailments.

MINERAL EXTRACTION: The removal of sand, gravel, bedrock or soil from its natural site of geologic deposition or formation; the screening, sorting, crushing or other procession of any part of the geologic material so removed; the storage of sand, gravel, crushed stone, or soil in stock piles or other forms.

MOBILE HOME PARK: A parcel of land under unified ownership approved by the Town of Lincoln for the placement of three (3) or more manufactured homes.

MOTOR VEHICLE: Every vehicle which is self-propelled and designed for carrying persons or property of which is used for the transportation of persons.

MOTOR VEHICLE, UNSERVICEABLE: Any motor vehicle which is wrecked dismantled, cannot be operated legally on any public highway, or which is not being used for the purpose for which it was manufactured.

MUNICIPAL FACILITIES: Buildings or land which is owned by the Town of Lincoln and operated under its supervision.

NON-CONFORMING USE: See Use Terms.

NORMAL MAINTENANCE AND REPAIR: Any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, changes in use, change in location, change in size or capacity.

NURSERY, COMMERCIAL: An enterprise which conducts the retail and wholesale of plants grown on the site, as well as accessory items (but not power equipment such as gas or electric lawn mowers and farm implements) directly related to their care and maintenance. The accessory items normally sold are clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes and shovels.

NURSING HOME: A facility for the care of the aged or infirmed, or a place of rest for those suffering bodily disorders, but not including facilities for surgical care of institutions for the care and treatment of mental illness, alcoholism, or narcotics addiction.

OWNER: The person or persons having the rights of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

PARCEL: The entire area of a tract of land before being divided by a development.

PARKING LOT: An open area, other than a street, used for the parking of more than four (4) automobiles and available for public use whether free, for compensation, or as an accommodation for clients or customers.

PARKING SPACE: A surfaced area, not less than nine (9) feet wide and nineteen (19) feet long, enclosed or unenclosed, sufficient in size to store one (1) automobile together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

PATIO: See Structural Terms.

PERFORMANCE STANDARD: A criterion established to control the use of land structures. The purpose of performance standards is to provide detailed regulations and restrictions by means of minimum criteria which must be met by uses in order to protect neighbors from adverse impacts of adjoining land uses and to protect the general health, safety and welfare of citizens of Lincoln.

PLANNED UNIT DEVELOPMENT: See Cluster Development.

PROFESSIONAL OFFICE BUILDING: A building in which there is located the office of a professional such as an architect, accountant, dentist, doctor of medicine, lawyer, etc., or in which a business conducts its administrative, financial or clerical operations, but not including any manufacturing or sale of goods or merchandise.

PUBLIC UTITLITY: Any person, firm corporation, municipal department, board or commission authorized by the Maine Public Utilities Commission to furnish gas, steam, electricity, communication facilities, or transportation of water to the public.

RECONSTRUCTION: The restoration, remodeling or rebuilding of a non-conforming structure, whether necessitated by deterioration, obsolescence, casualty, or other occurrence, where the costs of such work equal or exceed the value of the property in its existing condition.

RESEARCH FACILITY: A building or part of a building devoted to scientific inquiry and ancillary functions. No manufacturing is conducted on the premises except as related to the scientific research being conducted, said activities shall be solely for non-profit or charitable purposes.

RESTAURANT: An establishment whose principal business is the sale of food and or beverages to consumers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics:

(1) Customers normally provided with an individual menu and are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; or

(2) A cafeteria type operation where food and beverages generally are consumed within the restaurant building.

RETAIL ESTABLISHMENT: Any business, housed in a permanent structure, engaged primarily in the sale of goods and services to the ultimate consumer for direct consumption and/or use, but not for resale.

ROAD: A thoroughfare or way 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.

1. **Private Road**: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.
2. **Public Road**: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

ROADSIDE STAND: A roadside stand, selling at retail on the premises only farm produce, camp firewood, or garden greenhouse or nursery products, and between Labor Day and Christmas, cut Christmas trees, garland, wreaths, and wreath materials primarily produced on the property.

SCHOOL, MUNICIPAL: A publicly-owned facility within which educational classes for any grades, kindergarten through twelve, are conducted pursuant to a program approved by the State Board of Education or similar governmental agency.

SCHOOL, PRIVATE: A privately-owned facility within which instruction is provided for a fee.

SCREENING: A hedge or buffer strip at least five (5) feet wide, consisting of densely planted shrubs or trees, which provides an effective visual barrier.

SETBACK: The minimum horizontal distance from the center of the travel way or lot line to the nearest part of a structure.

SIGN ITEMS:
Sign: Device, model, banner, pennant, insignia, flag, or other representation which is used as, or is the nature of an advertisement, announcement or direction.

1. **Billboard**: Anything designed, intended or used for advertising a product, property, business, entertainment, service, amusement or the like, and not located where the matter advertised is available or occurs.
2. **Free-Standing Sign**: A sign supported by one or more uprights or braces permanently affixed into the ground.
3. **Portable Sign**: A sign not designated or intended to be permanently affixed into the ground or to a structure.
4. **Roof Sign**: A sign which is attached to a building and is displayed above the eaves of such building.
5. **Temporary Sign**: A sign of a temporary nature, erected less than ninety (90) days, exemplified by the following: political poster, charitable signs, construction signs, carnival signs, garage sale signs, lawn sale signs, rummage sale signs, and all signs advertising sales of personal property, and "for rent" signs.
6. **Wall Sign**: Any sign painted on, or attached parallel to, the wall surface of a building and projecting therefrom not more than six (6) inches.
7. **Window Sign**: Any on-premises, non-temporary sign visible from the exterior of the building or structure which is permanently painted, attached, glued or otherwise affixed to a window.
8. **Area of Sign**: The exposed surface of the sign including all ornamentation, embellishment, background, and symbols, but excluding the structure which does not form a part of the message of the sign measured in square feet.

The sign area of a sign composed of characters or words attached directly to a uniform building wall surface or window surface (wall sign or window sign) shall be the smallest rectangle which enclosed the whole group or message.

The aggregate sign area for a premise shall be taken to mean the sum of the area of all signs visible from public streets, sidewalks, parks, etc., and includes wall signs, window signs, free-standing signs, roof signs, and small signs attached to the principal sign indicating "fireplaces", "swimming pool", "Master Card. Diners Club, or American Express accepted". If the shape of a sign is convoluted or irregular, then the area is to be taken as the smallest rectangle which encloses the sign.

STABLE, COMMERCIAL: A building or land where horses are kept for compensation, for purposes of hire, sale, boarding, riding, showing, breeding, or training.

STABLE, NON-COMMERCIAL: An accessory building to a residence designed or used for the accommodation of horses owned and used exclusively by occupants of the residence to which it is accessory.

STRUCTURAL TERMS:

1. **Building:** Any structure, maintained or intended for use as shelter or enclosure of persons, animals, goods, or property of any kind. This term is inclusive of any thereof. Where independent units with separate entrances are divided by walls, each unit is a building.

2. **Building, Accessory:** A building which (1) is subordinate in area, extent and purpose to the principal building or use served; (2) is located on the same lot as the principal building or use served except as otherwise expressly authorized by the provisions of this Ordinance; and, (3) is customarily incidental to the principal building or use. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory building.

3, **Building, Principal:** A building (structure) in which is conducted, or in which is intended to be conducted, the main or primary use of the lot on which it is located.

4. **Dwelling:** A building, or portion thereof, used exclusively for residential occupancy, including single-family, two family, and multiple-family dwellings.

5. **Dwelling Unit:** A room, or group of rooms, designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking and eating.

6. **Dwelling, Single-Family Detached**: A dwelling designated for and occupied by not more than one (1) family and having no roof, wall, or floor in common with any other dwelling unit. The term shall include manufactured and prefabricated homes.

7. **Dwelling, Two-Family:** A detached or semi-detached building used for residential occupancy by two (2) families living independently of each other.

8. **Dwelling, Multiple-Family:** A building, or portion thereof, used for residential occupancy by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses and row houses.

9. **In-Law Apartment:** A separate dwelling unit, which is located within a subordinate to a single family detached dwelling, and which is occupied by a person or persons related to the owner and principal occupant of the dwelling unit by blood, marriage or adoption, whether or not said persons pay rent or share expenses with the owner thereof.

10. **Patio:** A recreation area that adjoins a dwelling and is delineated by paving, concrete, stones, or other impervious surfacing material and is adapted especially to outdoor dining and/or lounging.

11. **Structure:** Anything constructed or erected, the use of which requires permanent location on, above or below the surface of the land or water, including a porch or patio, but excluding a deck.

SUBDIVISION: The division of a tract of land into three (3) or more lots within a five (5) year period whether accomplished by sale, lease, development, buildings or otherwise, and as further defined in State Statutes, Title 30-A, MRSA, Section 4404, as amended.

TOWN: The Town of Lincoln, Maine.

TRANSIENT: A non-resident person residing within the Town less than thirty (30) days.

TRANSPORTATION FACILITIES: Structures and grounds used for transportation service activities, such as ticket booths, and waiting shelters for buses, taxis, or touring vans.

UNDERTAKING FACILTIES: A dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

USE: The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

1. **Accessory Use:** A use subordinate to a permitted use located on the same lot, and customarily incidental to the permitted use.
2. **Principal Use:** The specific primary purpose for which land is used.
3. **Temporary Use:** A use established for a fixed period of time with the intent to discontinue such use upon the expiration of a fixed period of time. Such uses do not involve the construction or alteration of any permanent structure.
4. **Conforming (permitted) Use:** A use which may lawfully establish in a particular zone, provided it conforms with all the requirements, standards and regulations of such zones.

5. **Existing Non-Conforming Use**: A use which lawfully existed prior to the enactment of this Ordinance or subsequent amendments, and which is maintained after the effective date of this Ordinance, although it does not comply with the restrictions applicable to the zone in which it is situated.
6. **Non-Conforming Use:** A use which does not comply with all the restrictions applicable to the zone in which it is situated.
7. **Open Space Use:** A use which does not disturb the existing state of the land except to restore the land to a natural condition.

VARIANCE: A relaxation of the terms of this Ordinance where such a variance would not be contrary to the public interest and where, owing to the conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship.

VARIETY: A small neighborhood establishment retailing in commodities, goods and services to the ultimate consumer.

WAREHOUSING AND STORAGE FACILITY: A structure for the storage of merchandise or commodities, including bulk storage and bulk sales outlet.

WHOLESALE BUSINESS ESTABLISHMENT: Any business, housed in a permanent structure, engaged in the sale of goods in large amounts to retailers or jobbers, rather than directly to the consumer.

WATER RELATED TERMS:

1. **Floodplain:** Floodplains may be either riverine or inland depressional areas. Riverine floodplains are those areas contiguous to a lake, river, streams, or stream bed, whose elevation is greater than the normal water pool elevations but equal or lower than the projected 100-year flood elevation. Inland depressional floodplains, not associated with a stream system, are low points to which surrounding land drains.

2. **Flowing Water:** A surface water within a Stream Channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks and can be further defined as:

   Major Flowing Waters: A flowing water downstream from the point of where such water drains twenty-five (25) square miles or more, and

   Minor Flowing Waters: A flowing water upstream from the point where such water drains less than twenty-five (25) square miles.

3. **Inland Wetland:** Areas enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of soils, vegetation, or other criteria as inland wetlands, including but not limited to, swamps, marshes or bogs.

WILDLIFE: All vertebrate species (animals with backbones), except fish.

WILDLIFE MANAGEMENT PRACTICES: Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation; controlled burning; planting; impounding water; controlled hunting and trapping; relocation of wildlife; predator and disease control; and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species.

YARD: The area of land on a lot not occupied by buildings.

1. Front Yard: The open, unoccupied space on the same lot with principal building between the front lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

2. Rear Yard: The open, unoccupied space on the same lot with principal building between the rear lot line and the nearest part of any building on the lot, and extending the entire width of the lot.
3. Side Yard: The open, unoccupied space on the same lot with principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear lot line.

ZONE: A specified portion of the Town, delineated on the Official Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

1311.8 Adult Use Marijuana

1311.8.1 Security and Oversight Requirements

1. There shall be no outdoor cultivation, processing, curing, drying, selling, farm stand, storage, or other display of marijuana at a retail marijuana establishment.

    a. If the retail establishment is in a RR1, RR2 or Commercial Zone and the other activities have a 200-foot setback and/or fenced and hidden from view of the retail establishment, it will be allowed.

2. Retail marijuana cultivation facilities may only distribute marijuana to licensed retail marijuana establishments.

3. All retail marijuana establishments shall have recorded video surveillance covering all plants and the entire exterior of the entire building. The recorded video surveillance shall be operating 24 hours a day, seven days a week. Records of surveillance shall be kept for a minimum of 30 days.

4. Each marijuana establishment shall allow Law Enforcement Officers and the Code Enforcement Officer to enter the premises at a reasonable time for the purpose of checking compliance with all Town Ordinances and State Laws. Every owner of a marijuana business applying for a license shall contact the Lincoln Police Department for the purposes of fingerprints and criminal background checks at the business owner's expense. Every owner shall submit emergency contact information to the Lincoln Police Department and Code Enforcement Officer.

5. Due to the risk of fire, explosion and other hazards in the cultivation, testing and manufacturing facilities, including but not limited to, heavy electrical loads, hot lighting fixtures, extraction solvents (acetone, butane, propane, etc.), the owner of all facilities shall agree to be inspected annually by the Lincoln Fire Department and have a Knox Box installed at the structure's exterior entrance for emergency access.

6. A retail marijuana establishment may not employ a person under the age of 21. A person under 21 may not enter a retail marijuana establishment, nor may a retail marijuana establishment allow a person under the age of 21 to enter or remain in the establishment.

7. For all retail marijuana establishments, the odor of marijuana must not be perceptible at any adjoining use of the property or on other parcels. While the Town of Lincoln does not mandate any particular equipment specifications with regard to filtration, all retail marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

    a. Retail marijuana cultivation facilities must implement appropriate ventilation and filtration systems to satisfy the aforementioned odor standard.

    b. Retail marijuana product manufacturing facilities, retail marijuana stores, and retail marijuana testing facilities are not required to install filtration equipment on the licensed premises, but must satisfy the aforementioned odor standard.

8. Retail marijuana cultivation facilities must comply with state law regarding pesticide application. Any application of pesticides must be performed by a person licensed by the state as a pesticide applicator.

9. Signage designed to appeal to persons under 21 years of age is prohibited.

a. All signage shall meet the Town Signs Ordinance (1311.5.1 #37) and may show an image or images of the marijuana plant or plants, or parts thereof, as long as they do not exceed 20 percent of the sign face, but there shall be no pictorial representations of other marijuana products, by-products or paraphernalia associated with the use or distribution of retail marijuana.

1311.8.2 Retail Marijuana Establishment License

1. License required.
    a. State license; a marijuana establishment shall not operate until it is licensed by the State licensing authority pursuant to the requirements of 28-B M.R.S.A, Chapter 1, as may be amended. An applicant may not operate a marijuana establishment without a Maine state license and all other necessary town approvals.

    b. Local license; a local license is required for any marijuana cultivation facility, marijuana products manufacturing facility, marijuana store and marijuana test facility.
        i. Licenses issued under this Ordinance are not transferable to a new owner and limited to the locations for which they are issued and shall not be transferable to a different location. A licensee who seeks to operate or take new ownership shall acquire a new local license for that location.

2. Fees. Fees for retail marijuana establishments shall be as set by Council Order in the Towns Schedule of Fees in accordance with 28-B M.R.S.A. § 401(3).

3. Marijuana business licenses shall be administered on a first come, first served basis upon the date the application is deemed complete.

4. If the applicant has had a previous license under this ordinance or other similar marijuana business license application in another town, city or state denied, suspended or revoked, they must list the name and location of the marijuana business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.

        a. If the applicant holds any other permits/licenses under this ordinance or from another town, city or state the applicant whale provide the names and locations of such other permitted/licensed businesses.

5. Application process.

    a. An application form for a certificate of local authorization may be obtained from, and shall be submitted to, the Code Enforcement Officer. Once submitted to the Code Enforcement Officer the Planning Board shall review and approve land use. The format of the application submitted shall be as set by the Code Enforcement Officer.

b. For an application to be considered, it must be submitted with a conditional license from the state approved in accordance with 28-B M.R.S.A. § 205(3) and the retail marijuana establishment

6. Criteria. The applicant must demonstrate that they comply with the following laws and requirements in order to be granted a certification of local authorization.

   a. The licensing criteria set forth in 28-B M.R.S.A. §§ 202, 203, and 402.

   b. All applicable municipal approvals, permits, and licenses required for operation, including but not limited to building, electrical, and plumbing permits and certificates of occupancy.

   c. Sale of edible products. No food products shall be sold, prepared, produced or assembled by a marijuana business except in compliance with all operating and other requirements of state and local law and regulations including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

   d. No marijuana establishments shall not be any closer than 1000 feet of lot lines of pre-existing schools, Region III, child care facilities, public parks, playgrounds or recreational facilities owned by the Town of Lincoln.

   e. All marijuana establishments must comply with the Municipal Code 1311.4 section IV, schedule of uses. Waivers may be obtained by the Code Enforcement Officer and Planning Board, as long as waiver procedures are met.

7. Suspension and revocation. After notice and opportunity for hearing, the Code Enforcement Officer may suspend or revoke a certificate of local authorization upon a determination that a retail marijuana establishment no longer meets one or more of the criteria listed in Subsection 4 above.

8. Appeals. Appeals from decisions made pursuant to the state superior court.

1311.8.3 Violations and penalties

1. Whoever violates the provisions of this article shall be punished by a fine of not less than $50 nor more than $500 for each offense. Each day a violation exists shall constitute a separate offense.

2. Compliance with all state laws and regulations shall be deemed an additional requirement for issuance or denial of any license under this ordinance and non-compliance with state

laws, regulations or of this ordinance shall be grounds for revocation or suspension of licenses.

a. In the event the State of Maine adopts any additional or stricter laws or regulation governing the sale, cultivation, manufacturing, distribution or testing of marijuana or marijuana products, the additional or stricter regulation shall control the establishment and operation of marijuana business within the Town of Lincoln.

1311.8.4 Definitions

CANNABIS: All parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin including Cannabis concentrate. "Cannabis" does not include industrial hemp, fiber produced from the stalks, oil, cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination or any ingredient combined with Cannabis to prepare topical or oral administrations, food, drink or any other product. "Cannabis" also means marijuana.

MARIJUANA CULTIVATION FACILITY: A medical marijuana cultivation facility or retail marijuana cultivation facility.

MARIJUANA MANUFACTURING FACILITY: A medical marijuana manufacturing facility or retail marijuana products manufacturing facility.

MARIJUANA STORE: A medical marijuana caregiver store, medical marijuana dispensary, or retail marijuana store.

MARIJUANA TESTING FACILITY: A medical marijuana testing facility or retail marijuana testing facility.

MEDICAL MARIJUANA CAREGIVER STORE: A facility at which medical marijuana is sold by one or more persons meeting the definition of "registered primary caregiver" or "registered caregiver" as defined in 22 M.R.S. § 2422.

MEDICAL MARIJUANA CULTIVATION FACILITY: A facility or location at which medical marijuana is cultivated, either:

a. pursuant to 22 M.R.S.A. § 2428. The location is considered to be, and must abide by all ordinance provisions regarding a medical marijuana cultivation facility, whether it is at the same location as its associated medical marijuana dispensary or at a different location. A medical marijuana cultivation facility is not considered an accessory use within the meaning of this chapter; or
b. By one or more persons meeting the definition of "registered primary caregiver" or "registered caregiver" as defined in 22 M.R.S.A. § 2422.

MEDICAL MARIJUANA DISPENSARY: A registered dispensary as defined by 22 M.R.S.A. § 2422. No application for certificate of occupancy shall be approved for a medical marijuana

dispensary unless it has been issued a valid registration certificate by the state pursuant to 22 M.R.S.A. § 2428(2) and meets all other state and local laws and regulations.

MEDICAL MARIJUANA MANUFACTURING FACILITY: A laboratory meeting the definition of "manufacturing facility" as defined in 22 M.R.S. § 2422.

MEDICAL MARIJUANA TESTING FACILITY: A marijuana testing facility as defined in 22 M.R.S. § 2422.

1312. SUBDIVISION ORDINANCE

1312.1 Reasons for Subdivision Control

The purpose of subdivision control is to guide the municipality's development, to further the efficient and economical operation of important public services, and although the municipality cannot necessarily control where development will take place, subdivision control goes a long way in determining the quality of that development. This vital function of subdivision control gives a community a head starts in its attempt to preserve or change its character, as it sees fit.

1312.2 The Need for Review

M.R.S.A Title 30, Section 4956 – better known as the State Subdivision Law – states that "all requests for subdivision approval shall be reviewed by the municipal Planning Board, agency, or office; or if none, by the municipal officers…"

This simply means that if a town has established a Planning Board, it is required by law to review all subdivision proposals within its jurisdiction. If a Planning Board does not exist, this same responsibility rests with the municipal officers (the Board of Selectmen or Council).

Responsibility for subdivision review is generally recognized and accepted; however, many members of the boards are uncertain as to what exactly they can or should do in exercising their authority.

1312.3 Purpose

The purpose of this guide is to help the local Planning Board apply the criteria listed in the State Subdivision Law to individual subdivision proposals which they must review.

1312.4 Burden of Proof

Possibly the single most important thing for the local Planning Board to bear in mind in the subdivision review process is that the "burden of proof" rests with the sub divider. The State Subdivision Law makes it quite clear when it states, "In all

instances the burden of proof shall be upon the persons proposing the subdivisions." In other words, the sub divider must prove to the local Planning Board that he has met the conditions set forth by the State Subdivision Law before the proposal can be approved.

1312.5 Definitions

In general, words and terms used in these standards shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

SKETCH PLAN: An unscaled pencil or ink drawing showing the general idea for development, the approval of which allows the preparation of a comprehensive scaled drawing.

COMPREHENSIVE PLAN or POLICY STATEMENT: Any part or element of the overall plan or policy for development of the Town, as defined in Title 30, MRSA, Chapter 239, Section 4961

CONSTRUCTION DRAWINGS: Drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground fire alarm ducts, underground power ducts and underground telephone ducts, pavements, cross-section of streets, miscellaneous structures, etc.

BASEMENT: The authorization of a property owner for the use by another, and for a specified purpose, of any designated part of his property.

ENGINEER: Municipal engineer or consulting engineer licensed by the State of Maine.

FINAL SUBDIVISION PLAN: The final drawings on which the subdivision is presented to the Planning Board for approval and which, if approved, may be filed for record with the Municipal Clerk and County Registry of Deeds.

LEGISLATIVE BODY: Town Council

MUNICIPALITY: Town of Lincoln

OFFICIAL MAP: The map adopted by the Municipality showing the location of public property, ways used in common by more than two (2) owners of abutting property, and approved subdivisions; and, any amendments thereto adopted by the Municipality or additions thereto resulting from the approval of subdivision plans by the Planning Board and the subsequent filing for record of such plans.

OFFICIAL SUBMITTAL DATA: The time of submission to the Planning Board of Pre-application Plan, Final Plan, or Preliminary Plan, shall be considered the submission date of the application for such plan to the Board.

PERSON: Includes a firm, association, organization, partnership, trust company, or corporation, as well as an individual.

PLANNING BOARD: The Planning board of the Municipality created under Title 30, MRSA, Chapter 239, Section 4952, or Chapter 201-A, Section 1917.

PRELIMINARY SUBDIVISION PLAN: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

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.

STREET: The word "street" means and includes such ways as alleys, avenues, boulevards, highways, roads, streets, and other rights-of-way. The term "street" shall also apply to areas on subdivision plans designated as "streets", etc.

SUBDIVISION: A subdivision is the division of a tract of land into three (3) or more lots within any five (5) year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings, or otherwise, provided that a division accomplished by devise, condemnation, order of court, fight to a person related to the donor by blood, marriage, or adoption, unless the intent of such gift is to avoid the objectives of this section, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purpose of this section.

In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two (2) lots and the next dividing of either of said first two (2) lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create a third lot, unless both such dividing's are accomplished by a sub divider who shall have retained one of such lots for his own use as a single family residence for a period of at least five (5) years prior to such second dividing. Lots for forty (40) or more acres shall not be counted as lots.

For the purpose of this section, a "tract or parcel of land" is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land, unless such road was established by the owner of land on both sides thereof.

1312.6 Procedure

1. Submit a sketch plan, or

2. Submit an application and preliminary plan. Fee of twenty-five dollars ($25.00) to accompany each application submitted for review.

3. Submit a final plan with letters of approval of design of:
   a. sewer
   b. water
   c. surface drainage Sketch Plan

There is a pre-application review, the purpose of which is an informal consultation to facilitate subsequent preparation of plans. Where little choice is available, sketch plan submission may be eliminated.

1312.6.1 Preliminary Plan

Conditional approval of a preliminary plan shall not constitute approval of the final plan. Rather, it shall be deemed an expression of approval of the layout submitted, and as a guide to the preparation of the final plan which shall be submitted for approval of the Planning Board, and for recording upon fulfillment of the requirements of this ordinance and the stipulations in the conditional approval, if any.

The preliminary plan approval shall expire after one (1) year unless an extension of time is granted by the Planning Board.

1312.6.2 Final Plan

The final plan is a culmination of thoughts drawn in detail, and to specifications acceptable to, the Office of the Registry of Deeds.

1312.7 Preliminary Subdivision Plan Requirements

Two (2) copies of the preliminary plan shall be furnished by the sub divider; one (1) copy to be retained in the files of the Planning Board, and one (1) copy to be retained by the sub divider.

The preliminary plan shall be drawn clearly and legibly to scale. The sheet size shall not exceed a max of 48 X 36 and minimum of 11 X 17 inches. If the complete plan cannot be shown on one sheet, it may-be shown on more than one sheet with an index map on a separate sheet on the same size.
The preliminary plan shall contain the following information:

A. Proposed subdivision name or identifying title and acreage to be subdivided;

B. Name and address of owner of property to be subdivided names of owners of adjoining property;

C. Date and north point;

D. Slopes greater than fifteen (15) percent should be indicated on the drawing;

E. Boundaries of the tract to be subdivided shall show bearings, azimuth, and distances;

F. Locations, width, and distances of existing and proposed easements;

G. Names and dimension of existing and proposed streets on or adjacent to the tract;

H. Location, type and dimensions of existing and proposed sanitary sewerage, storm drainage, and water supply facilities and other utilities on or adjacent to the tract, showing proposed connections;

I. Lot lines with appropriate dimensions and lot numbers;

J. Present zoning classification;

K. Vicinity map showing location of subdivision and its relationship to the rest of the city and surrounding countryside. This may be shown at smaller scale;

Additional notations shall be indicated on the plan if applicable.

1312.8 Final Subdivision Plan Requirements

1312.8.1 Documents

1. 3 paper copies
2. 1 Mylar
3. 5 spaces for signatures

1312.8.2 Content

1. Name of the subdivision or identifying title. Names should be chosen so to avoid confusion with other subdivisions in the Town;

2. Name and address of the record and/or sub divider. Also, the names of the adjoining area;

3. The name, registration number, and seal of the surveyor, architect, engineer or planning consultant who is responsible for the plan;

4. Vicinity map showing location of the subdivision and its relationship to the rest of the Town and/or surrounding countryside. This may be shown at a smaller scale;

5. Total area of the land to be subdivided and the area within each lot;

6. Date, scale, and north arrow;

7. Street Lines, pedestrian ways, lots, easements, and areas to be retained by the owner or sub divider, and areas reserved for or dedicated to public use;

8. The plan shall show sufficient data so that a competent and skillful engineer or surveyor a readily determine the location, direction, and length of every street line, way line, lot line, and boundary line, and to be able to establish these lines on the ground. Where practical these lines should be tied to reference points previously established;

9. Permanent corners or reference monuments shall be noted and referenced on the final plan;

10. Any amendments to the subdivision preliminary plan required by the Board;

11. The following wording must appear on the final plan: Pursuant to TITLE 30, M.R.S.A. SS 4956(4), this plan has been reviewed by the Planning Board or the Town of Lincoln, Maine.

1312.9 Final Approval and Filing

Upon completion of the requirements above, and notation to that effect upon the plan, it shall be deemed to have final approval and shall be properly signed by a majority of the members of the Planning Board and shall be filed by the applicant with municipal officers. The plan shall then be filed with the Penobscot Country Registry of Deeds. Any subdivision plan not so filed or recorded within ninety (90) days of the date upon which such plan is approved and signed by the Planning Board as herein provided, shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two additional periods of ninety (90) days.

At the time the Planning Board grants final approval, it may permit the plan to be divided into two (2) or more sections, subject to any conditions the Board deems necessary, in order to insure the orderly development of the plan. The applicant may file a section of the approved plan with the municipal officers and the Registry of Deeds if said section constitutes at least ten (10) percent of the total number of lots contained in the approved plan. In these circumstances, plan approval of the remaining sections of the plan shall remain in effect for three years or period of time mutually agreed to by the Municipal Officers, Planning Board, and the sub divider.

1312.10 Alterations

No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless the plan is first resubmitted and the Planning Board approves any modifications. In the event that a final plan is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Municipal Offices and the Registry of Deeds.

The approval by the Planning Board of a Subdivision Plan shall not be deemed to constitute or be evidence of an acceptance by the Municipality of any street, easement, or other open space shown on the plan.

1312.11 Enforcement

No plan of subdivision of land, within the municipal boundaries, which would constitute a subdivision as defined herein, shall hereafter be filed or recorded in the Registry of Deeds, until a final plan thereof shall have been approved by the Planning Board, in accordance with all of the requirements, design standards, and construction specifications set forth elsewhere in these standards, nor until such approval shall have been entered on such final plan by the Planning Board.

No person, firm, corporation, or other legal entity may convey, offer, or agree to convey any land in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.

Any person, firm, corporation, or other legal entity who conveys, offers, or agrees to convey 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 one thousand dollars ($1,000.00) for each such conveyance, offering, or agreement. The Attorney may constitute proceedings to enjoin the violation of this section.

No public utility, water district, sanitary district, or any utility company of any kind shall install services to any lot in a subdivision for which a plan has not been approved.

1312.12 Guidelines

1312.12.1 Undue Water or Air Pollution

"Will not result in undue water or air pollution." In making this determination the Planning Board shall at least consider: The elevation of the 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.

A. The plot plan shall be drawn at a reasonable scale at the discretion of this Planning Board.

B. Slopes greater than fifteen (15) percent should be indicated on the plot plan.
C. Flood plains or wetlands, if any, shall be indicated on the plot plan. Any portion of the proposed subdivision located in a flood hazard area, if developed, must comply with Article 1306 (Flood Hazard Building Permit System and Review Procedure) of the Ordinance of the Town of Lincoln.
D. Any proposed development that would appear to have an effect on the quality of the air in any manner shall be referred to the Department of Environmental Protection, Bureau of Air Quality Control for review and comment.
E. The proximity of the proposed subdivision to any body of water within two hundred fifty (250) feet must be indicated.

1312.12.2 Sufficient Water

"Has sufficient water available for the reasonably foreseeable needs of the subdivision."

A. If the public water supply is to be utilized: A letter from the Lincoln Water district, stating that the proposed distribution system has been reviewed and approved by them, must accompany the final plan.
B. If a central water supply (i.e. one well or water source serving a number of residences) is proposed: A letter from the Maine Department of Human Services. Division Health Engineering, stating that they have reviewed the proposal, must accompany the final plan.

1312.12.3 Burden on Existing Water

"Will not cause unreasonable burden on an existing water supply, if one is to utilized."

1312.12.4 Burden on Land

"Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result."

A. The sub divider shall submit a surface drainage plan showing ditching, culverts, and drainage easements. This plan shall be reviewed and approved by the Lincoln Sanitary District.
B. Existing topsoil and vegetation shall be left intact, wherever possible to avoid erosion.
C. In areas of twenty-five (25) percent or more slope, wetlands, and shore land areas, necessary steps will be taken to correct or prevent erosion.

D. Regarding seeding, sod mulching shall be done as soon as possible to prevent erosion. The Planning Board may set a time limit for this to be done.

1312.12.5 Burden on Roadways

"Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed."

A. Dead end streets shall be avoided wherever possible.
B. Roads shall be constructed to meet the requirements of Article 1603 of the ordinance of the Town of Lincoln.
C. Access roads and/or right of way may be required in order to prevent dead end streets, to provide access to undeveloped land, to eliminate dangerous intersections, and to promote the general safety and welfare of the area. Intersections of less than ninety (90) degrees will be avoided wherever possible.
D. Where intersections with any numbered state highway are proposed, the Department of Transportation shall be consulted. A letter of approval will accompany the final plan.
E. The final plan shall include an outline of the proposed street system. If the proposed subdivision covers only a portion of the sub dividers entire holdings, an indication of the future probable street system may be required by the Planning Board.
F. Sidewalks may be required if proposed subdivision is within one half mile from school.
G. If public parking will be required, proposed parking lots must be shown on plot plans.

1312.12.6 Sewage Waste Disposal

"Will provide for adequate sewage waste disposal."

A. Lots shall be sized to meet the requirements of the Land Use ordinances of the Town of Lincoln.

"Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized."

A. The proposed sewerage system will be approved by the Lincoln Sanitary District and a copy of that approval shall be submitted with the final plan.

1312.12.7 Burden on Aesthetics

"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."

1312.12.8 Conformance with Existing Plans

"Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any."

1312.12.9 Capacity of sub divider

"The sub divider has adequate financial and technical capacity to meet the above stated standards."

1312.12.10 Proximity to Water

"Whenever situated, in whole or in part, within two hundred fifty (250) feet of any pond, lake, river, tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water."

A. Any subdivision, whenever situated, in whole or in part, within two hundred fifty (250) feet of any pond, lake, river or stream which is included in Shoreland zoning, shall meet the additional requirements of Section 1313, Shoreland Zoning Ordinances of the Town of Lincoln.

1313. SHORELAND ZONING ORDINANCE FOR THE TOWN OF LINCOLN, MAINE

1313.1 Purposes

The purposes of this Ordinance is to further the maintenance of safe and healthful conditions; to prevent and control water pollution, to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of space; and to anticipate and respond to the impacts of development in shoreland areas.

1313.2 Authority

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435 – 449 of the Maine Revised Statutes Annotated (MRSA)

1313.3 Applicability

This Ordinance applies to all land areas within two hundred fifty (250) feet, horizontal distance, of the normal high water line of any great pond, or river; within two hundred fifty (250) feet, horizontal distance of the upland edge of a freshwater wetland; and within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream. This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending below the normal high-water line of a water body or within a wetland.

1313.4 Effective Date and Repeal of Formerly Adopted Ordinance

This ordinance was repealed and reenacted in its entirety February 14, 2000, effective March 13, 2000. On June 8, 2009 the entire ordinance was reviewed

and changed to match DEP regulations by the Town Council. Revised on March 12, 2012, effective April 11, 2012.

1313.5 Availability

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at a reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

1313.6 Severability

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

1313.7 Amendments

1. **Initiation** - An amendment to this Ordinance may be initiated by the Town Council or by petition of the Planning Board to the Town Council, or by written petition by the registered voters of the Town as provided for in the Town Charter. Any amendment may be submitted to the Planning Board for review and comment.

2. **Hearings** - If in the judgment of the Planning Board a public hearing is warranted, the Planning Board shall hold a public hearing on the proposed amendment at least fourteen (14) days prior to the Town Council Meeting. Notice of the hearing shall be posted at least (10) days prior to such hearing. The Planning Board shall make known its recommendation on the proposed amendment, in writing, before the vote of the Town Council.

3. **Majority Vote** - This ordinance may be amended or repealed by a majority vote at a duly constituted Town Council Meeting if the Planning Board approves the amendment or repeal. If the Planning Board does not approve, the amendment or repeal may be enacted by a minimum of two-thirds (2/3) vote of the Town Council.

4. **State Notification Shoreland Zoning** - The appropriate State Agency shall be notified of amendments to this Ordinance within thirty (30) days after the effective date of such amendments to determine conformance with State and Shoreland Zoning Laws and Guidelines. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner of the Department of Environmental Protection, if the Commissioner of the Department of Environmental Protection fails to act on any amendment within forty-five (45) days of the Commissioner'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 commissioner.

1313.8 Districts and Zoning Map

A. Official Shoreland Zoning Map

The areas to which this Ordinance is applicable are hereby divided into the following districts, as shown on the Official Shoreland Zoning Map(s), which is (are) made part of this Ordinance.

1. Shoreland Development zone 1 (SD1)
2. Shoreland Development zone 2 (SD2)
3. Shoreland Development zone 3 (SD3)
4. Shoreland Development zone 4 (SD4)
5. Shoreland Development zone 5 (SD5)

B. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office, and shall be filed with the Penobscot County Registry of Deeds.

C. Changes to the Official Shoreland Zoning Map

If amendments, in accordance with Section 1313.7, are made in the district boundaries or other matters portrayed on the Official Shoreland Zoning Map such changes shall be on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department Environmental Protection.

1313.9 Interpretation of District Boundaries

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerline of streets, roads and right of ways, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

1313.10 Land Use Requirements

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building constructed, expanded, moved or altered and no new lot shall be created, except in conformity with all of the regulations herein specified for the district in which it is located.

1313.11 Non-Conformance

1313.11.1 Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 1313.11, except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

1313.11.2 General

1. **Transfer of Ownership:** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming structure or lot, subject to the provisions of this Ordinance.

2. **Repair and Maintenance:** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures, including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

1313.11.3 Non-conforming Structures

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

1313.11.3.1 Further Limitations:

a. 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 tributary stream or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by thirty (30) percent or more during the lifetime of the structure. If a replacement structure conforms with the requirements of Section C (3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by thirty (30) percent in floor area and volume since that date.

b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Code Enforcement Officer, basing his/her decision on the criteria specified in Section C (2). The Code Enforcement Officer may consult with the Planning Board to determine the greatest practical extent of the law determination. If the completed foundation does not extend beyond the exterior dimensions of the structure, and that the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of

the first-floor sill), then it shall not be considered to be an expansion of the structure.

c. No structure which is less than the required setback from the normal high-water line of the water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

1313.11.3.2 Relocation:

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of the relocation conforms to all setback requirements to the greatest practical extent, as determined by the Code Enforcement Office, and provided that the applicant demonstrates that the present subsurface sewage disposal systems Wastewater Disposal Rules, or that a new system can be installed in compliance with the Law and said rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming

In determining whether the building relocation meets the setback to the greatest practical extent, the Code Enforcement Officer and or 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. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Code Enforcement Officer shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall require as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least on native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted, no one species of tree shall make up more than fifty (50) percent of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

(b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

1313.11.3.3 Reconstruction or Replacement:

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or upland edge of a wetland and which is removed, damaged or destroyed regardless of the cause, by more than fifty (50) percent 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 eighteen (18) months of the date of said damage, destruction, or removal and provided such reconstruction or replacement is in compliance with the water body, tributary stream, or wetland setback requirements to the greatest practical extent as determined by the Planning Board and/or Code Enforcement Officer in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section C (1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section C (2) above.

Any non-conforming structure, which is located less than the required setback from a water body, tributary steam, or wetland and which is removed, damaged or destroyed by fifty (50) percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained, from the Code Enforcement Officer within one (1) year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Code Enforcement Officer and or Planning Board shall consider, in addition to the criteria in Section C (2) above, the physical condition and type of foundation present, if any.

1313.11.3.4 Change of Use of a Non-Conforming Structure

The use of non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application,

determines that the new use will have no greater adverse impact on the water body, tributary steam, or wetland, or on the subject or adjacent properties and resources than the existing use.

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

1313.11.4 Non-Conforming Uses

1313.11.4.1 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 C (1) above. Whenever a provision of the Lincoln Shoreland Zoning Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control.

1313.11.4.2 Resumption Prohibited:
A lot, building, or structure in or on which a non-conforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board, for good cause shown by the applicant, grant up to a one (1) year extension to that period of time. This provision shall not apply to the resumption of a use of residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

1313.11.4.2 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 C (4) above.

1313.11.5 Non-Conforming Lots

1313.11.5.1 Non-Conforming Lots:

A non-conforming lot of record, as of the effective date of this Ordinance or amendment thereto, may be built upon without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of the Ordinance, except lot area and frontage, can be met. Variance relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.

1313.11.5.2 Contiguous Built Lots:

If two (2) or more contiguous lots or parcels are in a single or joint ownership of record at the time of the adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if the 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 (2) or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold 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.

1313.11.5.3 Contiguous Lots-Vacant and Partially Built:

If two (2) or more contiguous lots or parcels are in single or joint ownership of record at the time of, or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one (1) 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. However, the permitting authority may not treat as a single lot, two (2) or more contiguous lots, at least one (1) of which is non-conforming, owned by the same person or persons on the effective date of the municipal ordinance and recorded in the registry of deeds if the lots are served by public sewer or can accommodate a subsurface sewage disposal system in conformance with state subsurface wastewater disposal rules, and;

a. Each lot contains at least one hundred (100) feet of shore frontage and at least twenty thousand (20,000) square feet of lot area; Section E(3)(1)(a);

b. Any lots that do not meet the frontage and lot size requirements of subparagraph (1) are reconfigured; or combined so that each new lot contains at least one hundred (100) feet of shore frontage and twenty thousand (20,000) square feet lot area.

1313.12 Establishment of Zones

A. Shoreland Development Zone One (SD1)

Shoreland Development One (SD1) shall include areas of two (2) acres or more devoted to intensive residential, recreational, commercial or industrial activities or a combination of such activities to include:

1. Those lots directly abutting the Western end of Mattanawcook Lake extending from Map 137, Lots 124-161 (excluding lots 104, 109, 138, and 139) and May 187 Lots 98-110.

2. From river through Haskell Lumber Company following stream to Snag Pond will be deemed SD1.

3. Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses. Portions of the SD1 Zone may also include residential development. However, no area shall be designated as an SD1 Zone based solely on residential use.

4. In areas adjacent to great ponds the designation of an area as SD1 Zone shall be based upon the uses existing at the time of the adoption of this Ordinance. There shall be no newly established SD1 Zone or expansion in areas of existing SD1 Zones adjacent to great pond.

B. Shoreland Development Zone Two (SD2)

Shoreland Development Zone Two (SD2) includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This zone shall include the following areas when they occur within the limits of the Shoreland zone, exclusive of the SD4 Zone, except the areas which are currently developed, and areas which meet the criteria for the SD1, Zone need not be included within the SD2 Zone.

1. Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associate with great ponds and rivers, which are rated “moderate” or “high” values by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of December 1, 2008.

2. Floodplain along rivers defined by the 100-year floodplain as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps, or the flood of record or in the absence of these, by soil types identified as recent floodplain soils.

3. Areas of two (2) or more contiguous acres with sustained slopes of twenty (20) percent or greater.

4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not connected to a water body during the period of normal high water.

5. Land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement.

C. Shoreland Development Zone Three (SD3)

Shall include those areas, which can support a limited amount of residential and recreational uses without suffering undue adverse effects. Such areas shall be depicted on the Official Zoning Maps.

1. Reduced Setback: The Code Enforcement Officer for proposed new dwelling units in the SD3 Zone may reduce the shoreline setback below those required in 1313.13, subsection 1&2 of this Ordinance by employing one of the following methods or calculations:

2. When only one of the adjoining lots has an existing dwelling located on it with a non-conforming setback, the reduced shoreline setback for the proposed new dwelling unit shall be established as follows:

   a. First, establish a setback baseline on the lot of the existing dwelling by drawing a line between those two (2) corners of the lot, which are closest to the shoreline.

   b. Second, establish a setback baseline on the lot of the proposed dwelling by drawing a line between those two corners of the lot, which are closest to the shoreline

   c. Third, establish the grandfathered setback line of the existing dwelling which is closest to the and parallel to the setback baseline C (2) (a) above.

   d. Fourth, establish the new setback line for the proposed dwelling by drawing a line starting at the point on the common property line where a grandfathered setback line intersects, parallel to the setback baseline of the lot of the proposed dwelling; provided that

(1) The minimum shoreline setback line shall not be greater than the minimum shoreline setback provided in Section 1313.13 as applicable.

(2). The reduced shoreline setback shall not be less than seventy-five (75) feet from the shoreline in SD3

3. When both lots have existing dwellings located on those lots with non-conforming setbacks, the reduced shoreline setback for the new proposed dwelling unit shall be established as follows:

a. First, establish a setback baseline on the lot of the existing dwelling on the right by drawing a line between those two (2) corners of the lot, which are closest to the shoreline.

b. Second, establish a setback baseline on the lot of the existing dwelling on the left by drawing a line between those two corners of the lot which are closest to the shoreline.

c. Third, establish a setback baseline on the lot of the proposed dwelling drawing a line between those two corners of the lot which are closest to the shoreline.

d. Fourth, establish the grandfathered setback line of the existing dwelling on the right by drawing a line touching that point of the existing dwelling which is closest to the shoreline and parallel to the setback baseline established in C(3)(a) above.

e. Fifth, establish the grandfathered setback line of the existing dwelling on the left by drawing a line touching that point of the existing dwelling which is closest to the shoreline and parallel to the setback baseline established in C(3)(b) above.

f. Sixth, draw both the grandfathered setback line of the lots on the left and the right across the lot of the proposed dwelling and parallel to the setback baseline of the lot of the proposed dwelling.

g. Seventh, establish the new minimum setback line as either equal to the line established in C(3)(f) above, in the event both lines coincide, or as a line one half the distance between those lines established in C(3) (f) above, in the event there is a distance between them, provided that:

(1). The road or shoreline minimum setback shall not be greater than the shoreline setback provided in Section 1313.13, as applicable.

(2). The reduced shoreline setback shall not be less than seventy-five (75) feet from the shoreline in Shoreland Development Three Zone (SD3).

D. Shoreland Development Zone Four (SD4)

The Shoreland Development Zone Four includes land area within seventy-five (75) feet horizontal distance of the normal high-water line of a stream, exclusive of those areas within two-hundred fifty (250) feet horizontal distance of the normal high-water line of a great pond, river, or within two hundred fifty (250) feet horizontal distance, of wetlands. Such land area shall be regulated under the terms of the Shoreland Zone associated with that water body or wetland.

E. Shoreland Development Zone Five (SD5)

Shall include those undeveloped Shoreland areas which are not included in the other Shoreland Zones as depicted on the Official Zoning Map.

1313.13 Table of Land Use Standards and Notes Applicable

SECTION 13. LAND USE STANDARDS
1. Residential Dwelling

ZONE REQUIREMENTS	SD1 (town W/s)	SD1	SD2	SD3	SD4	SD5
Minimum lot size per residential dwelling	5,000 sq. ft.	20,000 sq. ft.	40,000 sq. ft.	20,000 sq. ft.	30,000 sq. ft.	40,000 sq. ft.
Minimum lot area per family	1,000 sq. ft.	20,000 sq. ft	40,000 sq. ft.	20,000 sq. ft.	30,000 sq. ft.	40,000 sq. ft.
Minimum shore/road frontage	100/200 ft.	100/200 ft.	100/200 ft.	100/200 ft.	100/200 ft.	100/200 ft.
Minimum lot width	50 ft.	50 ft.	50 ft.	50 ft.	100 ft.	100 ft.
Minimum front yard setback (shore)	15 ft.	25 ft.	N/A	100 ft.	100 ft.	100 ft.
Minimum side yard setback	5 ft.	10 ft.	N/A	10 ft.	10 ft.	25 ft.
Minimum rear yard setback	10 ft.	10 ft.	N/A	10 ft.	10 ft.	25 ft.
Maximum lot coverage	50%	50%	N/A	20%	20%	20%
Maximum building height	40 ft.	40 ft.	N/A	35 ft.	35 ft.	35 ft.

SECTION 13. LAND USE STANDARDS
2. Public and Private Recreation Facilities

ZONE REQUIREMENTS	SD1 (town w/s)	SD1	SD2	SD3	SD4	SD5
Minimum lot size per residential dwelling	5,000 sq. ft.	20,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.
Minimum lot area per family	1,000 sq. ft.	20,000 sq. ft	40,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.
Minimum shore/road frontage	100/50 ft.	100 ft.	200 ft.	100 ft.	150 ft.	200 ft.
Minimum lot width	50 ft.	50 ft.	50 ft.	50 ft.	100 ft.	150 ft.

Minimum front yard setback (shore)	15 ft.	25 ft.	250 ft.	100 ft.	100 ft.	100 ft.
Minimum side yard setback	5 ft.	10 ft.	25 ft.	10 ft.	10 ft.	25 ft.
Minimum rear yard setback	10 ft.	10 ft.	25 ft.	10 ft.	10 ft.	25 ft.
Maximum lot coverage	50%	50%	20%	20%	20%	20%
Maximum building height	40 ft.	40 ft.	30 ft.	35 ft.	35 ft.	35 ft.

SECTION 13. LAND USE STANDARDS

3. Governmental Institutional, Commercial and Industrial per principal structure.

ZONE REQUIREMENTS	SD1 (town w/s)	SD1	SD2	SD3	SD4	SD5
Minimum lot size per residential dwelling	5,000 sq. ft.	40,000 sq. ft.	N/A	N/A	N/A	N/A
Minimum lot area per family	1,000 sq. ft.	40,000 sq. ft	N/A	N/A	N/A	N/A
Minimum shore/road frontage	100/50 ft.	150/75 ft.	N/A	N/A	N/A	N/A
Minimum lot width	50 ft.	50 ft.	N/A	N/A	N/A	N/A
Minimum front yard setback (shore)	15 ft.	25 ft.	N/A	N/A	N/A	N/A
Minimum side yard setback	5 ft.	10 ft.	N/A	N/A	N/A	N/A
Minimum rear yard setback	10 ft.	10 ft.	N/A	N/A	N/A	N/A
Maximum lot coverage	50%	50%	N/A	N/A	N/A	N/A
Maximum building height	40 ft.	40 ft.	N/A	N/A	N/A	N/A

NOTES: *25’ set back on Penobscot River from former paper mill property (Map 14, Lot 20) line to River Road and to include from Town Line North to AP3 Zone Mohawk Road.

1. All Stream Protection areas (SD2) abutting a commercial zone shall meet setback criteria of SD1.
2. Land below the Normal High-Water Mark of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included towards calculating minimum lot area.
3. Lots located on opposite sides of a public way or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

4. The minimum lot width of any portion of any lot within one hundred (100) feet, horizontal distance, of the NHWM of a body or upland edge of a wetland shall be equal to or greater than 100% of the shore frontage requirement for a lot with the proposed use.
5. 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.
6. Municipalities may include provisions for clustered housing within the shoreland zone provided that the overall dimensional requirements, including frontage and lot area per dwelling are met. When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.

1313.14 Land Uses Table

TABLE A					
	SD1	**SD2**	**SD3**	**SD4**	**SD5**
1. Non-intensive recreational uses not requiring structures such as hunting, fishing, and hiking	YES	YES	YES	YES	YES
2. Motorized vehicular traffic on existing roads and trails.	YES	YES	YES	YES	YES
3. Forest management activities except for timber harvesting, pesticide and fertilizer applications.	YES	YES	YES	YES	YES
4. Timber harvesting	YES	CEO[1]	YES	YES	YES
5. Clearing of vegetation for approved construction and other allowed uses	CEO	CEO[1]	CEO	CEO	CEO
6. Fire prevention	YES	YES	YES	YES	YES
7. Wildlife management practices	YES	YES	YES	YES	YES
8. Soil and water conservation practices	YES	YES	YES	YES	YES
9. Mineral explorations	YES[2]	YES[2]	YES[2]	YES[2]	YES[2]
10. Mineral extraction including sand and gravel extraction	PB	PB[3]	PB	NO	PB[3]
11. Surveying and resources analysis	YES	PB	YES	YES	YES
12. Emergency operations	YES	YES	YES	YES	YES
13. Agriculture	YES	PB	YES	YES	PB
14. Agricultural	NO	NO	NO	NO	NO
15. Aquaculture	YES	PB	PB	PB	YES
16. Principal structures and uses					
a. One family residential	CEO	NO	CEO[4]	CEO	CEO
b. Mobile homes	PB	NO	NO	NO	NO
c. Two family duplexes	PB	NO	NO	NO	NO
d. Multi-family duplexes; 3 or more families, including apartments, group houses and row houses	PB PB	NO NO	NO NO	NO NO	NO NO
e. Commercial	PB	NO	NO	NO	NO
f. Industrial	PB	NO	NO	NO	NO
g. Governmental and Institutional	PB	NO	NO	NO	NO
h. Non-commercial structures for scientific, educational, or nature observation purposes, which are not of a size or nature which would	CEO	PB	CEO	CEO	CEO

adversely affect the resource protection by the zone in which it is located					
17. Structures accessory to allowed uses	CEO	CEO	CEO	CEO	CEO
18. Piers, docks, wharves, bridges, and other structures and uses extending over or below the normal high water line or within a wetland. a. Temporary b. Permanent	 CEO PB	 CEO PB	 CEO PB	 CEO PB	 CEO PB
19. Conversions of seasonal residential to year round residences	LPI	LPI	LPI	LPI	LPI
20. Home occupations	CEO	NO	PB	PB	PB
21. Private disposal systems for allowed uses	LPI	NO	LPI	LPI	LPI
22. Essential services	YES	PB	PB	PB	YES
23. Service drops, as defined allowed uses	YES	YES	YES	YES	YES
24. Public and private recreational are involving minimal Structural development	PB	PB	PB	PB	PB
25. Individual, private campsite	CEO	CEO	CEO	CEO	CEO
26. Campgrounds	CEO	NO[6]	CEO	PB	PB
27. Road and driveway construction	CEO	NO[7]	CEO	PB	PB
28. Parking facilities	PB	NO[6]	PB	NO	NO
29. Marinas	PB	NO	PB	PB	PB
30. Filling and earth moving less than 10 cubic yards	YES	CEO	YES	CEO	CEO
31. Filling and earth moving more than 10 cubic yards	CEO[8]	PB	CEO	PB	CEO
32. Signs	CEO	NO	PB	PB	PB
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB
36. Marijuana Growing Facility	NO	NO	NO	NO	NO
37. Marijuana Dispensary	PB	NO	NO	NO	NO

NOTES:

1. In SD2 not permitted within seventy-five (75) feet of the NHWM of a great pond, except to remove safety hazards.
2. Requires permit from the CEO if more than one hundred (100) square feet of a surface area, in total, is disturbed.
3. In SD2 not permitted in areas so designed because of wildlife value.
4. If a structure does not meet the reduced setback criteria the applicant must apply

for a variance through the Appeals Board.

5. See further restriction in Section 1313.15.K.
6. Except when area is zoned for resource protection due to flood plain criteria in which case a permit is required from the PB.
7. Except to provide access to permitted uses within the zone, or where no reasonable alternative route or location is available outside the SD2 area, in which case a permit is required from the PB.
8. No Shoreland Zoning Permit Application needed. CEO must be notified in writing five (5) days prior to such activity or as soon as practical in emergency situations.

NOTE 2:
A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to Title 38, M.R.S.A., Section 480-C if the activity occurs in, on, over or adjacent to any freshwater wetlands, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

a. Dredging, bulldozing, removing or replacing soil, sand, vegetation or other materials;
b. Draining or otherwise dewatering;
c. Filling, including adding sand or other materials to a sand dune; or
d. Any construction or alteration of any permanent structure.

1313.14.1 Tables of Land Uses.

All land use activities, as indicated in Table 1, 2, 3, Land Uses in the Shoreland Zone, shall conform with all Land Uses Standards in Section 13, Charts A, B, C and all other applicable standards. The districts designation for a particular site shall be determined form the Official Shoreland Zoning Map.

Key to Table 1, 2, 3

YES – (no permit required but the use must comply with all applicable land uses)
NO – Prohibited
PB – Requires permit issued by the Planning Board
CEO – Requires permit issued by the Code Enforcement Officer
LPI – Requires permit issued by the local Plumbing Inspector

Abbreviations:

GD – General Development (SD1)
RP – Resource Protection (SD2)
LR – Limited Residential (SD3)
SP – Stream Protection (SD4)
LD – Limited Development (SD5)

A. See Section 13, Table 1, 2, 3 on Land Use Standards
B. See Section 14, Table A, B, C on Land Uses

1313.15 Land Use Standards

A. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet horizontal distance from the normal high-water line of great ponds and rivers that flow to great ponds, and seventy-five (75) feet, horizontal distance from the normal high-water mark of other water bodies, tributary streams, or upland edge of a wetland, except that in the SD1 Zone the setback from the normal high water line shall be twenty-five (25) feet, horizontal distance, and except in SD3 zone where reduced setback criteria of Section 1313.12.C. may apply. In the SD2 zone, the setback requirement shall be two hundred fifty (250) feet, horizontal distance, except for structures, roads, parking spaces, or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

   In addition: The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

2. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above elevation of the 100-year flood, the flood of record, or in the absence of these, the flood elevation as defined by soil types identified as floodplain soils.

3. The total footprint area of all structures, and other unvegetated surfaces, within the Shoreland Zone shall not exceed twenty (20) percent of the lot or a portion there of located within the Shoreland Zone, including land area previously developed, except in the SD1 Zone adjacent to rivers which do not flow to great ponds, where lot coverage shall not exceed seventy (70) percent.

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

B. Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water mark of a water body or within a wetland.

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

2. The location shall not interfere with existing developed or natural beach areas.

3. The facility shall be located so as to minimize adverse effects on fisheries.

4. The facility shall be no larger in dimension than necessary to carry on the activity, and shall be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

5. No new structure shall be built on, over, or abutting a pier, wharf, or other structure extending below the normal high-water mark of a water body or within a wetland,

6. No existing structure built on, over, or abutting a pier, wharf, or other structure extending below the normal high-water mark of a water body or within a wetland, shall be converted to a residential dwelling unit(s) in any zone.

7. Except in the SD1 Zone, structures built on, over, or abutting a pier, dock, wharf or other structures extending below the normal high-water mark of a water body or within a wetland, shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structures.

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

C. Campgrounds.

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. 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.

2. The areas intended for placement of a recreational vehicle tent or shelter, and utility and service buildings, shall be setback minimum of:

   a. Twenty-five (25) feet from exterior lot lines
   b. One hundred (100) feet, horizontal distance from the normal high-water line of a great pond or a river flowing to a great pond
   c. Seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

D. Individual Private Campsites

Individual, private campsites not associated with campgrounds are allowed provided the following conditions are met:

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

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

3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except a canopy shall be attached to the recreational vehicle.

4. The clearing of vegetation for the site of the recreational vehicle, tent or similar shelter in the SD2 shall be limited to one thousand (1,000) square feet.

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

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

E. Commercial and Industrial Uses.

The following new commercial and industrial uses are prohibited within the Shoreland Zone adjacent to great ponds, rivers, and streams which flow to great ponds:

a. Auto washing facilities;
b. Auto or other vehicle service and/or repair operations, including body shops;
c. Chemical and bacteriological laboratories;
d. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associate with individual households or farms;
e. Commercial painting, wood preserving, and furniture stripping;
f. Dry cleaning establishments;
g. Electronic circuit assembly;
h. Laundromats, unless connected to a sanitary sewer;
i. Metal plating, finishing, or polishing;
j. Petroleum or petroleum product storage and/or sale, except for storage on the same property as use occurs, and except for storage and sales associated with marinas;
k. Photographic processing; and
l. Printing.

F. Parking Areas.

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the zone in which such areas are located, except that the setback requirements for parking areas serving a boat launching facilities, in zones other than SD1 Zone, may be reduced to no less than fifty (50) feet horizontal distance from the shoreline.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary, steam, or wetland, and where feasible, to retain all runoff on-site.

3. In determining the appropriate size of proposed parking facilities, the following shall apply:

a. **Typical parking spaces:** Approximately nine (9) feet wide and nineteen (19) feet long, except the parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
b. **Internal travel aisles:** Approximately twenty (20) feet wide.

4. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, alterations, and change of use:

a. **Dwelling:** Two (2) parking spaces for each dwelling unit.

b. **Transient Accommodation:**

1. Bed and Breakfast accommodations and motels, hotels, boarding houses, and inns with ten (10) rooms – two (2) parking spaces, plus one (1) space for each guest room;

2. **Motels, Hotels, Boarding Houses, and inns** with more than ten (10) rooms – one parking space for each guest room, plus one (1) space for each four (4) employees.

c. **Schools** – five (5) parking spaces for each room, plus one (1) for each four (4) employees.

d. **Health Institutions –** (bed facilities only) one (1) parking space for every three (3) beds, plus one (1) for each employee based on the expected average employee occupancy.

e. **Theaters, churches, and other public assembly places** – one (1) parking space for every four (4) seats, or for every one hundred (100) square feet, or major fraction thereof of assemblage space, if no fixed seats.

f. **Retail stores** – one (1) parking space for every two hundred (200) square feet of retail area, plus one (1) space for every two (2) employees, unless public parking is provided.

g. **Restaurants, eating and drinking establishments** – one (1) parking space for every four (4) seats, plus one (1) space for every two (2) employees, unless public parking is provided.

h. **Professional Offices and Public Buildings** – one (1) parking space for every two hundred (200) square feet of gross leasable area, exclusive of cellar and bulk storage areas, unless public parking is provided.

i. **Marinas** – minimum of one (1) space for each docking and mooring space.

j. **Other commercial recreation establishments** (mini golf courses, touring/sightseeing buses, etc.) – number of spaces deemed appropriate by the Planning Board.

k. **Industrial** – one (1) parking space for each one point five (1.5) employees, based on the highest expected average employee occupancy, plus visitor and customer parking to meet the needs of specific operations.

G Roads and Driveways.

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

1. Roads and driveways shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond or a river that flows to a great pond, and seventy-five (75) feet horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirements shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

   Section G(1) does not apply to approaches to water crossings, roads, or driveways that provide access to permitted structures, or facilities located nearer to the shoreline or tributary steam due to an operational necessity, excluding temporary docks for recreation uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section G (1), except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal right-of-way regardless of their setback from a water body, tributary stream, or wetland.

3. New Permanent roads are not allowed within the shoreland zone along Significant River Segments except:

   (a) To provide access to structures or facilities within the zone; or

(b) When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone, they shall be set back as far as practicable from the normal high-water line, and screened from the river by existing vegetation.

4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions or erosion and sedimentation control contained in Section R.

5. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

6. In order to prevent driveway surface drainage from directly entering water bodies, tributary streams, or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip in width at least fifty (50) feet plus two (2) times the average slope, placed between the outflow point of the ditch or culvert and the normal high- water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration on the runoff and to minimize channelized flow of the drainage through the buffer strip.

7. 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 gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

    a. Ditch relief culverts, drainage dips, and associate water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Road Grade Spacing

(Percent)	**(Feet)**
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

b. Drainage dips may be used in place of ditch relief culverts only where grade is ten (10) percent or less.
c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.
d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

8. Ditches, culverts, bridges, dips, water turnout, and other storm water runoff control installations associated with roads and driveways, shall be maintained on a regular basis to assure effective functioning.

H. Signs.

1. The following provisions shall govern the use of signs in the SD2 Zone, SD3 Zone, SD4 Zone, and SD5 Zone:

a. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
b. Name signs are allowed provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
c. Residential users may display a single sign not over four (4) square feet in area relating to the sale, rental, or lease of the premises.
d. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
e. Signs relating to public safety shall be allowed without restriction.
f. No sign shall extend higher than twenty (20) feet above the ground.
g. Signs may be illuminated only by shielded, non-flashing lights.

2. Signs in the SD1 Zone shall conform to the requirements as follows:
a. No sign shall project over a walkway or interfere in any way with normal flow of foot or vehicle traffic. All free-standing signs shall be set back a minimum of five (5) feet from property lines in all zones except the Downtown

Commercial Zone on Main Street between, where it intersects with West Broadway and Clay Street.

b. No sign shall contain, include, or be illuminated by flashing, blinking, intermittent, or moving lights.

c. Signs may be illuminated only by shielded, non-flashing lights so as to effectively prevent beams or rays of light from being directed at neighboring residential properties or any portion of the main traveled way of a roadway; or is of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle, or otherwise interfere with the operation thereof, except in the Commercial Zones.

3. The following signs are exempt from the provisions of this section except as otherwise provided for herein.

a. Signs erected by government body

b. Traffic control signs, signals, and/or devices.

I. Storm Water Runoff.

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural runoff control features, such as berms, swales, terraces and wooded areas, and shall be retained in order to reduce runoff and encourage infiltration of storm water.

2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

J. Septic Waste Disposal.

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extension, shall not extend closer than seventy-five (75) feet, horizontal distance, form the normal high-water line of a water body or the upland edge of a wetland; b) a holding tank is not allowed for a first-time residential use in the shoreland zone; and c) replacement systems shall meet the standards for replacement systems contained in the rules.

K. Essential Services.

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

2. The installation of essential services, other than road-side distribution lines, is not allowed in an SD2 Zone or an SD4 Zone, except to provide services to a permitted use within said zone, or except where the applicant demonstrates that no reasonable alternative exists. When allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

3. Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment, may be replaced or reconstructed without a permit.

L. Mineral Exploration and Extraction.

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

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such shall describe in detail procedures to be undertaken to fulfill the requirements of Section L (3) below.

2. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond, or within seventy-five (75) feet, horizontal distance, of the normal high- water line of any other water body tributary stream, or upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.

3. Within twelve (12) months following the completion of extraction operations on any extraction site, where the operations shall be deemed complete when less than one hundred (100) cubic yards of material are removed in any consecutive twelve (12) month period, ground level grades shall be established in accordance with the following:

a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried onsite. Only materials generated onsite may be buried or covered onsite.

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A. section 1301, and the solid waste management rules, Chapters 400-19 of the Department of Environmental Protection's regulations, may contain other applicable provisions regarding disposal of such materials.

b. The final graded slope shall be a two to one (2:1) slope or flatter

c. Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization of the project.

4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

M. Agriculture Activities

The following requirements shall apply to agricultural activities within two hundred fifty (250) feet, horizontal distance, of this normal high-water line of any pond, river, or upland edge of a freshwater wetland, or within seventy-five (75) feet of the normal high-water line of a stream as defined herein:

1. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or river flowing to a great pond, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge, effluent, or contaminated storm water.

3. Agriculture practices shall be conducted in such a manner as to prevent soil erosion, sedimentation, and contamination or nutrient enrichment of surface waters.

4. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water mark of a great pond within seventy-five (75) feet horizontal distance, from other water bodies; nor shall there be new tilling within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

5. There shall be no tilling of soil in the SD2 Zone or of soil in excess of twenty thousand (20,000) square feet lying either wholly or partially within any other Shoreland Zone, unless:

   a. The tillage is carried out in conformance with provisions of a Conservation Plan that meets the standards of the State Soil and Water Conservation Commission;
   b. The Plan is approved by the appropriate Soil and Water Conservation District; and
   c. Approval of the plan is filed with the Planning Board. Non-conformance with the provision of such Conservation Plan shall be considered to be a violation of this Ordinance.

6. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond, or within seventy-five (75) feet, horizontal distance, of other water bodies, nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with on-going 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 Conservation Plan.

N. Timber Harvesting.

1. Within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line in SD2 abutting a great pond, there shall be no timber harvesting except to remove safety hazards

   (a) Adjacent to great ponds, rivers and wetlands:
      (i) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and

(ii)Between fifty (50) feet and two hundred fifty (250) feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than three (3) inches in diameter must be disposed of in such a manner that no part thereof extends more than four (4) feet above the ground.

2. Except in areas as described in Section N1, timber harvesting shall conform to the following provisions:

a. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at least four and a half (4.5) feet above ground level on any lot in any ten (10) year period is permitted. In addition:

1. Within one hundred (100) feet, horizontal distance, of the normal high water mark of a great pond or a river flowing to a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear cut openings, and a well distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
2. At distances greater than one hundred (100) feet, horizontal distance, of a great pond, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other 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 (5,000) 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.

b. 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 thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water mark of a water body or tributary stream shall be removed.

c. Timber harvesting equipment shall not use stream channels as traveling routes.

d. All crossings of water bodies or tributary streams, as defined in Section 1313.17, shall require a bridge 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.

e. All crossings of other free flowing waters shall be accomplished so as to prevent the disturbance or erosion of the bed or channel of the watercourse, except when surface waters are frozen.

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

g. 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 portions of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

O. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting Development.

1. In a shoreland area zoned SD2 abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards. Elsewhere, in any SD2 Zone, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.

2. Except in areas as described in Section O1 above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high- water line of a great pond or a river flowing to a great pond, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a

wetland, a buffer strip of vegetation shall be preserved as follows:

a. There shall be no clear opening greater than two hundred fifty (250) square feet in the forest canopy or other existing woody vegetation if a forested canopy is not present as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

b. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a well distributed stand of trees adjacent to a great pond, or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of twenty-four (24) or more in each twenty-five (25) foot by fifty (50) foot rectangular (one thousand two hundred fifty (1250) square feet) area, as determined by the following rating system:

Diameter of Tree at 4.5 feet Above Ground Level (inches)

POINTS	
2<4 inches	1
4<8 inch	2
8 <12 inch	4
12 inch or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well distributed stand of trees" is defined as maintaining a minimum score of sixteen (16) per twenty-five (25) foot by fifty (50) foot rectangular area.

NOTE: As an example, if a twenty-five (25) foot by fifty (50) foot plot adjacent to a great pond contains four (4) trees between two (2) and four (4) inches in diameter, two (2) trees between four (4) inches in diameter and twelve (12) inches in diameter, and three (3) trees between eight (8) and (12) inches in diameter, and two (2) trees over twelve (12) inches in diameter, the rating score is:

(4x1) + (2x2) + (3x4) + (2+8) = 36 points

Thus, the twenty-five (25) foot by fifty (50) foot plot contains trees worth thirty-six (36) points. Trees totaling twelve (12) points (36-24=12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

(i) The twenty-four (24) foot by fifty (50) foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
(ii) Each successive plot must be adjacent to, but not overlap, a previous plot;
(iii) Any plot not containing the required points must have no vegetation removed, except as otherwise allowed by this Ordinance;
(iv) Any plot containing the required points may have vegetation removed down to the minimum points required, or as otherwise allowed by this Ordinance;
(v) Where conditions permit, no more than fifty (50) percent of the points on any twenty-five (25) foot by fifty (50) foot rectangular area may consist of trees greater than twelve (12) inches in diameter.

For the purposes of Section O(2)(b), “other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height, and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and a half (4.5) feet above ground level for each twenty-five (25) foot by fifty (50) foot rectangular area. If five (5) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter, measured at four and a half (4.5) feet above ground level may be removed in any ten (10) year period.

c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section O (2) above.

d. At distances greater than one hundred (100) feet, horizontal distance, from a great pond or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured four and a half (4.5) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, twenty-five (25) percent of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared.

e. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

f. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation, shall be regulated under the provisions of Section 15(P).

P. Erosion and Sedimentation Control in Shoreland Zones.

1. Filling, grading, lagooning, dredging, earthmoving activities, and other land use activities, shall be conducted in such a manner as to prevent to the maximum extent possible, erosion and sedimentation of surface waters. On slopes greater than twenty-five (25) percent, there shall be no grading or filling within twenty (20) feet of the normal high-water line except to protect the shoreline and prevent erosion with approval from the Planning Board and/or Code Enforcement Officer.

2. The following measures relating to conservation, erosion, and sediment control shall be included where applicable as part of all projects submitted for review and approval under this Ordinance.

a. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall

be implemented during the site preparation, construction, and clean up stages; and

b. Erosion of soils and sedimentation of watercourse and water bodies shall be minimized by employing the following best management practices:

1. Stripping of vegetation, soil removal and regrading, or other development, shall be done in such a way as to minimize erosion.

2. Development shall preserve outstanding natural features, keep cut-full operations to a minimum, and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface runoff.

3. The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site.

4. Whenever feasible, natural vegetation shall be retained, protected, and supplemented.

5. The disturbed area and the duration of exposure shall be kept to a practical minimum.

6. No accumulation of slash shall be left within fifty (50) feet, horizontal distance, 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 thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed

7. Temporary vegetation or mulching shall be used to protect disturbed areas during development.

8. Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of County Soils and Water Conservation Commission shall be installed as soon as possible after construction ends.

9. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods.

10. The top cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board.

11. During grading operations, methods of dust control shall be employed wherever practicable.

12. Whenever sedimentation is caused by stripping vegetation, regarding, or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from adjoining surfaces, drainage systems, and watercourses, and to repair any damage at his own expense as quickly as possible.

13. It is the responsibility of any person performing any activity on or across water bodies or tributary stream, or upon the floodway or right-of-way thereof, to maintain as nearly as possible the present state of the stream, watercourse, swale, floodway, or right-of-way during the duration of such activity, and to return it to its original or equal condition after such activity is completed.

14. Maintenance of drainage facilities or watercourse originating and existing completely on private property is the responsibility of the owner to the point of open discharge at the property line, or at a communal watercourse within the property.

Q. Soils.

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

R. Water Quality.
No activity shall deposit on or into the ground, or discharge to the waters of the State, any pollutant that, by itself or in combination with other activities or substance, will impair designated uses or the water classification of the water body, tributary stream, or wetland.

S. Archaeological Sites.

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

T. Pesticide and Fertilizer Application.
Pesticide and fertilizer application in any of the zones shall not require a permit provided that such application is in conformance with applicable State and Federal Statutes and Regulations.

1313.16 Administration.

A. Administration Bodies and Agents

1. Code Enforcement Officer
Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

2. Board of Appeals
A Board of Appeals shall be created in accordance with the provision of 30-A, M.R.S.A. section 2691.

3. Planning Board
A Planning board shall be created in accordance with the provisions of State Law.

B. Permits Required
After the effective date of this Ordinance, no person shall without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the zone in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

C. Permit Application

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in 1313.14.

2. All applications shall be signed by the owner or individual who can show evidence of right, title, or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

3. All applications shall be dated, and the Code Enforcement Officer and/or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

4. If the property is not served by public sewer, a valid plumbing permit or completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

D. Procedure for Administering Permits

Within thirty-five (35) days of the date of receiving a written application, the Code Enforcement Officer, shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board and/or Code Enforcement Officer, as appropriate, shall approve with conditions, approve, or deny all permit application in writing within thirty-five (35) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the Planning Board agenda following receipt of the completed application, or within thirty-five (35) days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of providing that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Planning Board shall approve an application or approve it with conditions if it makes positive findings based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface water;
3. Will adequately provide for the disposal of wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual point of access, to inland waters;
6. Will protect archaeological and historic resources as designated in the Comprehensive Plan;
7. Will avoid problems associated with floodplain development and use; and
8. Is in conformance with the provisions of Section 1313.13 and 1313.15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons and conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision, or would violate any other local Ordinance, regulation, or any statute administered by the municipality.

E. Expiration and/or Extension of Permits

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

F. Installation of Public Utility Service

No public utility, water district, sanitary district, or any utility company of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating the installation has been completed.

G. Appeals

1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

a. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision, or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

2. Variance Appeals Variances may be granted only under the following conditions:

a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

b. Variances shall not be granted for establishment of any otherwise prohibited uses of this Ordinance.

c. The Board shall not grant a variance unless it finds that:

(1) The proposed structure or use would meet the provisions of 1313.13 and 1313.15 except for the specific provision which has created the non-conformity and from which relief is sought.

(2) The strict application of the terms of this Ordinance would result in undue hardship.

The term “undue hardship” shall mean:

(a). That the land in question cannot yield a reasonable return unless a variance is granted;
(b). That the need for a variance is due to the unique circumstances of the property and

not to the general conditions in the neighborhood;

(c). That the granting of a variance will not alter the essential character of the locality; and

(d). That the hardship is not the result of action taken by the applicant or a prior owner.

(3) Setback variance for single-family dwellings. Under this subsection, a variance from a setback requirement may be permitted from a setback requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

(a). The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

(b). The granting of a variance will not alter the essential character of the locality;

(c). The hardship is not the result of action taken by the applicant or a prior owner;

(d). The granting of the variance will not substantially reduce or impair the use of abutting property; and

(e). That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

This subsection is strictly limited to granting a variance from a setback requirement for a single-family dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed twenty (20) percent of a setback requirement and may not be granted if the variance would cause the area of dwelling to exceed the maximum permissible lot coverage. An ordinance may allow for a variance under this subsection to exceed twenty (20) percent of a setback requirement, except for shoreline setbacks, by rules adopted pursuant to Title 38, Chapter 3, Subchapter I, Article 2-B[1], if the petitioner has obtained the written consent of an affected abutting landowner.

d. Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in, or regularly uses, the dwelling. The board

shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to, or egress from, the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability, or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to, or egress from, the dwelling" shall include railing, wall, or roof systems necessary for the safety or effectiveness of the structure.

e. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

3. Appeal Procedure

a. Make an Appeal

1. When the Board of Appeals reviews a decision of the Code Enforcement Officer, the Board of Appeals shall hold a “de novo” hearing. At this time, the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity, the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance, or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the records of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

(ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted; and

b. A sketch drawn to scale showing lot lines, location of existing buildings and structures, and other physical features of the lot pertinent to the relief sought.

(iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

2. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, which includes:

(a). A concise written statement indicating what relief is requested and why it should be granted.
(b). A sketch to scale showing lot lines, location of existing buildings and structure and other physical features of the lot pertinent to relief sought.
(c). Upon being notified of an appeal, the Code Enforcement Officer and/or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of decision appealed from, and notify the permittee that an appeal has been filed.

(d) The Board of Appeals shall hold a public hearing on the appeal within thirty (30) days of its receipt of an appeal request.

b. Decision by Board of Appeals

1. A majority of the Board shall constitute a quorum for the purpose of deciding an appeal.

2. The person filing the appeal shall have the burden of proof.

3. The Board shall decide all appeals within thirty (30) days after the close of the hearing, and shall issue a written decision on all appeals.

4. All decisions shall become part of the record and shall include a statement of findings and conclusions as well as the reasons or basis thereof, and the appropriate order, relief, or denial thereof.

5. Appeal to Superior Court - Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State Laws within thirty (30) days from the date of any decision of the Board of Appeals.

H. Enforcement

1. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

2. Code Enforcement Officer

a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it, including discontinuance of illegal use land, buildings, or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and maintained as a permanent record.

b. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation action, revocation of permits, appeals, court action, violations investigated, violations found, and fee collected on a biennial basis. A summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

3. Legal Action

When above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The Municipal Officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purposes of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue: (1) unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith; (2) unless the removal of the structure or use will result in a threat or hazard to public health and safety; or (3) unless the use or structure will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. Fines

Any person, including, but not limited to, a landowner, a landowner's agent, or a contractor, who violates any provision or requirement of this Ordinance, shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

1313.17 Definitions.

A. Construction of Language

1. In this Ordinance, certain terms or words should be interpreted as follows:

   a. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;
   b. The present tense includes the future tense, the singular number includes the plural and the plural includes the singular;c.The word “shall” is mandatory;
   d. The word “may” is permissive;

e. The words “used” or “occupied” include the words “intended", "designed”, or “arranged to be use or occupied”; and
f. The word “dwelling” includes the word “residence”.

2. Terms not defined shall have customary dictionary meaning.

B. Definitions:

ABUTTING: Having a common border with, or being separated from, such common border by an alley or easement.

ACCESS: A means of approach, entry to, or exit from property.

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.

ACRE: A measure of land containing forty-three thousand five hundred sixty (43, 560) square feet.

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 product; poultry and poultry product; livestock; fruits and vegetable; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

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.

ALTERATION: As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height or the moving from one location or position to another.

APPEAL: A means of obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this Ordinance as expressly authorized by the provisions of this Ordinance.

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

BASAL AREA: The area of a cross-section of a tree stem at four and one half (4.5) feet above ground level and inclusive of bark.

BASEMENT: any portion of a structure with a floor-to-ceiling height of six (6) feet or more, and having more than fifty (50) percent of its volume below the existing ground level.

BOAT LAUNCH FACILITY: A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

BOAT YARD, COMMERCIAL: A place, usually adjacent to navigable waters, where, as a business or gainful occupation, boats are hauled, stored, repaired and/or constructed.

BUFFERS: Units of land, together with a specified type and amount of planting thereon, and any structure which may be required between land and uses to eliminate or minimize conflicts between them.

BUILDING: A roofed structure. See structural terms.

BUILDING AREA: Total of areas taken on a horizontal plane at the mean finished grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, and steps. All dimensions shall be measured between exterior faces of walls.

BUILDING HEIGHT: The vertical distance between the main elevation of the finished grade of the building and the highest point of the roof. For those structures with multiple roofs, each roof shall be considered in relation to the finished grade of the building and the highest point of the roof.

CAMPGROUND: Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to, tents, recreational vehicles, or other shelters.

CANOPY: The more or less continuous cover formed by tree crown in a wooded area.

CERTIFICATE OF OCCUPANCY: Official certification that a premise conforms to provisions of the zoning ordinance (and building code) and may be used or occupied. Such a certificate is granted for new construction or for alteration or additions to existing structures. Unless such a certificate is issued, a structure cannot be lawfully occupied.

CODE ENFORCEMENT OFFICER: A person appointed by the municipal officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

COMMERCIAL USE: The use of lands, buildings, or structures, other than a "Home Occupation", defined below, the intent and result of which activity is the production of income from buying and selling of good and/or services, exclusive of rental of residential buildings and/or dwelling units.

CONDOMINIUM: A building that at any time before creation of the condominium was occupied wholly or partially by one or more persons other than purchasers and persons who occupy.

CONGREGATE HOUSING: A private, licensed establishment operated for the purpose of providing domiciliary by one or more persons other than purchasers and persons who occupy.

D.B.H.: (Diameter Breast Height): A measurement of the size of a tree equal to the diameter of its trunk measured at four and one half (4.5) feet above the natural grade.

DAY CARE FACILITY: Defined in Title 22, MRSA, Section 1673, a house or other place in which a person or combination of persons maintains or otherwise carries out a regular program for consideration, for any part of the day, providing care and protection for three (3) or more children under the age of sixteen (16) unrelated to the operator, not to include nursery schools, summer camps, formal public or private schools, and further defined by the Department of Human Services as follows:

DAY CARE HOME: A Day Care Facility as defined in State Statutes for thirteen (13) or more children on a regular basis; and Day Care: A Day Care Facility as defined in State Statutes for three (3) to twelve (12) children on a regular basis.

DEDICATION: The transfer of property interest from private to public ownership for a public purpose. The transfer may be fee-simple interest or of a less-than-fee-simple interest, including easement.

DEVELOPER: The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in development, including the holder of an option or contract to purchase.

DEVELOPMENT: A change in land use involving alteration of the land, water, or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

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DIMENSIONAL REQUIREMENTS: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

DRAINAGE: The removal of surface or ground water from land by drains, grading, or other means. Drainage includes the control of run-off to minimize erosion and sedimentation during and after development, and includes the means necessary for water-supply preservation, as well as prevention or alleviation of flooding.

DRIVEWAY: A vehicular access-way less than five hundred (500) feet in length serving two (2) single-family dwellings, or one two-family dwelling, or less.
DWELLING: See residential dwelling unit.

EASEMENT: The authorization of a property owner for another to use a designated part of the owner's property for a specified purpose.

ELEEMOSYNARY: A non-profit establishment for public use.

EMERGENCY OPERATIONS: Operations conducted for the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property, and livestock from the threat of destruction or injury.

ENLARGEMENT TO ENLARGE: An "enlargement" is an addition to the floor area of an existing building, increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. To "enlarge" is to make an enlargement.

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, 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.

EXPANSION OF A STRUCTURE: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to, attached decks, garages, porches, and greenhouses.

EXTENSION OR TO EXTEND: An increase in the amount of existing floor area used for an existing use within an existing building. To "extend" is to make an extension.

FAMILY: Two (2) or more persons related by blood, marriage, adoption, or guardianship; or not more than five (5) persons not so related occupying a dwelling unit and living as a single housekeeping unit; such a group to be distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel.

FLOOR AREA: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portion of a structure, such as porches and decks.

FOREST MANAGEMENT TERMS:

1. Forest Management Activities: Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting, and other similar associated activities, but not the construction or creation of roads.

2. Timber Harvesting: The cutting and removal of trees from their growing site, and the attendant operation of harvesting machinery, but not the construction of roads. Timber harvesting does not include the clearing of land for approved construction for which a lawful permit has been issued in accordance with State and Local codes, ordinances, statutes, rules and regulations.

FLOODWAY: 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 by more than one (1) foot in height.

FOUNDATION: The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick, or similar material.

FRESHWATER WETLAND: Freshwater swamps, marshes, bogs and similar areas which are:

1. Ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream, or brook such that in a natural state, the combined surface area is in excess of ten (10) acres; and

2. Inundated or saturated by surface or ground water at a frequency, and for duration, sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

NOTE: Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

FUNCTIONALLY WATER-DEPENDENT USES: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters, and which cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities (excluding recreational boat storage buildings), fin fish and shell fish processing, fish storage retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boating facilities, marinas, navigation aids, basins and channels, industrial uses dependent upon water borne transportation or requiring large volumes of cooling or processing water which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to inland waters.

GARAGE, COMMERCIAL: A structure used for parking or storage of automobiles, generally available to the public and involving payment charged for such parking or storage. A garage used solely in conjunction with multiple family dwelling or hotel shall not be construed to be a commercial garage, but rather a permitted accessory structure and use, even though not on the same premises as the multiple family dwelling or hotel.

GARAGE, RESIDENTIAL: An accessory building for parking or temporary storage of automobiles of residential occupants of the premises, or a part of the residence usually occupying the ground floor area of a principal one (1) or two (2) family dwellings, not more than one (1) space may regularly be used by private passenger automobile of a person not a resident on the premises.

GRADE: In relation to buildings, the average of the finished ground level at the center of each wall of the building.

GREAT POND: Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

GREENHOUSE, COMMERCIAL: An enclosed building, permanent or portable, which is used for the growth of small plants.

GREENHOUSE, NON-COMMERCIAL: An accessory structure to a residence designed or used for the growth of small plants.

GROCERY STORE: A small neighborhood establishment retailing food and related commodities, as distinguished from a supermarket, defined as a “Major Retail Outlet”.

GROUNDCOVER: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor

GUEST ROOM: A room in a hotel, motel, tourist home, or "bed and breakfast" residence offered to the public for compensation in which room no provision is made for cooking.

HEIGHT OF STRUCTURE: The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

HOME OCCUPATION: A business, profession, occupation, or trade conducted for support and located entirely within a residential building or a structural accessory thereto which use is accessory or incidental and secondary to the use of the building for dwelling purpose, and does not change the residential character or appearance of such building. A home occupation shall employ no more than one (1) person other than family members residing in the home.

HOSPITAL: An institution providing health services primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities, and stuff officers.

IMPERVIOUS SURFACE: Surfaces, which do not absorb water, specifically all buildings, parking areas, driveways, road sidewalks, and any areas of concrete or asphalt. In case of lumberyards, areas of stored lumber constitute impervious surfaces.

INCREASE IN NONCONFORMITY OF A STRUCTURE: Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard, or which cause no further increase in the linear extent of nonconformance of the existing structure, shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

INDIVIDUAL PRIVATE CAMPSITE: An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals, and which involves site improvements which may include, but may not be limited to, a gravel pad, parking area, fire place, or tent platform.

INDUSTRIAL: Use of a premise for assembling, fabricating, finishing, manufacturing, packaging, or processing or mineral extraction. These include but are not limited to assembly plants, laboratories, power plants, pumping stations and repair shops.

INSTITUTIONAL: A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure, or land used for public purposes

IN-LAW APARTMENT: See structural terms.

AUTOMOBILE GRAVEYARD: A yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn-out, or junked automobiles.

JUNKYARD: A yard, field, or other area, including, but not limited to, a garbage dump, waste dump, and sanitary landfill, that is used as a place of storage for discarded, worn-out, or junked plumbing, heating supplies, household appliances, furniture, discarded scrap and junked lumber, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous and non-ferrous materials.

KENNEL, COMMERCIAL: Any place in or at which any number of dogs or cats are kept for the purpose of sale or in connection with boarding, care, training, or breeding, for which a fee is charged.

KENNEL, NON-COMMERCIAL: An accessory building to a residence designed or used for the accommodation of dogs and cats owned by the occupancy of the residence.

LAND USE PERMIT: A permit for a proposed land use activity as defined in this Ordinance and issued by the Planning Board and/or Code Enforcement Officer in accordance with the provisions of this Ordinance.

LIGHT MANUFACTURING: The fabrication or processing of materials into a finished product. Fabrication relates to the stamping, cutting, or otherwise shaping the processed materials into useful objects/products. Light manufacturing does not include the refining or other initial processing of basic raw materials such as metal ores, lumber, or rubber.

LOADING SPACE: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

LODGING TERMS:

> TRANSIENT ACCOMMODATIONS I: (also referred to as a "Bed and Breakfast") Are those accommodations provided for compensation as a business in the private year-round residence of the host family, consisting of a maximum of three (3) guest rooms and six (6) guests at any one time, not including children of the paying guest under twelve (12) years of age. Breakfast is the only meal, if any, to be provided for compensation.
>
> TRANSIENT ACCOMMODATIONS II: Are those accommodations provided for compensation as a business in a converted, existing building where a maximum of ten (10) guest rooms are provided at any one time.
>
> TRANSIENT ACCOMMODATIONS III: Include commercial hotels, motels, and inns where over ten (10) guestrooms are provided as accommodations for compensation as a business. Any accessory structures or uses such as, but not limited to, restaurants, cocktail lounges, or gift shops are considered separate uses or structures and shall meet the provisions of this Ordinance as such.

LOT: A parcel of land undivided or designed to be developed for, one (1) building or principal use and the accessory buildings or uses incidental to such building, as well as use and development, including such open spaces and yards as are designed and arranged or required by this Ordinance for such building, use, or development.

LOT, AREA: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

LOT, CORNER: A lot abutting two (2) or more streets at their intersection.

LOT, COVERAGE: The percentage of the lot covered by unvegetated surfaces.

LOT, FRONTAGE: Lot width measured at the street lot line. When a lot has more than one street lot line, lot width shall be measured, and the minimum lot width required by this Ordinance shall be provided, at least on one (1) street.

LOT, LINE: A line bounding a lot which divides one lot from another, or from a street or any other public or private space, as defined below:

1. Front Lot Line: In case of a lot abutting only one (1) street, the street line separating such lot from such street. In the case of a double frontage lot, each street line separating such lot from a street shall be considered to be the front lot line, except where the rear yard requirement is greater than the front yard requirement in which case one of two (2) opposing yards shall be a rear yard. In the case of a lot with no road frontage, the front lot line shall be considered to be the line parallel to the front of the building.

2. Rear Lot Line: That lot line which is parallel to a most distant from the front lot line of the lot. In the case of an irregular, triangular, or gore-shaped lot, a line twenty (2) feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front line shall be considered to be the rear lot line. In case of lots, which have frontage on more than one (1) road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.

3. Side Lot Line: Any lot line other than a front or rear lot line.

LOT OF RECORD: Any validly recorded lot which at the time of its recording complied with all applicable laws, ordinances, and regulations.

LOT STANDARDS: The combination of controls which establishes the maximum size of a building and its location on the lot. Components of lot standards, also known as "space and bulk" regulations in size and height of building; location of exterior walls at all levels with respect to lot lines, streets and other buildings; building coverage; gross floor area of buildings in relation to lot area; open space (yard) requirements; and amount of lot area provided per dwelling unit.

MAJOR RETAIL OUTLET: A retail commercial establishment with an interior customer selling space, excluding back room storage, office space, and processing space, of more than five thousand (5,000) square feet.

MANUFACTURED HOUSING: A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site.

For the purpose of this Ordinance, three (3) types of manufactured housing will be referred to as:

1. NEWER MOBILE HOME: Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards and complies with the Manufactured Housing Construction and Safety

Standards Act of 1974, et. Esq., which, in the traveling mode, are fourteen (14) body feet or more in width, are seven hundred fifty (750) or more square feet, and are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation.

2. OLDER MOBILE HOME: Those units constructed before June 15, 1976, and not in compliance with the Manufactured Housing Construction and Safety Standards Act of 1974, which are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, not including those smaller units commonly called "travel trailers".

3. MODULAR HOMES: Those units which the manufacturer certifies are constructed in compliance with the State's Manufactured Housing Act, are not constructed on a permanent chassis, and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning, or electrical systems.

MARINA: A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore mooring 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, and bait, tackle shop, and marine fuel service facilities.

MARKET VALUE: The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

MEDICAL CLINIC: An office building used by members of the medical professions for the diagnosis and outpatient treatment of human ailments.

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 transports the product removed away from the extraction site.

MINIMUM LOT WIDTH: The closest distance between the side lot lines of a lot. When only two (2) lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

MINERAL EXPLORATION: Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land, and which include reasonable measures to restore the land to its original condition.

MULTI-UNIT RESIDENTIAL: A residential structure containing three (3) or more residential dwelling units.

MUNICIPAL FACILITIES: Building or land, which is owned by the Town of Lincoln and operated under its supervision.

NON-CONFORMING USE: See Use Terms.

NORMAL HIGH-WATER LINE: That line which is apparent from visible markings and changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

NORMAL MAINTENANCE AND REPAIR: Any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in uses, change in location, or change in size or capacity.

NURSERY COMMERCIAL: An enterprise which conducts the retail and wholesale of plants grown on the site, as well as accessory items (but not power equipment such as gas or electric lawnmowers and farm implements) directly related to their care and maintenance. The accessory items normally sold are clay pots, potting soil, fertilizers, and insecticides, hanging baskets, rakes and shovels.

NURSING HOMES: A facility for the care of the aged or infirmed, or a place of rest for those suffering bodily disorders; but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism, or narcotic addition.

OWNER: The person or persons having the rights of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

PARCEL: The entire area of a tract of land before being divided by development.

PARKING LOT: An open area other than a street used for the parking of more than four (4) automobiles and available for public use whether free, or for compensation, or as an accommodation for clients or customers.

PARKING SPACE: Surface area, not less than nine (9) feet wide and nineteen (19) feet long, enclosed or unenclosed, sufficient in size to store one automobile together with a driveway connecting the parking space with a street, road or alley,

and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

PATIO: See Structural Terms.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

Temporary:	Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.
Permanent:	Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

PERFORMANCE STANDARDS: A criterion established to control the use of land and structures. The purpose of performance standards is to provide detailed regulations and restrictions by means of minimum criteria which must be met by uses in order to protect neighbors from adverse impacts of adjoining land uses, and to protect the general health, safety, and welfare of citizens of Lincoln.

PROFESSIONAL OFFICE BUILDING: A building in which there is located the office of a professional such as an architect, accountant, dentist, doctor of medicine, lawyer, etc., or in which a business conducts its administrative, financial, or clerical operations, but not including any manufacturing or sale of goods or merchandise.

PUBLIC FACILITY: Any facility, including, but not limited to, building, property, recreation areas, and roads, which are owned, leased, or otherwise operated or funded by a governmental body or public entity.

PUBLIC UTILITY: Any person, firm, corporation, municipal department, board, or commission authorized by the Maine Public Utilities Commission to furnish gas, steam, electricity, communication facilities, or transportation of water to the public.

RECENT FLOORPLAIN SOILS: The following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

RECONSTRUCTION: The restoration, remodeling, or rebuilding of a non-conforming structure, whether necessitated by deterioration, obsolescence,

casualty, or other occurrence, where the costs of such work equal or exceed the value of the structure in its existing condition.

RECREATIONAL FACILITY: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat-launching facilities.

RECREATIONAL VEHICLE: A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one (1) 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.

REPLACEMENT SYSTEM: A system intended to replace: an existing septic system which is either malfunctioning or being upgraded with no significant change of design flow or use of structure; or any existing overboard wastewater discharge.

RESEARCH FACILITY: A building or part of a building devoted to scientific inquiry and ancillary functions. No manufacturing is conducted on the premises except as related to the scientific research being conducted, and said activities shall be solely for charitable purposes.

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 (1) family at a time, and containing cooking, sleeping, and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

RETAIL ESTABLISHMENT: Any business, housed in a permanent structure, engaged primarily in the sale of goods and services to the ultimate consumer for direct consumption and/or use, but not for resale.

RESTAURANT: An establishment whose principal business is the sale of food and/or beverages to consumers in a ready to consume state, and who principal method of operation includes one of both of the following characteristics:

1. Customers that are normally provided with an individual menu, and that are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; or

2. A cafeteria type operation where food and beverages generally are consumed within the restaurant building.

3. RESIDUAL BASAL AREA: The average of the basal area of trees remaining on a harvested site.

RIPRAP: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, which are typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

RIVER: A free-flowing body of water including its associated floodplain wetlands from the point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

ROAD: A thoroughfare or way 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.

1. Private Road: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

2. Public Road: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

ROADSIDE STAND: A roadside stand selling at retail on the premises only farm produce, camp firewood, or garden, greenhouse or nursery products, and between Labor Day and Christmas, cut Christmas trees, garlands, wreaths, and wreath materials primarily produced on the property.

SCHOOL, MUNICIPAL: A publicly owned facility within which educational classes for any grades, kindergarten through twelve (12), are conducted pursuant to a program approved by the State Board of Education or similar governmental agency.

SCHOOL, PRIVATE: A privately owned facility within which instruction is provided for a fee.

SERVICE DROP: Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. In the case of electric service:

   a. The placement of wire and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

   b. The total length of the extension is less than one thousand (1,000) feet in length.

2. In the case of telephone service:

   a. The extension, regardless of length, will be made by the installation of telephone wire 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.

SET BACK SHORELINE: The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space, or other regulated object or area.

SHORE FRONTAGE: The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

SHORELINE: The normal high-water line or upland edge of a freshwater or coastal wetland.

SHORELAND ZONE: The land area located within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body, within seventy-five (75) feet of the normal high-water line of a stream.

SIGN ITEM DEFINITIONS:

SIGN: Device, model, banner, pennant, insignia, flag, or other representation, which is used as, or is in, the nature of an advertisement or direction.

1. Billboard: Anything designed, intended or used for advertising a product, property, business, entertainment, service, amusement or the like, and not located where the matter advertised is available or occurs.

2. Freestanding Sign: A sign supported by one more uprights or braces permanently affixed in to the ground.

3. Portable Sign: A sign not designed or intended to be permanently affixed into the ground or to a structure.

4. Roof Sign: A sign, which is attached to a building and is displayed above the eaves of such building.

5. Temporary Sign: A sign of temporary nature, erected less than ninety (90) days, exemplified by the following: political poster,

charitable signs, construction signs, carnival signs, garage sales, lawn sale, rummage sale, and all signs advertising sales of personal property, and "for rent" signs.

6. Wall Sign: Any sign painted on, or attached parallel to, the wall surface of a building and projecting therefore not more than six (6) inches.

7. Window Sign: Any on-premises, non-temporary sign visible from the exterior of the building or structure which is permanently painted, attached, glued or otherwise affixed to a window.

8. Area of Sign: The exposed surface of the sign including all ornamentation, embellishment, background, and symbols, but excluding the structure which does not form a part of the message of the sign measured in square feet.

The sign area of a sign composed of characters or words attached directly to a uniform building wall surface or window surface (wall sign or window sign) shall be the smallest rectangle which encloses the whole group or message.

The aggregate sign area for premises shall be taken to mean the sum of the area of all signs visible from public streets, sidewalks, parks, etc. and includes wall signs, window signs, free-standing signs, roof signs, and small signs attached to the principal sign indicating, for example, "fireplace", "swimming pool", "Master Card, Diner Club, or American Express" accepted. If the shape of a sign is convoluted or irregular, then the area is to be taken as the smallest rectangle, which encloses the sign.

STREAM: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United State Geological Survey seven point five (7.5) minute series topographic map, or if not available, a fifteen (15) minute series topographic map, to the point where the body of water becomes a river or flows into the shoreland zone of another water body or wetland

STRUCTURAL TERMS:

1. Building: Any structure maintained or intended for use as a shelter or enclosure of persons, animals, goods, or property of any kind. This term is inclusive of any thereof. Where independent units with separate entrances are divided by walls, each unit is a building.

2. Building, Principal: Building (structure) in which is conducted, or in which is intended to be conducted, the main or primary use of the lot on which it is located.

3. Dwelling: A building or portion thereof, used exclusively for residential occupancy, including single-family, two (2) family and multiple family dwellings.

4. Dwelling Unit: A room of group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking, and eating.

5. Dwelling, Single-Family Detached: A dwelling designed for and occupied by not more than one (1) family and having no roof, wall, or floor in common with any other dwelling unit. The term shall include manufactured and prefabricated homes.

6. Dwelling, two (2) Family: A detached or semi-detached building used for residential occupancy by two (2) families living independently of each other.

7. Dwelling, Multiple-Family: A building, or portion thereof, used for residential occupancy by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses, and row houses.

8. In-Law Apartment: A separate dwelling unit, which is located within and subordinate to a single family detached dwelling, and which is occupied by a person or persons related to the owner and principal occupant of the dwelling unit by blood, marriage, or adoption, whether or not said person or persons pay rent or share expenses with the owner thereof.

9. Patio: A structure that adjoins a dwelling or principle structure and is delineated by paving, concrete, stones, or other impervious surfacing materials and is adapted especially to outdoor dining and/or lounging.

10. Structure: Anything constructed or erected, the use of which requires permanent location on, above or below the surface of land or water, including a porch or patio, but excluding unattached decks.

11. Water-Related Structure: Includes piers, docks, wharves, floats, cribs, pilings, boathouses, breakwaters, causeways, and similar structures projecting into water bodies.

a. Temporary Structures: Structures, which remain in the water for less than seven (7) months in any period of twelve (12) consecutive months.

b. Permanent Structures: Structures, which remain in the water for seven (7) months or more in any period of twelve (12) consecutive months.

SUBDIVISION: A division of a tract or parcel of land into three (3) or more lots within a five (5) year period whether accomplished by sale, lease, development, building, or otherwise, and as further defined in State Statutes, Title 30-A, MRSA, Section 4404, as amended.

SUBSTANTIAL START: Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

TIMBER HARVESTING: See Forest Management.

TOWN: The Town of Lincoln, Maine.

TRANSPORTATION FACILITIES: Structures and grounds used for transportation service activities, such as ticket booths, and sitting shelters for bus, taxi, or touring van.

UNDERTAKING ESTABLISHMENTS: A dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

UPLAND EDGE: The boundary between upland and wetland.

USE: The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

1. Accessory Use: A use subordinate to a permitted use located on the same lot, and customarily incidental to the permitted use.

2. Principal Use: The specific primary purpose for which land is used.

3. Temporary Use: A use established for a fixed period of time with the intent to discontinue such upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

4. Conforming (Permitted) Use: A use, which may be lawfully established in a particular zone, provided it conforms to all the requirements, standards, and regulations of such zone.

5. Existing Non-Conforming Use: A use which lawfully existed prior to the enactment of this Ordinance or subsequent amendment, and which is maintained after the effective date of this Ordinance, although it does not comply with use restrictions applicable to the zone in which it is situated.

6. Open Space Use: A use, which does not disturb the existing state of the land except to restore this land to a natural condition.

VARIANCE: A relaxation of the terms of this Ordinance where such a variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, literal enforcement of this Ordinance would result in unnecessary or undue hardship.

VEGETATION: All live trees, shrubs, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at four and one half (4.5) feet above ground level.

VOLUME OF A STRUCTURE: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

WAREHOUSING AND STORAGE FACILITY: A structure for the storage of merchandise or commodities, including bulk storage sales outlet.

WATER BODY: Any great pond, river, and/or stream.

WATER CROSSING: Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, though, or over the water or wetland. 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. This definition includes crossings for timber harvesting equipment and related activities

WATER RELATED TERMS:

1. Lakes and Ponds: Natural or artificial bodies of water, which retain water year-round. Artificial ponds may be created by dams or may result from excavation. State regulations apply to any body of water, which has a surface area in excess of ten (10) acres except to a man-made body of water completely surrounded by land held by a single owner.

2. River: Any free flowing body of water from that point at which it provides drainage for a watershed if twenty-five (25) square miles to its mouth.

3. Stream or Brook: Any surface watercourse having a channel.

4. Channel: An area between defined banks created by the action of surface water, and characterized by the lack of terrestrial vegetation as well as the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil parent material or bedrock.

5. Normal High Water Mark of Inland Waters: Along lakes and ponds, the elevation at which vegetation changes from predominantly aquatic to predominantly terrestrial; and along rivers and streams, the highest elevation on the bank of a channel at which has left a definite mark.

6. Floodplain: Floodplains may either be riverine or inland depressional areas. Riverine floodplains are those areas contiguous to a lake, river, stream, or streambed whose elevation is greater than normal water pool elevation but equal to or lower than the projected 100-year flood elevation. Inland depressional floodplains, not associated with a stream system, are low points to which surrounding lands drain.

7. Flowing Water: Surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks, and can be further defined as:

   Major Flowing Waters: A flowing water downstream from the point of where such water drains twenty-five (25) square miles or more; and

   Minor Flowing Waters: Flowing water upstream from the point where such water drains less than twenty-five (25) square miles.

WETLAND TERMS:

1. Wetland, General: Land where excess water is the dominant factor determining the nature of soil development and the types of plant and animal communities living at the soil surface. It spans a

continuum of environments where terrestrial and aquatic systems intergrade. (National Wetlands Classification)

2. Inland Wetlands: Areas enclosed by the normal high-water mark of inland waters and areas otherwise identified on the basis of soils, vegetation, or other criteria as inland wetlands including, but not limited to, swamps, marshes, or bogs.

WILDLIFE MANAGEMENT PRACTICES: Activities engaged in for the exclusive purpose of management of wildlife population by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation, controlled burning, planting, impounding water, controlled hunting and trapping relocation of wildlife, predator and disease control, and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species.

WOODY VEGETATION: Live trees or woody, non-herbaceous shrubs

YARD: The area of land on a lot not occupied by buildings.

1. Front Yard: The open, unoccupied space on the same lot with principal building between the front lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

2. Rear Yard: The open, unoccupied space on the same lot with principal building between the rear lot line and the nearest part if any building on the lot and extending from the front yard to the rear line.

3. Side Yard: The open, unoccupied space on the same lot with principal building between the rear lot line and the nearest 4/8/98 part of any building on the lot, and extending from the front yard to the rear line.

ZONE: A specified portion of the Town delineated on the Official Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

1313.18 Conflicting Provisions

Whenever a provision of the Lincoln Shoreland Zoning Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation, or statute, the more restrictive provision shall control or determine outcome

1400. POLICE DEPARTMENT

The police department for the Town which shall consist of a Police Chief, who at times may be called the "the Public Safety Director," who shall be appointed by the Town Manager, subject, however, to confirmation by the Council. The Town Manager may appoint such other members of the Department as the Town Council may authorize. For the purpose of this Chapter, "member" shall include special and/or part-time police.

1400.1. Police Chief/Public Safety Director

1400.1.1 The Police Chief or Public Safety Director shall be the Head of the Department.

1400.1.2 **Duties**: The Police Chief or Public Safety Director shall keep such records and make such reports concerning the activities of his Department as may be required by statute or the Town Manager. The Police Chief or Public Safety Director shall be responsible for the performance by the Police Department of its functions and all members of the Department shall serve subject to the order of the Police Chief or Public Safety Director.

1400.1.3 The Police Chief or Public Safety Director shall be directly responsible to the Town Manager for:

1. The administration of their Department;
2. The good order, efficiency, discipline, morale, and supervision of all members;
3. The proper use and maintenance of all Town owned property and equipment issued to and under the control of the Department; and
4. The performance of all other duties assigned by the Town Manager.

1400.1.4 The Police Chief or Public Safety Director, with the approval of the Town Manager, will:

1. Prepare assignments and work schedules for all members;
2. Establish rules and regulations not inconsistent with those established pursuant to Sub-section 6 of this Chapter, for the conduct of members while off duty;
3. Establish procedures pertaining to arrests, accidents, unusual occurrences, crimes, complaint investigations, disciplinary matters, court procedures, cooperation with other agencies and Departments, and record keeping.

1400.1.5 Make recommendations to the Town Manager relating to changes in and additions or appointments to the Department.

1400.1.6 It shall be the duty of all Department members to see to the proper enforcement of all Town's ordinances and applicable Statutes, to preserve order, to prevent infractions of law, and to arrest violators, thereof.

1400.2. Conduct of Members

1400.2.1 It shall be the duty of every member of the Department to conduct themselves in a proper and law-abiding manner, and to avoid the use of unnecessary force. Each member of the Department shall obey the orders and directions of their immediate superior.

1400.2.2 Members of the Department shall not discuss or criticize publicly or privately the personal habits, character, conduct, or official actions of other members of the Department, unless it is a violation of the rules and regulations in which case the same shall be reported to the Police Chief or Public Safety Director.

1400.2.3 There shall be an Animal Control Officer, appointed by the Town Manager, subject to confirmation by the Town Council, who shall be directly responsible to the Police Chief or Public Safety Director. He/she shall coordinate with the Town Clerk's office, in order to take action on state law or town ordinances relating to dogs. Any formalized documentation given to a resident shall be supplied to the Town Clerk's office for recordkeeping and collection of applicable fees.

1400.2.4 There shall be a Sealer of Weights and Measures, appointed by the Town Manager, subject to confirmation by the Town Council, who shall be directly responsible to the Police Chief or Public Safety Director. He/she shall enforce State and local laws concerning fair weights and measures.

1400.3. Additional Powers and Responsibilities of the Police Chief or Public Safety Director

The Police Chief or Public Safety Director or designee, upon certification by the Maine Criminal Justice Academy under 25 MRSA SS 2803, subsection 3-A, is authorized to represent the Town of Lincoln in the District Court in the prosecution of alleged violations of ordinances which the Police Department is empowered to enforce. This authority is granted pursuant to 30-A MRSA SS 2671(3). The Police Chief or Public Safety Director may designate any law enforcement officer under their command, if certified under 25 MRSA SS2803, subsection 3-A, to represent the Town of Lincoln in regard to this prosecutorial function. The Police Chief or Public Safety Director shall have the primary duty and responsibility in prosecuting violations of ordinances which the Police Department is empowered to enforce.

1401. NOISE CONTROL

Creating or causing to be created any unnecessary noise which annoys others is prohibited. The owner of a motor vehicle shall be responsible for nuisance noise

created by said vehicle, regardless of whom he may allow or permit to operate said vehicle.

1402. FIREARMS

1402.1 Permits to Carry Concealed Weapons

The Police Chief or Public Safety Director shall have the authority to issue all permits for the carrying of concealed weapons issued pursuant to this ordinance.

1402.2 Applications

The Police Chief or Public Safety Director or designee shall, upon written application therefore, issue a permit to carry concealed weapons to any legal resident of Lincoln who has demonstrated good moral character and who meets the following requirements:

A. Is 18 years of age or older;
B. Has not been convicted of a crime which is punishable by a maximum term of imprisonment equal to or exceeding one year;
C. Submits an application which contains the following:
    (1) Full name;
    (2) Full current address and addresses for the prior five (5) years;
    (3) The date and place of birth, height, weight, and color of eyes;
    (4) A record of previous denials for concealed weapons permits, for the information of the Police Chief or Public Safety Director, but such denials alone do not constitute cause for refusal;
    (5) A statement granting the Police Chief or Public Safety Director authority to check
    the criminal records of any law enforcement agency. The applicant must agree to submit to having his fingerprints taken by the Police Chief or Public Safety Director if it becomes necessary to resolve any questions as to his identity; and
    (6) Answer to the following questions:
        (a) Are you currently under indictment or information for a crime which the penalty is imprisonment for greater than one (1) year?
        (b) Have you ever been convicted of a crime for which the penalty possibly exceeded one (1) year in prison?
        (c) Are you a fugitive from justice?
        (d) Are you an unlawful user of, or addicted to, marijuana or any other drug?
        (e) Have you been voluntarily or involuntarily committed to a mental institution, or have you received psychiatric inpatient services in a hospital for a period greater than two (2) weeks within the past 5 (five) years?
        (f) Have you been adjudicated to be an incapacitated person pursuant to Title 18-A, Article V, Parts 3 and 4, and not

had the designation removed by an order under Title 18-A Section 5-307, Subsection (b)?

(g) Have you been dishonorably discharged from the Military forces within the past five (5) years?

(h) Are you an illegal alien?

By affixing his/her signature, the applicant certifies that the information in the application provided by him/her is true and correct and that he/she understands that an affirmative answer to the questions in sub-paragraph (6) is cause for refusal and any false statement may result in prosecution as provided in Title 25 MRSA SS 2003 subsection 1.

D. Submits to being photographed whenever required by the Police Chief or Public Safety Director; and

E. Submits an application fee according to the State set fee structure. The application and fee shall cover any number of weapons involved and any permit issued.

The requirements set out in this subsection constitute a complete application.

1402.3 Code of Laws Furnished to Applicant

A copy of the Laws governing the application for, and carrying of, concealed weapons shall be provided to every applicant.

1402.4 Good Moral Character

The Police Chief or Public Safety Director in judging good moral character shall make his/her determination in writing based upon evidence recorded by a governmental entity. The Police Chief or Public Safety Director shall consider matters recorded within the previous five (5) years, including, but not limited to, the following:

A. Records of incidents of abuse by the applicant of family or household members, provided pursuant to Title 19, Section 770, Subsection 1;

B. Records provided by the Department of Human Services regarding the failure of the applicant to meet child or family support obligations;

C. Records of three (3) or more convictions of the applicant for Class D or Class E crimes;

D. Records of three (3) or more civil violations by the applicant; or

E. Records indicating that the applicant has engaged in recklessness or negligence that endangered the safety of others, including the use of weapons or motor vehicles.

1402.5 Term of Permit

All concealed weapon permits are valid for two (2) years from the date of issue, unless sooner revoked for cause by the Police Chief or Public Safety Director.

1402.6 Information Contained in Permit

Each permit issued shall contain the name, address, and physical description of the applicant.

1402.7 Permit to be in Permit Holder's Immediate Possession

Every permit holder shall have his/her permit in his immediate possession at all times when carrying a concealed weapon, and shall display the same on demand of any law enforcement officer.

1402.8 Producing Permit in Court

No person charged with failure to have his/her permit in his/her immediate possession as required may be convicted if he/she produces in court the permit which was valid at the time of the issuance of a summons to court. If he/she exhibits such permit to a law enforcement officer designated by the summonsing officer not later than twenty-four (24) hours before the time set for the court appearance, no complaint may be issued.

1402.9 Permit to be Issued or Denied within 30 Days

The Police Chief or Public Safety Director, as set forth in this section, shall issue or deny, and reply in writing as to the reason for any refusal, within thirty (30) days of the application due date.

1402.10 Penalty

Whoever knowingly makes any false statement on an application or violates any provision of this section is guilty of a Class D crime.

1402.11 Revocation

The Police Chief or Public Safety Director shall revoke a permit if it is determined that a material misstatement was made on the application that the permit holder has been convicted of a violation of Title 25 MRSA SS 2031, or becomes ineligible to make an application under this ordinance. No person, otherwise qualified, who has had a permit revoked, is eligible for reapplication until the expiration of 5 (five) years from the date of revocation.

1402.12 Confidentiality of Application

All application and supporting documents received are confidential pursuant to and subject to the provisions of Title 25 MRSA SS 2035.

1403.13 Records

The Police Chief or Public Safety Director shall make a permanent record of each license in a suitable book or file kept for that purpose. The record shall include the date of issuance, as well as the name, age, sex, and street address of the licensee, and shall be available for public inspection.

1404. ANIMAL CONTROL

1404.1 Definitions

Terms, as used in this Ordinance, shall have the following meaning, unless the context indicates otherwise:

1. **"Dog"** shall be intended to mean both male and female.

2. **"Owner"** shall be intended to mean any person, persons, firm, association, or corporation keeping, owning, or harboring domestic or wild animals.

3. **"At Large"** shall be intended to mean off the premises of the owner and not under the immediate control of the owner or other person representing the owner, either by a leash, cord, chain, or other positive means of restraint.

4. "**Nuisance Animal"** shall be intended to mean any animal, domestic or wild, which is kept, owned, or harbored by any person and which: (1) is running at large; (2) is creating an unreasonable noise; (3) has caused damage to another's property; or (4) creates a substantial health risk to other animals or persons.

1404.2 Licensing

All dogs kept, harbored, or maintained by their respective owners in the Town of Lincoln shall be licensed and tagged in accordance with the appropriate laws of the State of Maine.

1404.3 Unlicensed Dogs

Whoever keeps a dog contrary to the licensing provision of this ordinance, Section 1404.2, shall be deemed to have committed a civil violation for which forfeiture, as set forth in the Schedule of Fees located in the Appendix to the Code, may be adjudged.

1404.4 Running at Large Prohibited

It shall be unlawful for any dog, licensed, or unlicensed, to run at large, except when used for hunting. The owner or keeper of any dog found to be roaming at large shall be subject to the penalties set forth in Section 1404.11.

1404.5 Barking or Howling Dogs

No person shall keep or harbor any dog which by loud, frequent, or habitual barking, howling, or yelping shall disturb the peace or tranquility of any person or persons.

1404.6 Nuisance Animals

Any animal whether domestic or wild, which is kept owned or harbored by any person, and which is creating a nuisance (as defined) to public peace or well-being, may be impounded by the Animal Control Officer or police officer.

1404.7 Impounding

It shall be the duty of the police officer or animal control officer, to seize any dog or nuisance animal found running at large contrary to the provisions of the Ordinance, and to impound such dog.

1404.8 Registry and Notification of Impoundment

When impounding any dog, the police officer or animal control officer shall, at the time of such impounding, make a complete registry entering the date of the impounding, as well as the breed, color, sex, and general condition of such dog, as can be reasonably ascertained. The registry shall also include whether the dog is licensed or unlicensed, as well as the name of the owner or keeper if known, and shall be on a registry form prepared, approved, and supplied by the Police Chief or Public Safety Director. A copy of the registry form shall be furnished to the pound master or kennel-keeper together with written instructions setting forth conditions under which the dog may be released. When any dog is impounded under the provisions of this Ordinance, the person who has control of the impounding shall, if the owner of the dog can be contacted with reasonable diligence, contact the owner within forty-eight (48) hours of the receipt of such dog and notify the owner of the fact of impoundment and location of the kennel or pound where the dog is being kept, together with conditions for the release of the dog. If the owner cannot be located through reasonable diligence within the aforesaid forty-eight (48) hour period, then the person impounding shall, within the next twenty-four (24) hours, post in a public and conspicuous place in the community a description of the dog and its place of impoundment. If the owner, within seven (7) days after notice has been posted, does not claim such dog, then the person having control of impounding shall dispose of the dog by sale or otherwise, in a proper and humane manner consistent with the applicable State Law. In no case shall the dog be disposed of until ten (10) days have passed. The person having control of impounding shall dispose of the dog by sale or otherwise. Such record shall include: (a) a description which identifies the dog with reasonable certainty; (b) the manner of disposing the dog; and (c) if the dog was transferred to another person, the name, address, and the date of delivery or receipt of the dog.

1404.9 Conditions of Release

Any dog impounded under the provisions of this Ordinance shall be released to the owner or keeper thereof on presentation of written authorization from the police officer or animal control officer, and on further condition that all impoundment charges be paid to the animal control officer or police officer before release. The fees charged by the pound or kennel shall not exceed those approved for humane agents from time to time by the State Department of Agriculture. All impoundment fees received by the animal control officer or police officer will be turned over to the Municipality from which the dog was impounded.

1404.10 Confinement of Certain Dogs

Dogs of fierce, dangerous, or vicious propensities shall be properly confined or tied by the owner in a reasonable manner to prevent harm to the public. Female dogs in heat shall be confined in such a manner as to avoid the creation of a nuisance by other dogs congregating in the area. If the owners of fierce, dangerous or vicious dogs, or female dogs in heat, are found in violation of this section, such dogs shall not be released except on the approval of the police officer, animal control officer, or Police Chief or Public Safety Director, and only if all provisions of sections 1404.9 and 1404.10 have been met.

1404.11 Penalties

Any owner found violating any of the provisions of the Ordinance shall be guilty of a civil violation, and upon a judgment thereof, shall be punished by a fine as set forth in the Schedule of Fees located in the Appendix to the Code. All fines so addressed shall be recovered for the use of the Town of Lincoln through the District Court.

1404.12 Enforcement

It shall be the duty of all municipal police officers and the Animal Control Officer to enforce all provisions of this ordinance.

1404.13 Animal Control Officer Fee

A fee shall be imposed for any dog or nuisance animal impounded by the Animal Control Officer or a police officer. The fee is set forth in the Schedule of Fees located in the Appendix to the Code. Such fee shall be paid at the Clerk's Office between the hours of 8:00am and 5:00pm Monday through Friday, before any impounded animal may be released from the Penobscot Valley Humane Society.

1404.14 Dog Feces Removal

It shall be a violation of this ordinance for any person who owns, possesses, or controls a dog, to fail to remove and dispose of any feces left by his/her dog on any public beach, sidewalk, street, park, or other publicly owned property of the Town of Lincoln.

For the purpose of this section, disposal shall be accomplished by transporting such feces to an appropriate waste receptacle.

This ordinance shall not apply to a dog accompanying any handicapped person, who by reason of his/her handicap, is physically unable to comply with the requirements of this ordinance.

Any person found to be in violation of this section shall, upon conviction, be subject to a fine as set forth in the Appendix to the Code.

1405. CURFEW

The following words as used in this Ordinance shall, except as otherwise specifically provided, have the following meaning:

1405.1 Definitions

(a) "Child" shall mean any person under the age of sixteen (16) years;
(b) "Supervised Activity" shall mean any activity that is conducted by a school, church, or municipality;
(c) "Police Officer" shall mean any member of one of the law enforcement agencies, probation officer, or any other officer appointed by the Court or municipality to have jurisdiction over the child;
(d) "Reasonable Necessity" shall mean some emergency such as, but not limited to, medical, police, or fire, which requires the child to be on the streets or in the public places of the Town of Lincoln.

1405.2 Curfew

(a) No child under the age of sixteen (16) years shall be or remain upon any street, public place, restaurant, or place of amusement in the Town of Lincoln after 10:00pm and before 5:00am of the following morning, unless said child shall be accompanied by a parent, legal guardian, or other person having legal custody of said child, or a person having permission from a parent, legal guardian, or other person having legal custody of such child in his/her company.

(b) This section shall not apply to children under sixteen (16) years of age who are attending or going to and from supervised activities, provided said child shall not be on the street of Lincoln any later than one (1) hour after the termination of said activity; or where the child's presence is reasonably necessary due to an emergency.

1405.3 Apprehension of Child

(a) A violation of this ordinance by any child shall constitute a juvenile offense. Any child found violating the provisions of this ordinance may be taken into custody by any law enforcement officer and, without reasonable delay, returned to the child's parents.

(b) The provisions of Title 15, Part 5, "Juvenile Offenders", and Part 6, "Maine Juvenile Code", of the Maine Revised Statutes Annotated shall apply, to the extent applicable, relative to jurisdiction, detention, disposition, and appeal of violations of this ordinance by child.

1406. LOITERING

1406.1 Loitering Prohibited

It shall be unlawful for any person to loiter, loaf, wander, stand, or remain idle either alone, and/or in consort with others, in a public place in such manner as to:

(a) Obstruct any public street, public highway, public sidewalk, or any other public place or building by hindering or impeding, or tending to hinder or impede, the free and uninterrupted passage of vehicles, traffic, or pedestrians; or

(b) Commit in or upon any public street, public highway, public sidewalk, or any other public place or building, any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in, upon, facing, or fronting on any such public street, public highway, public sidewalk, or any other public place or building, all of which prevents the free and uninterrupted ingress and egress, therein, thereon, and thereto.

1406.2 Definitions:

(a) "Loitering" shall mean remaining idle in essentially one location and shall include the concept of spending time idly to be dilatory, to linger, to stay, to saunter, to delay, and to stand around. It shall also include the colloquial expression "hanging around".

(b) "Public Place" shall mean any place to which the GENERAL PUBLIC HAS ACCESS AND A RIGHT TO RESORT for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern, or other place of business, as well as public grounds, areas, or parks.

1406.3 Police Order to Disperse

When any person causes or commits any of the conditions enumerated in Section 1406.1 herein, he/she may be ordered by any police officer or any law enforcement officer to cease and/or disperse. Any person who fails or refuses to obey such orders shall be in violation of this ordinance.

1406.4 Penalty

Any person who is found guilty of violating this ordinance shall be subject to a fine as set forth in the Schedule of Fees located in the Appendix to the Code.

1407. TRAFFIC

1407.1 Article I. In General

1407.1.1 Title

This ordinance shall be known and may be cited as the "Town of Lincoln, Maine Traffic Ordinance".

1407.1.2 Authority

This ordinance is adopted pursuant to MRSA Title 30 Section 2151, and Article 2 Section 212 of the Lincoln Town Charter.

1407.1.3 Purpose

This ordinance is designed to update existing parking and traffic regulations, thereby allowing control over vehicle use in Lincoln, Maine.

1407.1.4 Intent

The Town Council of Lincoln, Maine shall maintain in said Town suitable parking signs and markings indicating time, manner, and place of parking motor vehicles in accordance with this ordinance, and such additional signs and markings within the municipal boundaries. Parking and traffic ordinances and regulations adopted prior to the date of enactment of this ordinance are hereby repealed and superseded by this ordinance.

1407.1.5 Authority to Make Emergency Regulations

The Police Chief or Public Safety Director is hereby empowered to make and enforce temporary regulations to cover emergencies or special conditions.

1407.1.6 Authority of Police and Fire Department Officials

Officers of the Police Department and Crossing Guards are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws, provided that in the event of a fire or other emergency, or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of this ordinance. Members of the Fire Department, when at the scene of a fire, or when so directed by the Police Chief or Public Safety Director, may direct or assist the police in directing traffic.

1407.1.7 Bicycles, Mopeds

All bicycles and mopeds shall be operated in accordance with Title 29 MRSA 55 196 1-1963 and the provisions of this ordinance, excepting those provisions which by their nature can have no application. No mopeds shall be ridden on any sidewalk.

1407.1.8 Authority to Install Traffic Control Devices[6]

The Police Chief or Public Safety Director, with the approval of the Town Council, shall place and maintain or cause to be placed and maintained, traffic-

[6] February 14, 2005, effective March 14, 2005

control signs and devices when as required or authorized under this ordinance. The Police Chief or Public Safety Director may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic.

1407.1.9 Traffic Control Devices to be Uniform; Official Devices

All signs required or authorized by this ordinance, shall so far as practical, be uniform as to type and location throughout the Town. All traffic-control devices so erected and not inconsistent with state law or this ordinance shall be official traffic control devices.

1407.1.10 Obedience to Traffic-Control Devices: Missing and Illegible Signs

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with this ordinance, unless otherwise directed by a police officer, subject to the exceptions granted to the drive of an authorized emergency vehicle in this ordinance. No provisions of this ordinance for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation, an official sign (as designated by the manual on Uniform Traffic Control Devices) is not sufficiently legible to be seen by an ordinarily observant person. Police Officers shall report any illegible signs.

1407.1.11 Removal of Traffic Ticket

No person shall remove from any vehicle a traffic law violation ticket, notice, or citation placed on or in such vehicle by a police officer, except for the purpose of answering such notice or citation as required therein.

1407.2 Article II. Operation

1407.2.1 Schedule of Stop Signs

Stop signs are hereby established on the following streets, at the following locations:

Frederick Street at Taylor Street
Ariel Street at Taylor Street
Ariel Street at Clark Street
Fleming Street at West Broadway
Depot Street at Fleming Street
Cushman Street at Lee Road
Academy Street at Lee Road
Academy Street at School Street
Lincoln Street at School Street
Burton Street at School Street
Burton Street at Main Street
Mechanic Street at School Street
School Street at Lake Street
Lake Street at Main Street
Lakeview Street at Lee Street

Jewel Street at Lakeview Street
Wilson Street at Lakeview Street
Porter Street at Lakeview Street
Pleasant Street at Lee Road
Libby Street at Lee Road
Morgan Street at Lee Road
Highland Ave at Lee Road
Warsaw Circle at Lee Road
Evergreen Drive at Lee Road
Evergreen Drive at Main Street
Haynes Street at Main Street
Adams Street at Main Street
Adams Street at Fleming Street
Mechanic Street at Main Street
Lee Road at Main Street
Taylor Street at Enfield Road
Ayer Street at Enfield Road
Clark Street at Enfield Road
Hillcrest Drive at Enfield Road
Hale Street at Enfield Road
Pinkham Street at Enfield Road
High Hill Drive at Enfield Road
Transalpine at Enfield Road
Folsom Pond Road at Transalpine Road
Phinney Farm Road at Transalpine Road
Penobscot Valley Avenue at West Broadway
River Road at West Broadway
Park Avenue at West Broadway
Station Road at West Broadway
Mohawk Road at West Broadway
Katahdin Avenue at West Broadway
Perry Street at West Broadway
Second Street at Lindsay Street
Ayer Street at Perry Street (E&W)
Washington Street at Perry Street
Edwards Street at Hale Street
Tibbetts Drive at Edwards Street
Edwards Street at Clark Street
Frederick Street at Clerk Street (N)
Highland Avenue at Main Street
Whalen Street at Highland Avenue
Lancaster Street at Libby Street
Libby Street at Main Street
Pleasant Street at Main Street
Stanislaus Road at Main Street
Grindle Street at Main Street

West Street at Main Street
Easy Street at Main Street
Bagley Mountain Road at Main Street
Sweet Road at Main Street
Town Farm Road at Main Street
Frost Street at Main Street
Frost Street at Lee Road
Half Township Road at Lee Road
Curtis Farm Road at Lee Road
J.R. Drive at Enfield Road
Spring Street at West Broadway
Lindsay Street at West Broadway
Holmes Street at Lindsay Street
Lindsay Street at Ayer Street
DeMarey Avenue at Washington Street
Mountain View Drive at Hale Street
Workman Terrace at Hale Street
Frederick Street at Clark Street
East Broadway at Millett Street
MacKenzie Avenue at Jewell Street
Sunset Lane at Whalen Street
Prince Thomas Park at East Broadway[7]
Half Township Road at Curtis Farm Road
Intersection of Lake Street and Prince Thomas Park

1407.2.2 Schedule of One-Way Streets

The schedule of one-way streets is as follows: Cushman Street – heading west, during posted school hours

1407.2.3 Thru Truck Traffic Prohibited

Thru truck traffic is prohibited on the following streets:

A. Evergreen Drive
B. Highland Avenue
C. Libby Street
D. Pleasant Street

1407.3 Article III. Stopping, Standing, and Parking

1407.3.1 Liability of Vehicle Registrant

The fact that a vehicle is unlawfully parked shall be *prima facie* evidence of the unlawful parking of such a vehicle by the person in whose name such vehicle is registered.

1407.3.2 Alternate Penalty Provisions, Payment Schedule

[7] Prince Thomas Park is not a thruway.

Persons violating any provisions of this ordinance relating to parking are subject to the general penalty provisions of Article 5. They may, however, elect, in lieu of such penalty, to pay for each violation in accordance with the schedule set forth in the Appendix to the Code.

The vehicle on which this notice has been placed was parked in violation of the Town of Lincoln traffic regulations. The owner or operator of this vehicle is required to pay the violation fee to the Lincoln Police Department at 1 Adams Street, Lincoln, ME within 14 days. If not paid during that time, the fee doubles every 14 days, thereafter, up to the amount depicted in the schedule set forth in the Appendix to the Code. If a court hearing on the alleged violation is arranged you may waive your right to a court appearance by mailing or delivering before said date, this notice with payment of the fee to: Town of Lincoln, 63 Main Street Lincoln, ME 04457.

1407.3.3 Parking Not to Obstruct Traffic

No person shall stop, stand, park, or leave his vehicle on any street in such a manner or under such conditions so as to obstruct the free passage of other vehicles in either direction unless specifically permitted by a police officer, or so as to leave available less than twelve (12) feet of width of the roadway for free movement of vehicular traffic.

1407.3.4 Obstructing Sidewalk

No person shall stop with any horse, cart, truck, automobile, bicycle, moped, motor vehicle, or other vehicle, on or across any sidewalk in the Town in such manner as to hinder or obstruct pedestrian travel over such sidewalk.

1407.3.5 Parallel Parking Required, Exception

A. No person shall allow or permit any vehicle registered in his/her name to stand or be parked on any street other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, within eighteen (18) inches of the curb or edge of the roadway, and with spaces marked therefore, if any.

B. Motorcycles may be parked diagonal to the curb headed in the direction of lawful traffic movement with the rear wheel to the curb.

C. Parking on the Easterly side of Main Street from the crosswalk at the northerly intersection of Main Street and West Broadway to the northerly line of the Map 5, Lot 41 of Lincoln shall be aligned to an angle not greater than thirty (30) degrees for diagonal parking. Parking on the westerly side of Main Street from a point seventy-seven (77) feet southerly from the southerly line of Kneeland Street to a point of extension of the northerly line of Burton Street shall be aligned to an angle not greater than forty (40) degrees for diagonal parking. Parallel parking

shall be allowed on the easterly side of Main Street from the northerly line of Map 5, Lot 41 to the Civil War Monument. Parallel parking shall be allowed on the westerly side of Main Street from a point of extension of the northerly line of Burton Street to the Civil War Monument. No parking is allowed southerly from the southerly line of Kneeland Street to West Broadway.

1407.3.6 Public Utility Vehicles

Vehicles operated by the Town or by public utility companies, used for installation, repair, and maintenance purposes, may be excepted temporarily, for the period while actually at work at a definite location, from any of the requirements of this ordinance, provided that during such exception such precautions as the Police Chief or Public Safety Director may require in the interest of public safety shall be taken. The Police Chief or Public Safety Director and Public Works Director are authorized to place temporary signs prohibiting parking in such places at the scene of work in progress. Subject to the necessary exceptions provided by this section, this ordinance shall nevertheless be observed in so far as practicable.

1407.3.7 Interference with Snow Removal and Ice Control

No vehicle shall be parked or left unattended at any time on any public way so as to prevent the removal of snow from such public way by the Town's plowing, loading and hauling equipment, or the sanding or salting of such public way by the Town's sand and salting equipment. The Police Chief, Public Safety Director, or the Public Works Director may cause any vehicle so parked on any public way to be moved and placed in a suitable parking space off the public way, at the expense of the owner of such vehicle, and without the Town being liable for any damage that may be caused by such removal. For the purpose of facilitating the removal of such snow, the Public Works Director or Police Chief or Public Safety Director may cause to be placed properly marked signs along any public way as he shall from time to time deem necessary. It shall be unlawful for the operator of any vehicle to enter, stop, or park within the spaces indicated by such signs after the placing of said signs.

1407.3.8 Authority to Place Signs at Places of Assemblage

The Police Chief or Public Safety Director is authorized to place temporary traffic-control signs in front of the entrances to places of assemblage or any building in which entertainments, plays, shows, exhibitions, and the like are given, and for such period as the Police Chief or Public Safety Director, in his or her discretion, may deem appropriate under the circumstances.

1407.3.9 Authority to Prohibit Parking Temporarily

The Town Council may in its discretion ban parking on any public way for any reason and for such period of time as the Council may deem wise under the circumstances.

1407.3.10 Parking Prohibited in Specified Places

No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic, or in compliance with the law or the directions of a police officer or traffic-control device, in any of the following places:

A. So as to obstruct any driveway, crosswalk, private way, street, highway, right-of-way, public way, or other public property;

B. Within fifteen (15) feet of a fire hydrant, except where otherwise designated;

C. On a sidewalk;

D. Within twenty (20) feet of an intersection, except where otherwise designated;

E. Within fifteen (15) feet of a fire hydrant, except where otherwise designated;

F. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

G. On the roadway side of any vehicle stopped or parked at the edge of a curb or a street;

H. Upon any bridge; or

I. At any place where official signs or curb painting so prohibit.

1407.3.11 Schedule of Streets Where Parking is Prohibited at All Times

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the street or parts of streets contained in this section. No parking is allowed on the following:

A. Westerly side of School Street between Burton and Cushman Streets

B. Cushman Street

C. Northerly and Southerly side of Academy Street

D. Easterly side of School Street from the intersection of Lincoln Street northerly to Cushman Street (however, school bus parking may be allowed between Academy and Cushman Street)

E. Northerly side of Burton Street

F. West Broadway from Katahdin Avenue to Map 6, Lot 116

G. Southerly side of West Broadway, one hundred (100) feet east and west and Lindsay Street within one hundred (100) feet of the southerly line of West Broadway

H. Northerly side of West Broadway from Park Avenue westerly to furthest point of cemetery. Southerly side of West Broadway from Goding Avenue, (most westerly entrance to Lincoln Plaza) to most easterly entrance to Irving Mainway

I. Easterly side of Main Street from the crosswalk at the northerly intersection of Main Street and West Broadway southerly for a distance of one hundred seventy-two (172) feet

J. Wilson Street

K. Southerly side of Taylor Street from the Main Street intersection to the Ariel Street intersection

L. Katahdin Avenue

M. Easterly side of Main Street from the intersection of Main Street and Lee Road by the Methodist Church north to the intersection of Clay Street and Main Street

N. Northerly end of Fleming Street where it connects to Depot Street extending southerly one hundred forty-one (141) feet towards West Broadway on both sides of the street.

1407.3.12 Winter Night-Time Parking

From November 1st to April 1st between 12:01 A.M. and 6:00 A.M. all vehicles are prohibited from parking upon any public way in the Town of Lincoln except in cases of emergency. The Police Chief, Public Safety Director, Public Works Director, or any police officer may cause any vehicle so parked on any public way to be moved and placed in a suitable parking space off the public way street, at the expense of the owner of such vehicle, and without the Town or any of its employees being liable for any damage that may be caused by such removal.

Winter Night-Time Parking permits may be issued to tenants of residential apartments located on Main Street between Lake Street and Burton Street where there is no off-street parking with the building. The permit will allow night-time parking in the Veteran's Memorial Square, rows 2 and 3 on the side adjacent to Mechanic Street. Any permitted vehicle must be removed by 7:00 am to allow

for snow removal. No vehicles will be allowed to park in the front or rear rows of the parking lot. Each apartment will be entitled to no more than two parking permits. Permit holders shall be responsible for moving any snow in and around the permitted vehicle in order to move said vehicle from the parking area. The Town of Lincoln shall issue a permit for all authorized vehicles. Permits shall be displayed on the rear driver's side window of the vehicle. Any vehicle not displaying a permit shall be subject to removal in accordance with Section 1407.3.7 of this ordinance. The Police Chief, Public Safety Director, or the Public Works Director shall cause any non-permitted vehicle in this area to be removed in accordance with 1407.3.7 of this ordinance.

Application for Permit:
The application for the permit shall contain: the name of the owner or lessee of the motor vehicle; residential address; the make, model, and plate number of the vehicle; and telephone number as well as the number and state of the driver's license of the applicant. Applications shall be supplied by the Town Clerk's office.

Documents Presented with Application:
The following documents must be presented with the permit application:

a. Valid vehicle registration, and, if applicable, the rental agreement for the vehicle or a letter from a company official on company letter head indicating a vehicle has been permanently assigned to the applicant;

b. Valid State of Maine driver's license showing applicant's address;

c. Copy of deed, lease and/or rent receipt which includes tenant's name and description of leased/owned property; and

d. Remittance of ten dollars ($10.00) permit fee.

For the purpose of this ordinance, "public way" shall mean any street or parking area owned and/or maintained by the Town of Lincoln over which the general public has a right to pass.

For the purpose of this ordinance, "tenant" shall mean any person residing in an apartment located on Main Street between Lake Street and Burton Street.

1407.3.13 Parking with Left Side to Curb, Exception

No motor vehicle shall be parked with its left-hand side to the curb, except on designated one-way streets unless specifically prohibited by this ordinance.

1407.3.14 Authority to Establish Parking Time Limits

Two Hour: Beginning at the intersection of West Broadway and ending at intersection of Main Street and Lee Road.

The municipal mini mall parking lot on the westerly side along U.S. Route 2, first row, (adjacent to the sidewalk) shall be limited to two-hour parking

15 Minute: The area that directly parallels the front of the mini mall building known as 25, 27, & 29 Main St. (Map 137 Lot 071) shall be designated parallel parking. Those spaces shall be limited to 15-minute parking.

The Police Chief or Public Safety Director may, with the consent of the Council, establish time limits on the parking of motor vehicles on all public ways. Such time limits shall be conspicuously posted.

1407.3.15 Overtime Parking[8]

No person shall, stop, stand, or park a motor vehicle in excess of the established and posted time limit.

(a) No Person shall leave abandoned any motor vehicle on Town of Lincoln owned properties. A motor vehicle shall be deemed abandoned after a 7-day period. The motor vehicle shall be towed at registered owners' expense and at the discretion of the Police Chief and or Public Works Director.

1407.4 Article IV. Pedestrians

1407.4.1 Authority to Establish Crosswalks

The Police Chief or Public Safety Director is hereby empowered and authorized, subject to the approval of the Town Council, to designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his/her opinion there is a particular danger of pedestrians crossing the roadway, and at such other places as he/she may deem necessary.

1407.4.2 Drivers to Exercise Due Care

Notwithstanding the foregoing provisions of this article, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

1407.5 Article V. General Penalty

1407.5.1 Violations

[8] Council approved change 2-14-2022

Persons violating provisions of this ordinance shall be subject to the general penalty provisions set forth herein.

1407.5.2 Fines

Any person convicted of a violation of this ordinance shall be punished by a fine as set forth in the Appendix to the Code. All fines shall be recovered on complaint to the use of the Town of Lincoln.

1408. SKATEBOARDING/ROLLER SKATING/ROLLERBLADING

1408.1 Title and Authority

This ordinance shall be known as the Town of Lincoln Skateboarding/Roller Skating/Rollerblading Ordinance. This ordinance is enacted pursuant to the Home Rule powers granted by the Main Constitution, and 30-A MRSA 3001 et seq.

1408.2 Purpose

Skateboarding/Roller Skating/Rollerblading is a dangerous activity when conducted on public ways and places. The purpose of this ordinance is to protect the public health and welfare by prohibiting skateboarding activities in specific public areas within the municipality.

1408.3 Definitions

(a) **SKATEBOARD:** a single platform which is mounted on wheels, having no mechanism or other device with which to power, steer, or control the direction of movement thereof while being used, operated, or ridden.

(b) **ROLLER SKATE/ROLLERBLADE:** A shoe with a set of wheels or wheels in tandem attached for skating over a flat surface (also a metal frame with wheels attached that can be fitted to the sole of a shoe.)

(c) **PUBLIC AREA:** a restricted area that includes Main Street from the monument at the intersection of Lee Road and Main Street, southerly to the monument at the intersection of Main Street, Main Street, and West Broadway. Also, Burton Street, Mechanic Street, and Lake Street to their intersection with School Street.

1408.4 Use in Public Areas Prohibited

No person shall operate or cause to be operated a skateboard, roller skate, or rollerblade on any public area in the municipality as defined in Section 3(c) herein.

1408.5 Enforcement

This ordinance may be enforced by any constable duly authorized by the municipality or any law enforcement officer.

1408.6 Penalties

Upon conviction of a violation of this ordinance, the penalties shall be as follows:

First Offense	Written Warning
Second and Subsequent Offenses	$50.00 Fine

All fines collected under this ordinance shall accrue to the General Fund of the Town of Lincoln.

1408.7 Severability

In the event that court of competent jurisdiction determines that any provision of this ordinance is invalid, the remaining provisions shall continue in full force and effect.

1408.8 Effective Date

This ordinance shall become effective thirty (30) days from adoption by the legislative body of the municipality.

1409. WATERFOWL CONTROL ORDINANCE

Title

This ordinance shall be known and may be cited as the "Waterfowl Control Ordinance" of the Town of Lincoln.

1409.1 Section 1. Legislative Findings

The Lincoln Town Council hereby finds that the large number of waterfowl and fowl attracted by feeding and baiting in and around public beaches, swimming areas, parks, and boat launching areas of Mattanawcook Lake increase the presence of harmful bacteria which present a threat to public health. Fecal matter from waterfowl and fowl creates unsafe conditions and an unsightly appearance which detract from public enjoyment of the Town's beaches, swimming areas, parks, and boat launching areas, and are caused in part by the feeding and baiting of these waterfowl and fowl by the public.

1409.3 Section 3. Prohibited Conduct

No person, except the Commissioner of the Maine Department of Inland Fisheries and Wildlife or his/her designee, or the Director of the U.S. Fish and Wildlife Service or his/her designee, in the conduct of waterfowl management practices, shall feed or bait any migratory or non-migratory waterfowl or fowl in the following areas:

A. Within the boundaries of those public beaches, swimming areas, parks, and boat launching areas of Mattanawcook Lake owned or operated by the Town of Lincoln, and further identified in Appendix A, attached;

B. Upon those portions of any public or private properties located within fifty (50) feet of the exterior boundary of those public beaches, swimming areas, parks and boat launch areas of Mattanawcook Lake identified in Appendix A;

C. In or over the waters of Mattanawcook Lake, if done within two hundred fifty (250) feet of the exterior boundary of those public beaches, swimming areas, parks, and boat launch areas of Mattanawcook Lake identified in Exhibit A;

D. Within all other shoreland areas in the Town of Lincoln, the Health Officer may issue temporary restrictive orders prohibiting the direct feeding or baiting of migratory and non-migratory waterfowl and fowl. Temporary Restrictive Orders will be issued if the activity of directly feeding or baiting said waterfowl presents a real or possible public health and safety risk as determined by the Health Officer. The purpose of this restrictive order is to discourage the congregating of waterfowl or fowl that causes increased concentrations of fecal matter within the waters thus fostering the growth of bacteria, including E-Coli, as well as elevating phosphorus levels within the water. Temporary Restrictive orders shall be in effect for twenty days and renewable as often as required.

This ordinance is not intended to prohibit the raising of domestic waterfowl as allowed by any other ordinance(s), provided that domestic waterfowl raised within the areas where feeding and baiting of waterfowl and fowl are prohibited under this section must be securely contained or penned in an enclosure so as to prevent fecal matter from the domestic waterfowl from entering Mattanawcook Lake.

1409.4 Section 4. Definitions

The following definitions shall apply unless the context clearly indicates another meaning:

A. Waterfowl shall mean any bird specifies of the family Anatidae (ducks and geese), either migratory, non-migratory, or resident.

B. Fowl shall mean any bird species of the family Laridae (gulls), either migratory, non-migratory, or resident.

C. Feeding and baiting shall mean the placing, exposing, depositing, distributing or scattering, directly or indirectly, of shelled corn, shucked or unshucked corn, wheat or other grains, bread, salt, or any other feed or nutritive substances, in any manner or form, so as to lure, attract, or entice waterfowl or fowl to, on or over any such areas where such materials, feed, or substances have been placed, exposed, deposited, distributed, or scattered.

D. Temporary Restrictive Order: A written order issued by the Health Officer to one or more residents restricting them from the direct feeding or baiting of waterfowl or fowl. This shall include bread, birdseed, feed, or other material being consumed by the waterfowl or fowl.

1409.5 Section 5. Enforcement

This ordinance may be enforced by any Animal Control Officer, Code Enforcement Officer, Health Officer or his/her designee or by any Police Officer of the Town of Lincoln, based upon the officer's personal observation, or upon complaint. All enforcement actions shall be initiated by serving a citation upon the defendant in accordance with Rule 80H(b), Maine Rules of Civil Procedure, as the same may be amended, directing the defendant to appear in district court at the date, time and location stated in the citation. All court proceedings under this ordinance shall be conducted in accordance with Rule 80H, Maine Rules of Civil Procedure.

1409.6 Section 6. Penalty

Whoever violates any provision of this ordinance shall be given a warning for the first violation, and for subsequent violations shall be fined not less than ten dollars ($10.00), nor more than fifty dollars ($50.00), to be recovered to the use of the Town of Lincoln. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town must be awarded reasonable attorney's fees, expert witness fees, and costs, in addition to any fine imposed.

For any first offense within a one-year period, civil proceedings may be waived by the defendant upon payment to the Town of Lincoln of the minimum ten dollars ($10.00) fine within seven (7) days after service of the citation upon the defendant. Civil proceedings may not be waived when the defendant has been cited two or more times for a violation of this ordinance within a one-year period.

1409.7 Section 7. Severability

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

1410. SAFE ZONES

1410.01 Purpose: In order to promote the health and safety of the citizens of the Town of Lincoln in general, and the minor children which frequent areas within the Town of Lincoln, there is hereby established Safe Zones within the Town of Lincoln in accordance with Title 30-A MRSA §3253.

1410.02 **Authority:** Establish Safe Zones within the Town of Lincoln in accordance with Title 30-A MRSA §3253.

1410.03 **Safe Zones:** The locations of Safe Zones, which are established under this Article, are as follows:

Washington Street Playground, which is generally described on the Tax Assessor's map, dated April 2002, as amended as Map 8, Lot 50 on file in the Town Clerk's office 63 Main Street Lincoln, ME.

Hannaford's Little League Ball Field, which is generally described on the Tax Assessor's map, dated April 2002, as amended as Map 14B, Lot 10-2 on file in the Town Clerk's office 63 Main Street Lincoln, ME.

Prince Thomas Park, which is generally described on the Tax Assessor's map, dated April 2002, as Map 5, Lot 59 on file in the Town Clerk's office 63 Main Street Lincoln, ME.

Ballard Hill Community Center, which is generally described on the Tax Assessor's map, dated April 2002, as amended as Map 3, Lot 11, on file in the Town Clerk's office 63 Main Street Lincoln, ME.

1410.04 **Signage:** Signs shall be posted designating the Safe Zones in accordance with Title 30-A MRSA §3253. The posting of the signage shall be the responsibility of the Lincoln Police Chief or Public Safety Director or designee.

1410.05 **Penalty:** In regards to trafficking and furnishing scheduled drugs in a Safe Zone as determined by MRSA §1101 will be enhanced from a Class D misdemeanor to a Class C felony with a maximum of five (5) years imprisonment.

1411. PUBLIC DOCKING ORDINANCE[9]

1411.1 Section 1. Legislative Findings

The Town has several public docking systems located throughout the Town of Lincoln. These docking systems are located at Folsom Pond, Long Pond, Upper Cold Stream Pond aka (Little Narrows), Pollard Brook, Prince Thomas Park and MacEachern Memorial Park. The Town Council hereby finds the public has been using the docking system located at the MacEachern Memorial Park for unauthorized overnight mooring. This goes against the intended purpose of public docking systems.

1411.2 Section 2. Statement of Purpose

The purpose of this ordinance is to control the docking tie-up at the various docking systems located throughout the Town of Lincoln. The docking systems

[9] Revised and adopted by the Council on February 12, 2024

were installed to allow a temporary mooring for boaters who wished to frequent our many lakes, our local restaurants, retailers, and various town sponsored events, such as, but not limited to, the Friday night concerts and the Loon Festival.

1411.3 Section 3. Docks and floats

Landing docks will be maintained from May to October for the use of the public, unless weather conditions dictate later installation and/or earlier removal, as determined by the Public Works Director.

A. Tie-up time will be allowed from sunrise to sunset. No tie-up will be allowed between sunset and sunrise; the exception being the Gazebo docking system (2 slips) on Main Street.

B. Other boats, rowboats, canoes, kayaks, or other unpowered boats may be tied to the docks with the same maximum tie-up to apply.

C. Docking at these limited number of slips can be rented for overnight docking/storage from the months of May first through Indigenous Peoples' Day at the Town Office.

1411.3.1 Fee Schedule

Slips can be rented seasonally, with a permit obtainable at the Town Office. Seasonal fee will be five hundred dollars ($500.00) and cover a period no longer than from May first through Indigenous Peoples' Day.

1411.3.2 Application for Permit

Applications for a docking permit will be accepted until April 1st of each year or the first Monday thereafter if April 1st falls on a weekend. Applicants who owe outstanding fines and/or fees under this ordinance will not be permitted to obtain a slip permit. If more applications are received than slips available, the Town Clerk and/or the Cemetery, Parks, and Recreation Director of the Town of Lincoln shall conduct a random drawing on the first Tuesday after April 1st to determine which applicants will be allowed to obtain slip permits for that season. Selected applicants will have two (2) weeks (10 business days) after that Tuesday to pay for their slip permits or else lose their opportunity to obtain a slip permit for that year. Permits will be assigned to a specific watercraft and will not be transferrable to a different watercraft. Slip permits that become available after April 17th of each year may be applied and paid for on a first-come, first-served basis. If a slip is purchased on or after August first, the seasonal fee will be prorated to $250.00.

The permit sticker issued must be visibly displayed on the bow of the watercraft,

1411.3.3 Surrender of Permit

Slip permit holders who vacate their slip for the remainder of a season are encouraged to surrender that permit to the Town Office so that slip may be subsequently rented to another watercraft owner for the remainder of that season. If the vacated slip is rented to another applicant on or after August first, the seasonal fee will be prorated to $250.00.

1411.4 Section 4. Penalty

Any person who leaves a watercraft moored to the public docks beyond the allotted time will be fined $100.00 per day as long as the violation continues. Any person who illegally parks their watercraft in or blocking a rented slip shall be fined $250 per day as long as the violation continues and after two (2) nights their watercraft may be towed and impounded until fine and towing charge has been paid.

1411.5 Section 5. Enforcement

This ordinance will be enforced by any Police Officer, Code Enforcement Officer, and/or Cemetery, Parks and Recreation Director of the Town of Lincoln who shall have authority to initiate enforcement actions by serving a citation upon the defendant in accordance with Rule 80H(b), Maine Rules of Civil Procedure, as the same may be amended, directing the defendant to appear in district court at the date, time and location stated in the citation. Citations may be served in person to the owner and/or user of the watercraft and/or may be taped to the watercraft that is in violation of his ordinance. Defendants may plead guilty and pay fines and associated fees at the police station prior to district court date in lieu of appearance. All court proceedings under this ordinance shall be conducted in accordance with Rule 80H, Maine Rules of Civil Procedure.

1411.6 Section 6. Severability

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

1412. ALL-TERRAIN VEHICLE ORDINANCE

1412.1.1. This Ordinance shall be known and may be cited as the "ATV Ordinance of the Town of Lincoln, Maine."

1413. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings:

1. ATV.

"ATV" means all-terrain vehicle. "All-terrain vehicle" means a motor driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-

track, multi-wheel or low-pressure tire vehicle or a 3-wheel or belt driven vehicle. For the purpose of this ordinance a dirt bike is not an ATV.

2. Operate.
"To operate" in all its moods and tenses when it refers to an ATV, means to use an ATV in any manner within the public right of way of the Town of Lincoln.

1414. OPERATING AN ATV ON A PUBLIC WAY[10]

1414.1. ATV's may be operated on streets and public ways in special events of limited duration conducted according to a prearranged schedule, under a permit from the governmental unit having jurisdiction.

1414.2 ATVs may only operate on Public Ways designated ATV Access Routes. All ATV Access Routes will be designated and signage will indicate the Routes.

1414.3 ATV Access Routes shall include the following streets: Taylor Street and Main Street from Taylor Street to Veterans Memorial Parking Lot. Mechanic Street to School Street to Burton Street, Lincoln House Motel to be the designated Trail End.

1414.4 All ATVs must be operated on the right-hand side of the lane which they are travelling in and they must operate in single file in a public way.

1414.5 All ATVs must be properly registered and insured.

1414.6 ATV operation will be allowed on Public Ways between 8 a.m. and 8:00 p.m. and between May 15 and November 1 or as long as snow is not visible on the public way or sidewalk.

1414.7 Travel speeds are limited to the conditions of travel and maxed at 15 M.P.H.

1414.8 Any operator that is age 10-16 can operate on a public way provided they can show proof of completing a State of Maine sponsored ATV safety program and be placed between their parent's ATVs. No Exceptions.
All operators on public way over the age of 16 must be accompanied by a parent or an adult guardian until the age of 18. All operators must be able to show proof that they are over 18 to ride independently.

1414.9 All operators under the age of 18 must wear a helmet when operating in a public way. Operators must be able to show proof of age.

[10] Council Approved August 8, 2022

1414.10 ATV Operators must obey all posted signs and traffic laws.

1414.11 All ATV operators will proceed with caution when approaching/passing all non-motorized trail users including, but not limited to, bicyclists, pedestrians-with or without pets, and horses.

1414.12 No ATVs are allowed to operate on any way designated for pedestrian traffic.

1414.13 ATVs are not allowed to operate on any area that is designated a park or school.

1414.14 Half Township Road, Curtis Farm Road and South Road from Curtis Farm Road intersection and extend 1/2 mile to the town line shall consist of a separate ATV Access Route with the following guidelines:
All ATVs must be registered and insured and ATV operation will be from May 1 to December 1 with no time restriction Speed Limit is 20 M.P.H.

Penalty:

Any person who violates any section of this ordinance commits a civil violation for which fine of not more than two hundred dollars ($200.00) shall be adjudged.

This ordinance shall be enforced by the Lincoln Police Department and any other law enforcement agency.

Severability:

Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason then the remainder of the Ordinance shall not be affected.

1415. LINCOLN LAKES WATER LEVELS AND MINIMUM FLOW ORDINANCE

1415.1 Section I. Title

This ordinance shall be known and may be cited as the "Lincoln Lakes Water Levels and Minimum Flow Ordinance" (hereinafter referred to as the "Ordinance"). A listing of all of the Lakes or Ponds making up the various lake systems subject to this Ordinance is attached hereto as Exhibit A (hereinafter generally referred to as the "Lincoln Lakes" or "Lake Systems"). Lincoln Lakes shall hereinafter refer to any one, lake system grouping of, or all of the Lakes or Ponds set forth in any of the

lake systems identified in Exhibits A and B.

1415.2 Section II. Authority

In accordance with 30-A M.R.S. §§ 4454-4457, 38 M.R.S. §§ 815-818, and 38 M.R.S. § 843, the Town of Lincoln (hereinafter referred to as "Town") hereby ordains that the Town shall, upon approval of the Maine DEP, have authority to regulate water levels and minimum flows for the Lincoln Lakes in the Town of Lincoln and, in conjunction therewith, to enter upon that property necessary for the purpose of maintaining, repairing, reconstructing, and operating existing dams. Specifically, the Town or authorized contractors, together with personnel and equipment, may enter onto property under the authority of any enforcement order or easement secured for the purpose of maintenance and repair (and other authorized activities) of any dam located on the impounded Streams and Ponds identified in any of the lake systems set forth on Exhibit A, or any other future dams that affect the water levels or minimum flow of the Lincoln Lakes in the Town of Lincoln.

1415.3 Section III. Findings and Purpose

The Lincoln Lakes are high value watersheds and recreational areas in the Town of Lincoln. It has been determined that disrepair, discontinuance or a breach of any of the dams on the Lincoln Lakes would result in both ecological and economic impacts to the Lincoln Lakes, to Lakefront owners and their properties, the Town of Lincoln, and the State of Maine. It is critical for the Town to have the ability to maintain water levels in the Lincoln Lakes and in conjunction therewith, to monitor and maintain the dams.

Title 30-A M.R.S. § 4455 provides that any municipal ordinance to regulate water levels and flows must include (1) all substantive provisions of 38 M.R.S., Ch. 5, Subchapter 1, Article 3-A, under which the DEP establishes water level regimes and minimum flow requirements; and (2) provisions allowing the Commissioner of Environmental Protection and any municipality downstream of the impoundment to petition for a water level hearing.
This Ordinance only applies to dams without a minimum flow regime or water level order determined by Federal Energy Regulation Commission, or by a permit setting water levels issued under the Natural Resources Protection Act, Site Location of Development Law, Maine Waterway Development and Conservation Act, land use regulation laws or any other state statute regulating the construction or operation of dams. The Town has confirmed with the Maine Department of Environmental Protection (MDEP) and the Federal Energy Regulatory Commission (FERC) listing of regulated dams that the dams listed in Exhibits A - B are not regulated dams subject to those authorities.

Because some of the lake and pond systems are interconnected as identified as the three Lake Systems on Exhibit A, there are variable impoundment elevations

specific to each lake system. The impoundment elevations are set forth on Exhibit B based upon the specific lake system.

1415.4 Section IV. Substantive Law Provisions relating to Water Levels and Flow Requirements Adopted by Reference.

The Town Council of the Town of Lincoln hereby adopts the following requirements consistent with the requirements of 38 M.R.S., Ch. 5, Subchapter 1, Article 3-A:

1. Power. The Town Council may on the Council's own motion and shall, at the request of the owner, lessee or person in control of a dam on the Lincoln Lakes, the Commissioner of Inland Fisheries and Wildlife, the Commissioner of Environmental Protection, any municipality downstream of the Lincoln Lakes, or upon receipt of petitions from the lesser of at least 25% or 50 of the littoral or riparian proprietors of the Lincoln Lakes, conduct a public hearing for the purpose of establishing a water level regime and, if applicable, minimum flow requirements for any of the Lincoln Lakes.

Notwithstanding the provisions of this subsection, after an order establishing a water level regime or minimum flow requirement has been issued pursuant to this subsection, the Town Council is not required to hold a hearing to establish a new water level regime or minimum flow requirement for any of the Lincoln Lakes in response to a petition from littoral or riparian proprietors unless the Town Council determines that there has been a substantial change in conditions or other circumstances materially affecting the impact of water levels and minimum flows on the public and private resources identified in subsection 4 since the order was issued.

2. Notice. The Town Council shall provide written notice of any hearing held pursuant to this section to the owner, lessee or person in control, if known, of any dam on or affecting the Lincoln Lakes and to any petitioner who has petitioned for a hearing with respect to this body of water or lake system. The Town Council shall give public notice of the hearing under Title 5, section 9052 and shall also file notice of the hearing in the Lincoln municipal office and in the county clerk's office of Penobscot County.

3. Conduct of hearing. The hearing shall follow the procedures for a public hearing specified in the Lincoln Charter, any applicable Lincoln Ordinance, and applicable Maine law, as well as the procedures specified in this section. The hearing shall be adjudicatory in nature.

4. Evidence. At the hearing, the Town Council shall solicit and receive testimony for the purpose of establishing a water level regime and, if applicable, minimum flow requirements for the Lincoln Lakes. The testimony is limited to:

A. The water levels necessary to maintain the public rights of access to and use of the water for navigation, fishing, fowling, recreation and other lawful public uses;

B. The water levels necessary to protect the safety of the littoral or riparian proprietors and the public;

C. The water levels and minimum flow requirements necessary for the maintenance of fish and wildlife habitat and water quality;

D. The water levels necessary to prevent the excessive erosion of shorelines;

E. The water levels necessary to accommodate precipitation and run off of waters;

F. The water levels necessary to maintain public and private water supplies;

G. The water levels and flows necessary for any ongoing use of the dam to generate or to enhance the downstream generation of hydroelectric or hydromechanical power; and

H. The water levels necessary to provide flows from any dam on the Lincoln Lakes to maintain public access and use, fish propagation and fish passage facilities, fish and wildlife habitat and water quality downstream of the body of water.

5. Order. Based on the evidence solicited at the hearing, the Town Council shall make written findings and issue an order to the owner, lessee or person in control of a dam establishing a water level regime for the Lincoln Lakes and, if applicable, minimum flow requirements for such dam. The order must, insofar as practical, require the maintenance of a stable water level, but must include provision for variations in water level to permit sufficient drawdown of the body to accommodate precipitation and runoff of surface waters, minimum flow requirements and to otherwise permit seasonal and other necessary fluctuations in the water level of the Lake, Pond or Lake System in order to protect public health, safety and welfare and the public and private resources identified in subsection 4. The Town Council shall deliver a copy of the order to the owner, lessee or person in control of the dam, if

known, the municipal office of the Town of Lincoln, and each petitioner, if any, and shall also file a copy of the order in the Penobscot Registry of Deeds.

6. Appeal. The Town Council's order may only be appealed within thirty (30) days of the issuance of the Council's written Order to the Maine Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

1415.5 Section V. Maintenance of the Dam after Order Issued.

1. Prohibition. After issuance of an order under Section IV, subsection 5, establishing a water level regime for the Lake Systems, no owner, lessee or person in control of the dam impounding any Pond or Lake included in a Lake System, nor any subsequent transferee, may operate or maintain the dam or cause or permit the dam to be operated or maintained in any manner that will cause the level of water to be higher or lower than that permitted by order of the Town Council or to otherwise violate the terms of the order of the Town Council.

2. Exception. An owner, lessee or person in control of a dam on the Ponds or Lakes included in a Lake System may not be in violation of subsection 1 when the water level fluctuation not permitted by the order was caused by unforeseeable and unpredictable meteorological or other natural conditions or operating failures of such dam or any associated equipment or by valid order of federal, state or local authorities, including an order issued pursuant to Title 37-B, section 1114, subsection 2, and when the person could not have avoided the fluctuation by promptly undertaking all reasonably available steps to regulate water flow through or over any dam under the person's control. The burden of proof is on the owner, lessee or person in control of the dam to demonstrate the applicability of this subsection.

3. Enforcement. The Town or any littoral or riparian proprietor may commence an action to enjoin the violation of any provision of this Section V. The Town may enforce any order issued under Section IV by any other appropriate remedy, including, but not limited to, entering the dam premises to carry out the terms of the order, and shall be entitled to all costs incurred by the Town for the purposes of carrying out the terms of such order.

The violation of any order issued under Section IV, is punishable by a forfeiture of not less than $100 and not more than $10,000. Each day of violation is considered a separate offense.

5. Appeal. Any person aggrieved by an order of the Town Council under Section V may appeal to the Superior Court under Rule 80B of the Maine Rules of Civil Procedure.

1415.6 Section VI. Monitoring of Water Levels and Oversight of the Dam(s)

The monitoring of Lakes or Ponds water levels above Dams, and associated minimum flows below dams, as well as oversight of operation of dams (and any other future dam on the Pond or Lake included in a Lake System) shall be accomplished in the following manner by the Town of Lincoln in consultation with the Lakefront Owners:

Dam Steward: As a designee of the Town Council, a Steward shall be appointed by the Town Council annually in the month of January for each year following the adoption of this Ordinance. The Steward's responsibility shall include monitoring the Ponds and Lakes water levels and minimum flows for the Pond and Lake included in a Lake System, and dam conditions and maintenance issues. The Steward will work in cooperation with the Maine Department of Inland Fisheries and Wildlife and the Maine Emergency Management Agency to maintain water levels that are safe and desirable to maintain the fish and wildlife species using the Pond or Lake. The Town will provide notification by posting notice on their Town website as well as posting notice at the Town Office of any events promptly.

1415.7 Section VII. Additional Dam Maintenance Procedures

Applicability. This section shall apply to dam maintenance and repair activities conducted by the Town that are not performed pursuant to an enforcement order in accordance with Section VI of this Ordinance.

Notification. Notification by the Steward of any required repairs will be given to the Town. The Town shall post a copy of the Notice in the Lincoln municipal office.

Authorization to repair. The Town Council, upon notice of required maintenance or repair work, will be the sole authorizing body.

Scope of repairs. The scope of repairs, design specifications, and permit requirements shall be itemized and developed as a bid specification by a qualified engineer.

Approval of repairs. Repairs that will not be conducted by a Town Department shall be awarded through any bid process required by the municipal charter.

1415.8 Section VIII. Funding of repairs

TIF or Reserve Funds. The Town's costs to carry out activities pursuant to this Ordinance shall be funded through approved TIF Funds, Economic Development Reserve Funds, Unappropriated Fund Balance, or a combination of these sources, as approved by the Town Council.

1415.9 Section IX. Required Reviews of Dam Repairs

The Town Manager, Public Works Director, and Economic Development Director shall review and verify that all dam repairs have been done in accordance with acceptable engineering standards and workmanship. In doing so, the Town may consult with the Lakefront Owners, Maine Emergency Management Agency, Maine Department of Inland Fisheries & Wildlife, the Maine Department of Environmental Protection, and any other governmental agency or third-party consultant/engineer.

1415.10 Section X. Severability

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not invalidate or affect the enforcement of any other section or provision of this Ordinance.

1415.11 Section XI. Definitions

As used in this Ordinance, unless the context indicates otherwise, the following terms have the following meanings:

Dam. "Dam" means any man-made artificial barrier, including appurtenant works, the site on which it is located and appurtenant rights of flowage and access, which impounds or diverts a river, stream or great pond and which is 2 feet or more in height and has an impounding capacity at maximum water storage elevation of 15 acre-feet or more. Any such artificial barrier constructed solely for the purpose of impounding water to allow timber to be floated downstream in a logging operation shall not be considered a dam for the purposes of this article, unless it has been repaired, modified or maintained by or with the knowledge of the owner, lessee or person in control since the discontinuance of its use in connection with logging operations. Any adjacent property, easements, roads, bridges or works not necessary for the operation or maintenance of a dam or access to the dam shall not be included under the provisions of this article.

Height. "Height" means, in reference to a dam, the vertical distance in feet from the natural bed of the stream or watercourse measured at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream channel or watercourse, to the maximum capable water storage elevation.

Littoral Proprietor. "Littoral Proprietor" means an owner or lessee of property on the shore of a lake impounded by a particular dam.

Person. "Person" means any individual, firm, association, partnership,

corporation, trust, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

Riparian proprietor. "Riparian proprietor" means an owner or lessee of property on the bank of a river or stream or shore of a pond or other small body of water impounded by a particular dam.

EXHIBIT A

WATERSHEDS AND CONTROLLING DAMS

THE MATTANAWCOOK LAKE WATERSHED:

1) Upper Pond, 2) Folsom Pond, 3) Crooked Pond, 4) Mattanawcook Pond are all impounded by three dams. One on Upper, One on Folsom and One on Mattanawcook. These flow into the mill pond, which flows into the Penobscot River.

THE UPPER COLD STREAM POND LAKE WATERSHED:

5) Upper Cold Stream Ponds (Big and Little Narrows), 6) Little Round Pond and 7) Cold Stream Pond all are impounded. The first dam on Little Round leads into Little Narrows with a flow through culvert to Big Narrows to a privately owned dam that flows into a stream that flows into Cold Stream Pond. Cold Stream Pond has a dam in Enfield, this also flows into the Penobscot River.

THE CAMBOLASSEE POND LAKE WATERSHED:

8) Caribou, 9) Egg, and 10) Long Pond are all connected and a dam exist on Long. The outflow of that dam flows into 11) Cambolassee Stream that then flows into 12) Cambolassee Pond that also is controlled by a dam. The outflow of that dam flows into 13) Stump or Snag Pond which also has a dam that flows into the former Haskell Lumber Company site. This site also has a dam that controls flow into the Penobscot River.

EXHIBIT B

WATER SHED	IMPOUNDED BY DAMS	WATER LEVELS
MATTANAWCOOK LAKE SHED: Upper Pond, Folsom Pond, Crooked Pond, Mattanawcook Pond are all impounded by three dams.	Dam on Upper, Folsom and Mattanawcook. These flow into the mill pond, which flows into the Penobscot River.	**PLEASE SEE BELOW**

UPPER COLD STREAM PONDS WATERSHED: Upper Cold Stream Ponds (Big and Little Narrows), Little Round Pond and Upper Cold Stream Ponds all are impounded.	The first dam on Little Round leads into Little Narrows with a flow through culvert to Big Narrows to a privately owned dam that flows into a stream that flows into Cold Stream Pond.	**PLEASE SEE BELOW**
CAMBOLASSEE POND WATER SHED: Caribou, Egg, and Long Pond are all connected and a dam exists on Long. Cambolassee Stream flows into Cambolassee Pond which flows into Stump or Snag Pond.	A dam exists on Long Pond that flows into Cambolassee Stream which flows into Cambolassee Pond that also has a dam. The outflow of that dam flows into Stump or Snag Pond which also has a dam that flows into the former Haskell Lumber Company site. This site also has a dam that controls flow into the Penobscot River.	**PLEASE SEE BELOW**

MATTANWCOOK LAKE WATERSHED: [11]

	Non-Winter Season		Winter Season		
	Elevation	Distance down from top of Abutment (inches)	Elevation	Distance down from top of Abutment (inches)	Minimum Flow (cfs)

[11] Approved Council Changes 12/13/2021, 7/10/2023

Upper Pond Dam	274.8	26	271.3	50	2.5
Folsom Dam	219.6	36	219.4	55	4.7
Mattanawcook Dam	213.7	32	211.7	55	11.8
Mill Dam	196.7	16	192.3	68	12.1

Suggested Water Level Target Schedule:

Non-Winter Season from Mid-April to Mid-October
Winter Season from Mid-October to Mid-April

Changes to the water levels during transition between "seasons" shall be, to the extent feasible, gradual, over a one (1) to two (2) week period. The schedule shall be adjusted based upon regional conditions and potential snow melt season and quantity.

Minimum Flow Release Adjustment

The target minimum stream flow at the Dam shall be the mean August flow; if required, the flow may be reduced during fire control, emergency conditions and when natural conditions (drought) cause inflow to be less, all as permitted in Chapter 587 of the DEP regulations. Flows during those periods may be reduced to inflow amounts to maintain existing water levels at the time and then increased back to the target stream flow as soon as conditions permit.

UPPER COLD STREAM PONDS WATERSHED:

Target Upper Cold Stream Pond Lake Water Levels (measured at the Dam):

Mid-April to Mid-October **Elevation 100.3 ft**
Mid-October to Mid-April **Elevation 99.5 ft**[12]

Target Minimum Stream Flows (measured at the Dam):

The target minimum stream flow at the Dam shall be 1.12 cfs; if required, the flow may be reduced during fire control, emergency conditions and when natural conditions (drought) cause inflow to be less, all as permitted in

Chapter 587 of the DEP regulations. Flows during those periods may be reduced to inflow amounts to maintain existing water levels at the time and then increased back to the target stream flow as soon as conditions permit.

CAMBOLASSE STRAM POND WATERSHED

	Non-Winter Season		Winter Season		
	Elevation	Distance down from top of Abutment (inches)	Elevation	Distance down from top of Abutment (inches)	Minimum Flow (cfs)
Long Pond Waters	309.0	27	307.8	41	3.8
Cambolasse Pond	285.0	35	284.3	44	4.4
Stump Pond	243.0 [1]	36	242.5	42	6.0
Haskell Pond	185.0	33	183.5	51	6.2

Fn 1. Increase Stump Pond to Elevation 245.0 once dam is rehabilitated.

Water Level Target Schedule:

Non-Winter Season from Mid-April to Mid-October
Winter Season from Mid-October to Mid-April

Changes to the water levels during transition between "seasons" shall be gradual to the extent feasible.

Minimum Flow Release Adjustment

The target minimum stream flow at the Dam shall be the mean August flow; if required, the flow may be reduced during fire control, emergency conditions and when natural conditions (drought) cause inflow to be less, all as permitted in Chapter 587 of the DEP regulations. Flows during those periods may be reduced to inflow amounts to maintain existing water levels at the time and then increased back to the target stream flow as soon as conditions permit.

1500. FIRE DEPARTMENT

1500.1 Creation of Department

A. There is hereby established a fire department in the Town of Lincoln to be known as the Lincoln Fire Department.

B. The purpose of the Fire Department is to provide fire protection and other emergency response to the inhabitants of the Town of Lincoln and, when authorized by the municipal officers, to other municipalities.

1500.2 Fire Chief

A. The Fire Department shall be headed by a Fire Chief who shall be appointed by the Town Manager, subject to the confirmation of the Town Council. The selection of the Fire Chief shall be consistent with the procedures established in the hiring practices section of the Town of Lincoln's Personnel Rules and Regulations.

B. The Fire Chief shall serve, unless removed for just cause by the Town Manager, with the consent of a majority of the town Council, or in the event of the Fire Chief's resignation or retirement.

C. Chain of Command
The Fire Chief shall be head administrative officer of the Lincoln Fire Department and shall be responsible to the Town Manager for the proper administration of all departmental affairs.

D. Powers and Duties
The powers and duties of the Fire Chief shall be as set forth under 30 MRSA §3373(2).

1500.3 Permanent Firefighters

The number of full-time permanent firefighters of the Lincoln Fire Department shall be as authorized by the Town council of the Town of Lincoln. The hiring of full-time permanent firefighters shall be consistent with the selection procedures established in the Hiring Practices section of the Town of Lincoln's Personnel Rules and Regulations.

1500.4 Part-time and/or On-call Firefighters

The Fire Chief may, subject to the confirmation of the Town Manager, designate not more than fifty (50) part-time and/or on-call firefighters, not including support personnel. Support personnel shall be limited to ten (10) individuals. The cost of services provided by part-time and/or on-call firefighters shall be included as a budgetary item to be submitted by the Fire Chief in his annual operating budget.

1500.5 Fire Department Officers

A. To assist the Fire Chief in carrying out the duties and responsibilities of the Department, the Fire Chief may appoint a Deputy Fire Chief and/or Assistant Fire Chief, subject to the approval by the Town Manager.

B. The Deputy Fire Chief and/or Assistant Fire Chief may, at the discretion of the Fire Chief, be selected from the part-time and/or on-call roster of firefighters.

C. The Deputy Fire Chief and/or Assistant Fire Chief shall serve for an indefinite period until removed for just cause by the Fire Chief with the consent of the Town Manager or upon resignation or retirement.

D. The duties of the Deputy Fire Chief and/or Assistant Fire Chief shall be to assist the Fire Chief as directed or to perform the duties of the Fire Chief in his absence when so designated by the Fire Chief.

E. The positions of Captain in the Fire Department are to be appointed by the Fire Chief subject to approval by the Town Manger.

F. The duties of the Captains shall be leaders of the platoons of the firefighters.

1501. AID AGREEMENT BY FIRE DEPARTMENT TO OTHER COMMUNITIES

The Town Manager may, after consultation with the Fire Chief, enter into, amend, or cancel, written aid agreements with other communities as deemed advisable upon the ratification of the Town Council. In emergency situations, the Town Manager may authorize firefighting assistance by telephone, or in his/her absence, the Fire Chief shall be so authorized.

1502. FIRE PREVENTION AND INSPECTION

1502.1 Inspection of Premises by the Fire Chief

It shall be the duty of the Fire Chief or his/her designee to inspect or cause to be inspected under his/her direction as often as may be necessary, but not less than once a year in outlying districts and twice each year in the closely built portions of the town, all buildings, premises, and public thoroughfares, except the interior of private buildings for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of the provisions or intent of any ordinance affecting the fire hazard.

1502.2 Fire Chief to Order Fire Hazards Remedied

Whenever any such officer or member shall find in any building or upon any premises accumulation of rubbish or unnecessary accumulation of waste paper, shavings, or any highly flammable materials, so situated as to endanger property, or shall find obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the operation of the fire department, or egress of occupants, in the case of fire, he shall order same to be removed or remedied.

The service of any such order shall be made upon the occupant of the premises to whom it is directed by either delivering a true copy of same to such occupant personally, or by delivering the same to, and leaving it with, any person in charge of the premises. In case no such person is found upon the premises, service of an order shall be made upon the occupant of the premises by affixing a copy thereof in a conspicuous place on the door to the entrance of the said premises. Whenever it may be necessary to serve such an order upon the owner of the

premises, such order may be served either by delivering to, and leaving with, the said person a true copy of said order, or, if such owner is absent from the jurisdiction of the officer making the order, by mailing such copy to owner's last known post office address.

1502.3 Order to be Complied With

Such order shall be forthwith complied with by the owner or occupant of such premises or building, subject to appeal within twenty-four (24) hours to the Town Council, who shall within ten (10) days review such order and file their decision thereon. Unless the order is revoked or modified, it shall remain in full force, and be obeyed by such owner or occupant. Any owner or occupant failing to comply with such order within ten (10) days after service of said order, shall be liable to a penalty as hereinafter stated.

1502.4 Penalty

A person who shall violate this ordinance or fail to comply with it shall, upon conviction, be punished by a fine of not more than twenty-five dollars ($25.00). The imposition of a penalty for a violation of this ordinance shall not excuse the violation, or permit it to continue; such violation shall be remedied within thirty (30) days, and each ten (10) days thereafter that such violation is permitted to exist shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited condition.

1600. DEPARTMENT OF PUBLIC WORKS

There shall be a Department of Public Works, the head of which shall be the director of Public Works who shall be appointed by the Town Manager, with confirmation of the Town Council. The number of employees shall be determined by, and such employees shall be appointed by, the Town Manager, except as he/she may delegate such power to the Director of Public Works.

1600.1 Duties of Public Works Director

The Director of Public Works shall:

1600.1.1 Be responsible for all matters pertaining to construction management, maintenance, and operation of the physical properties of the Town under the administrative direction of the Town Manager, except as otherwise provided by the Town Charter, or by an ordinance.

1600.1.2 Be responsible for all planning in connection with such changes or improvements to the physical properties as are essential or desirable for the future growth of the Town.

1600.1.3 Be responsible for the care and maintenance of all property used by the Public Works Department

1600.1.4 See that no encroachments are made upon any streets, public landing, place, square, land, or ground of the Town, by fences, buildings, or otherwise, and whenever any encroachments shall hereafter be made upon the same, and the party making such encroachments shall neglect or refuse after notification to remove the same, to report the facts at once to the Police Chief and cooperate to the end that the person so offending shall be prosecuted and the nuisance abated.

1601. STREET EXCAVATION

1601.1 Title

The title of this Ordinance shall be known and may be cited as the "Town of Lincoln, Maine Street Excavation Ordinance".

1601.2 Authority

This ordinance is adopted pursuant to MRSA Titles 23 §3351 et seq.; 30-A §3001 and 35-A §2305 et seq.

1601.3 Purpose

This ordinance regulates digging and excavation in town streets to protect underground facilities and to restore the surface of the streets to a durable condition.

The Town Council intends that street excavations be conducted and rebuilt at the applicant's own expense; that all necessary repairs to streets and sidewalks meet

standards to eliminate the later development of unsafe and offensive bumps or sags in the road surface; and that such excavations are conducted so as to protect the value and safety of the Lincoln road network.

1601.4 Definitions

In this ordinance, the following words and phrases shall have the following meanings. If any word of phrase used in this ordinance is not defined herein, the word or phrase shall have the meaning provided by the Main Statute regarding excavations under public streets (Title 23 MRSA §3360-A).

A. **BUSINESS DAY** means any day other than Saturday, Sunday, or a legal holiday.

B. **EMERGENCY EXCAVATION** means immediate excavation necessary to prevent imminent injury, death, or loss of existing vital service.

C. **EXCAVATION** means any operation in which earth, rock or other materials on or below the ground is moved or otherwise displaced, by means of hand or power tolls, power equipment, or explosives and including grading, trenching, digging, ditching, drilling, auguring, tunneling, scraping, and cable or pipe driving, except tilling of soil and gardening for agricultural purposes. There is an exception for MDOT signs, as provided in 23 MRSA §3360-A.

D. **APPLICANT** means the contractor working for a property owner who submits an application under this ordinance.

E. **UNDERGROUND FACILITY** means any item of personal property buried or placed below the ground for use in connection with the storage or conveyance of water, sewage, electronic, telephone or telegraphic communications, electric energy, oil, gas or other substances and including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, appurtenances, and those parts of poles placed below ground.

F. **STREET** means any road, sidewalk, highway, or traveled right-of-way owned or held by the Town.

G. **DISTRICT** means any water, sewer, or other district duly recognized and formed under Maine Law.

H. **PERSON** means an individual, partnership, municipality, state, county, political subdivision, district, utility, joint venture, or corporation.

1601.5 Street Opening Permit Required

No person shall excavate a street or construct a driveway entrance within a street without a street opening permit from the Code Enforcement Officer or his/her designated representative.

1601.6 Winter Permits/Emergency Excavations

No street opening permits shall be issued for excavations between December 1 and April 1 in the following year, except for an emergency.

Emergency excavations are permitted, regardless of season, but with a post-excavation permit application and applicable fees.

1601.7 Permit Application

Applicants for a street opening permit must submit a written application to the Code Enforcement Officer on a form provided by the Town.

The application form shall contain the following information:

a. Name, address, and emergency telephone number of the applicant;
b. The location of the proposed excavation;
c. The beginning date of the proposed work;
d. A description of the work to be done;
e. Signatures of water and sewer utility and town departmental approval;
f. A sketch of the planned excavation, submitted on eight and one half (8.5) inch by eleven (11) inch paper, showing approximate trench locations and trench widths, trench depths, location of all barricades, detour routes, and warning signs, as required by current, and amended OSHA rules and regulations.
g. This sketch, including parts (a) through (f) above, shall become part of the permit, and shall be strictly followed. Application deviations shall be reported to this Public Works Director, Code Enforcement Officer, or his/her designee.

Application forms shall require applicants to meet the requirements of this ordinance. If the application is approved, the applicant is responsible for paying all the costs and complying with all the requirements of this ordinance.

All permits must be issued in accordance with the provisions of 23 MRSA §3351 (5-year moratorium).

The applicant shall provide notice to the damage prevention system (aka "Dig Safe"), as required by 23 MRSA §3360-A.

1601.8 Fees

Applicants shall submit a fee with each application for a street opening permit. See Schedule of Fees in the Appendix to this code.

1601.9 Standards

By submitting a permit application, the applicant agrees to perform the work in accordance with the following standards and all other applicable provisions of the Lincoln Municipal Code. Applicants shall submit a valid certificate of insurance, which covers the scope of work outlined within the application.

1601.9.1 Breaking through Pavement in Streets

(a) All excavation on paved street surfaces shall be pre-cut in a neat, straight line with pavement breakers, saws, cutting wheel, or other mechanical device approved by the Public Works Director, Code Enforcement Officer or his/her designee

(b) Heavy-duty pavement breakers may be prohibited by the Town when the use endangers existing underground facilities or other property.

(c) Cutouts of the trench lines must be normal or parallel to the trench line unless it is determined by the applicant to be sensibly advantageous to follow natural pavement breaks. Any uncertainty on behalf of the applicant should be forwarded to the Public Works Director or his/her designee.

(d) Pavement edges shall be trimmed to at least eight (8) inches beyond the edges of the trench after the back-filling has been completed and before the new asphalt is replaced. A tack-coat shall be applied prior to paving.

(e) Unstable pavement shall be removed over cave-outs and over-breaks and the sub-grade shall be treated as the main trench.

(f) The applicant shall not be required to pay for the repair of pavement damage existing prior to the excavation unless his/her cut results in sections that may be unstable, in which case, with the approval from the Public Works Director, permit which identifies responsibility of any negotiated costs for pavement repair before the Applicant removes the unstable portion and treats that area as part of the excavation.

(g) If the distances between two (2) or more street openings are within ten (10) feet or less of each other, the Applicant shall neatly cut and remove the area of pavement between these adjacent openings and shall patch as one trench.

(h) All granite paving blocks, bricks, and/or cable stones in the way of excavation shall be removed by the Applicant prior to commencement of work, and transported to a storage site to be selected by the Town. All excavated granite paving blocks, bricks, and/or cobblestones remain the sole property of the Town.

1601.9.2 Breaking through Pavement in Sidewalks

(a) Section 1601.3 shall apply to this section in all cases except gravel sidewalks

(b) On concrete sidewalks, all cuts shall be made from the nearest joint or score line on one side of the excavation to the nearest joint or score line on the other side of the excavation. All materials proposed for reconstruction of sidewalk must be approved by the Public Works Director before they are used by the applicant.

(c) All bricks in the way of excavation shall be removed by the Applicant prior to the proposed excavation, and transported to a storage site designed by the Town. All bricks are the sole property of the Town. All materials proposed for reconstruction of sidewalk must be approved by the Public Works Director before they are used by the applicant.

1601.9.3 Trench Back-filling for paved areas

In paved areas, the backfill material must be approved by the Public Works Director before it is used by the applicant. Granular material for trench backfill must meet the requirements of MDOT Standard Specification, Highways and Bridges, as amended. No stones over three (3) inches in size, roots, or other organic matter or frozen material shall be allowed in the backfill material.

The backfill shall be placed and compacted in layers not exceeding twelve (12) inches in depth with the same material that was excavated from the trench.

The Public Works Director, Code Enforcement Officer, or his/her designee may make exceptions for Emergency Excavations conducted during winter months (non-seasonal road construction) provided that provisions are made to return on a pre-determined, mutually agreeable date to conduct the back-filling in accordance to this section. Temporary surfacing measures shall be made according to 1601.4(b).

1601.9.4 Replacement of surface

(a) *Hot asphalt paving on rigid base.* When an opening is made on a street where the surface is concrete, premixed surface of tar or asphalt or granite block on a concrete base, the concrete/asphalt shall be cut at least eight (8) inches beyond the edges of the trench after the back-filling has been completed and before the new concrete/asphalt patch is replaced. All reinforcing steel encountered when removing the concrete shall not be cut off, but shall be retained and used for reinforcing the new concrete when placed. In addition to the retained reinforcing, additional reinforcing steel shall be furnished to provide the equivalent of one-half (.5) inch steel rods on twelve (12) inch centers both ways in the new concrete patch.

After the concrete/asphalt has been placed and before the permanent paved surface is put back, the existing paving shall be enlarged at least eight (8) inches on all sides, and the edges of the old paving painted with an asphaltic liquid before the new paving is put in place.

a. *Temporary surfacing.* On all streets where a permanent pavement has been built, the permanent surface shall be replaced after the trench has been properly back-filled. Except that when openings are authorized after November 1 in any year, a temporary surface of premixed bituminous material shall be used and this temporary patch shall remain, and be maintained by the Applicant until the following year when the permanent surface shall be replaced.

In any case, the trench shall be patched with premixed bituminous material as soon as the back-filling has been completed. The joints between the old and the new material shall be sealed to prevent surface water from penetrating through the joint. In all cases whenever or wherever a street opening has been made in any road, street, or sidewalk having a permanent or semi-permanent surface, the edges of the pavement shall be squared up before the permanent patch is replaced.

1601.9.5 Protective measures and routing of traffic

The Applicant shall be responsible for maintaining safe crossings for two (2) lanes of vehicle traffic at all street intersections where possible, and safe crossings for pedestrians at intervals of not more than two hundred (200) feet. If any excavation is made across any public street, alley, or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half (.5) of the side walk width shall be maintained along such sidewalk line.

The Applicant shall maintain barriers and warning devices necessary for safety of the general public. The traffic control in the vicinity of all excavations affecting vehicular, pedestrian, and bicycle traffic shall be subject to final review and approval of the Lincoln Police Chief, or his/her designee.

Barriers, warning signs, lights, etc., shall conform to the latest edition of the "Manual on Uniform Traffic – Control Devices." Warning lights shall are electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not replace light sources.

1601.9.6 Inspection

All Applicants for a street opening permit shall notify the Public Works Director and/or the Code Enforcement Officer at least one (1) hour before a street opening is ready for backfill. The Public Works Director, Code Enforcement Officer, or his/her designated representative may be present to inspect the backfill and street resurfacing procedure. If such presence requires overtime pay, that cost shall be borne by the Applicant. For the purposes of this article, overtime pay shall be construed as time other than Monday through Friday, 8:00am to 5:00pm.

1601.9.7 Final Acceptance

(a) No town official may waive or release any applicant of any street excavation restoration responsibility before the expiration of the two (2) year period following the completion of approved excavation.

(b) Final acceptance of a street excavation occurs upon the expiration of the two (2) year period except for repair work required of, or claims made against, the Applicant within the two (2) year period.

(c) Uncompleted work, continued unsatisfactory workmanship, or outstanding claims shall automatically extend the two (2) year warranty for a period of six months or until work is completed, workmanship approved, or claims settled, whichever occurs first.

1601.9.8 Repair of unsatisfactory work

If the Code Enforcement Officer or the Public Works Director finds that the replacement of the street surface is inconsistent with the purpose of this ordinance (see section 1601) within a two (2) year period from the completion of the approved excavation, the Code Enforcement Officer or the Public Works Director shall notify the Applicant in writing and require the Applicant to repair the street surface, at the Applicant's expense, within thirty (30) days of notice, unless a more suitable timeframe is mutually negotiated between the Applicant and the Public Works Director or his/her designee. If the Applicant does not make the necessary repairs within thirty (30) days of the notice, or the mutually negotiated timeframe, the Applicant shall be in violation of this ordinance, and shall compensate the Town two (2) times the Town's actual cost for repairing the street surface. (The cost shall include wages, equipment, and benefits.) If a suitable timeframe cannot be negotiated between the Applicant and the Public Works Director, or his/her designee, then the thirty (30) days' notice shall apply.

1601.10 Utilities required to submit annual work plan

No later than March 31 of each year, each utility shall provide the Public Works Director with a construction schedule, excluding emergency work, for the ensuing year.

1601.11 Penalties

Any person who excavates a street without a street opening permit issued under this ordinance, or any Applicant who excavates an area greater than authorized by a street opening permit, shall be subject to civil penalty of not less than one hundred dollars ($100) per day for each offense.

Any applicant who fails to comply with this article may not be granted a street opening permit, unless authorized by the Town Manager.

1601.12 Appeals

If the Public Works Director's, or his/her designee's, decision is objectionable to the applicant or when it is claimed that the provisions of this Ordinance do not apply, or that the true intent of this Ordinance has been misconstrued or wrongfully applied, the Applicant may appeal the decision in writing to the Town Manager or Roadway Committee following that all provisions set forth in 1601.9.4(b) have taken place. During the appeal process, time limitations, as set forth in Section 1601.9.8, shall be considered suspended until such time a final determination is made by either the Roadway Committee or, if applicable, the Town Council.

If the decision of the Roadway Committee is objectionable to the applicant, then that decision may be appealed to the Town Council who shall have final decision authority.

1602. SEASONAL ROADWAY ACCEPTANCE ORDINANCE

1602.1 Title

This Ordinance shall be known as the "Seasonal Roadway Acceptance Ordinance".

1602.2 Authority

This Ordinance is adopted pursuant to MRSA Titles 23, Section 3022, 30, Section 2152 and 23 Section 2953.

1602.3 Purpose

This Ordinance is designed to allow the acceptance of seasonal roadways by the Municipal Officers of the Town of Lincoln as Public Roads which will allow limited maintenance of the Seasonal Roadways during the months of April, May, June, July, August, September, and October. This Ordinance further sets out roadway construction specifications which are less stringent than those required for year-round roadway acceptance. It is expressly understood that roadways accepted pursuant to this Ordinance will be closed to winter maintenance of any type during the months of November, December, January, February, and March.

1602.4 Minimum Standards

Before any roadways will be considered for acceptance, the persons responsible for requesting acceptance shall provide proof to the Town Manager that all minimum standards are met. Such proof may consist of personal observation by the Town Manager or his/her designee, or a statement from a registered professional engineer that, in his/her professional opinion, the roadway meets or exceeds all of the minimum standards following:

1. All rights-of-way for roads shall be not less than thirty (30) feet in width with no obstructions. The center of the right-of-way shall also be the center of the road.

2. Dead end roads shall be avoided whenever possible. However, when it is necessary to accept a dead end road, a turnaround will be provided. This turnaround will be either a cul-de-sac with a minimum width of twenty (20) feet and a depth of no less than forty (40) feet.

3. The base of the road shall consist of gravel not less than eighteen (18) inches in depth. No stones whose size exceeds five (5) inches shall be allowed. The gravel base shall be uniform over the entire width of the roadway.

4. Roadways shall consist of a width of at least eighteen (18) feet, with three (3) foot shoulders on each side. No section of roadway shall extend more than five hundred (500) feet without an adequate point of turnaround for emergency vehicles.

5. All drainage pipes shall be corrugated metal pipe with a minimum diameter of twelve (12) inches. Larger pipes may be required when the potential flow of water dictates. All culvers shall be installed below the required ten (10) inches of gravel after compaction. Culverts shall be of sufficient length to reach the center of the ditches on each side of the roadway, and will in no case be less than twenty (20) feet long. Driveways shall be constructed so as not to interfere with the natural drainage flow, and metal corrugated culverts may be required to allow the proper drainage.

6. Ditches will be cleared and grubbed to a depth of at least twenty (20) inches and will be shaped to allow a natural flow of runoff. Drainage ditches and/or swales may be required to channel runoff away from the roadway at low points.

7. The slope from the edge of the road to the bottom of the ditch shall be no greater than a three (3) to one (1) ratio. If topography dictates a greater

slope than a three (3) to one (1) ratio, provisions must be made to protect the traveling public in these areas.

1602.5 Conveyance

Conveyance of the entire right-of-way will be made to the Town of Lincoln in the form of a warranty deed. The warranty deed is to be inspected and approved by the Town Attorney before final acceptance. Cost of preparation of the deed shall be borne by the applicant.

1602.6 Variances

Where strict conformity with the provisions of this Ordinance would cause undue hardship to the applicant, a roadway substantially in conformance with this Ordinance may be approved by the Lincoln Town Council, provided that the spirit of this Ordinance and public convenience and welfare will not be adversely affected.

1602.7 Separability

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

1602.8 Intersections

Proposed roadways shall intersect with existing roadways at ninety (90) degrees with a clear seventy-five (75) foot line of sight at existing intersections, and not exceed a four (4) percent grade in seventy-five (75) feet.

1602.9 Sidewalks

The Town Council may require sidewalks to be constructed to a proposed road when it will intersect with an existing road with sidewalks.

1602.10 Pavement

Road acceptance proposals within the compact area may be required to be paved.

1602.11 Restricting Vehicle Weight on Posted Ways

1602.11.1 Purpose and Authority

The purpose of this "Ordinance restricting Vehicle Weight on Posted Ways" (hereinafter, the "Ordinance" is to prevent damage to town ways and bridges in the Town of Lincoln which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§2395 and 2388.

1602.11.2 Definitions

The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance. Any words not defined therein shall be given their common and ordinary meaning.

1602.11.3 Restrictions and Notices

The municipal officers may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted, unless otherwise exempt as provided herein.

Pursuant to 29-A M.R.S.A. § 2395, the notice shall contain, at a minimum, the following information: the name of the way or bridge; the gross registered weight limit; the time period during which the restriction applies; the date on which the notice was posted; and the signatures of the municipal officers. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way.

Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure, or otherwise tamper with any notice so posted except as provided herein.

1602.11.4 Exemptions

The following vehicles are exempt under State law:

Any vehicle delivering home heating fuel and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4-A) and, when necessary during a period of drought emergency declared by the governor, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purpose and operating in accordance with a permit issued by the MDOT under 29-A M..R.S.A. § 2395 (4-A).

The following vehicles are also exempt under the specific provisions of this ordinance:

1. Any vehicle or combination of vehicles registered for a gross weight of twenty-three thousand (23, 000) pounds or less.

2. Any vehicle or combination of vehicles registered for a gross weight in excess of twenty-three thousand (23, 000) pounds and traveling without a load other than tools or equipment necessary for the proper operation of

the vehicle. This exemption does not apply to special mobile equipment. It shall be a defense to a violation of this sub-section if the combined weight of any vehicle or combination of vehicles registered for a gross weight in excess of twenty-three thousand (23, 000) pounds and its load is in fact less than twenty-three thousand (23, 000) pounds.

3. Maine DOT vehicles, or other vehicles authorized by Maine DOT, a municipality, or a county to maintain the roads under their authority.

4. Authorized emergency vehicles as defined in 29-A M.R. S. A. § 2054, school buses, a wrecker towing a disabled vehicle of legal weight from a posted highway, and vehicles with three axles or less under the direction of a public utility and engaged in utility infrastructure maintenance or repair.

5. Any two axle vehicles registered for a gross weight in excess of twenty-three thousand (23, 000) pounds and less than or equal to thirty-four thousand (34,000) pounds that are carrying any of the Special Commodities may operate without a permit. Special Commodities include any of the following:

a. Home delivered heating fuel (oil, gas, coal, stove size wood that is less than thirty-six (36) inches in length, propane, and wood pellets);
b. Petroleum products;
c. Groceries;
d. Bulk Milk;
e. Solid waste;
f. Animal bedding;
g. Returnable beverage containers;
h. Sewage from private septic tanks or porta-potties; or
i. Medical gases.

1602.11.5 Permits

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers may issue a permit only upon all of the following findings:

a. No other route is reasonable available to the applicant;

b. It is a matter of economic necessity and not mere convenience that the applicant uses the way or bridge; and

c. The applicant has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the municipal officers make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard, or cause substantial damage to a way or bridge maintained by the municipality. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways and bridges.

In determining whether to issue a permit, the municipal officers shall consider the following factors:

a. The gross registered weight of the vehicle;
b. The current and anticipated condition of the way or bridge;
c. The number and frequency of vehicle trips proposed;
d. The cost and availability of materials and equipment for repairs;
e. The extent of use by other exempt vehicles; and
f. Such other circumstances as may, in their judgment, be relevant.

The municipal officers may issue permits subject to reasonable conditions, including, but not limited to, restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

1602.11.6 Administration and Enforcement

This Ordinance shall be administered, and may be enforced by, the municipal officers or their duly authorized designee (such as road commissioner, code enforcement officer, or law enforcement officer).

1602.11.7 Penalties

Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than two hundred fifty dollars ($250.00), and not more than one thousand dollars ($1,000.00). Each violation shall be deemed a separate offense. In addition to any fine, the municipality may see restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the municipality and shall be brought in the Maine District Court.

1602.11.8 Amendments

This ordinance may be amended by the municipal officers at any properly noticed meeting.

1602.11.9 Severability, Effective date

In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect. This Ordinance shall take effect immediately upon enactment by the municipal officers at any properly noticed meeting.

1603. PUBLIC EASEMENT ACCEPTANCE ORDINANCE

Title
This ordinance shall be known as the "Public Easement Acceptance Ordinance".

Authority
This ordinance is adopted pursuant to Title 30-A M.R.S.A § 3001 and in accordance with Title 23 MRSA § 3001.

Purpose
This ordinance is designed to establish standards for the acceptance by dedication of roadways as easements.

1603.1 DEFINITIONS

DEDICATION: Voluntary offering of a public easement for municipal acceptance without owner' claim for damages.

DRAINAGE: Adequate allowance through roadway crown, culverts, and ditches to permit flow of water off and away from roadway, and away from low points.

OBSTRUCTION: Trees, down timber, stubs/stumps, brush, and bushes that interfere with excavation, embankment, clear vision, or otherwise considered objectionable within the right of way requirements.

PUBLIC EASEMENTS: An easement held by a municipality for purposes of public access to land or water not otherwise connected to a public way, and includes all rights enjoyed by the public.

RIGHT OF WAY: The width of the easement shown in feet which includes the traveled portion, shoulders, ditches, utilities and any uncleared land.

ROADWAY SHOULDERS: That portion on each side of the traveled way which separates the traveled portion from drainage ditches and/or the remainder of the right of way.

ROADWAY WIDTH: That portion of the right of way expressly used and identified for use by vehicular traffic.

1603.2 STANDARDS

Before acceptance by the Town Council of a proposed public easement, compliance with the following standards is required.

1603.2.1 Width of Right of Way

The width of a proposed easement shall be fifty (50) feet, but no less than thirty (30) feet subject to the petitioner(s) showing that existing structures, at the time of acceptance of this ordinance, preclude the consistency of a fifty (50) foot right of

way. Regardless of width of right of way there shall be thirty (30) feet without obstruction.

1603.2.2 Center of Right of Way

The center of the right of way shall be the center of the proposed easement.

1603.2.3 Dead End Road

If the proposed easement terminates with a cul-de-sac, a fifty (50) foot radius is required or "T" type "turn around" twenty (20) feet in width and forty (40) feet in depth is required

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1603.2.4 Gravel Base

The base of the roadway shall be gravel with a uniform depth of ten (10) inches, and stones contained within the base shall not exceed five (5) inches in diameter. The gravel base is subject to verification consistent with Section 1603.2.13.

1603.2.5 Roadway Width

The roadway width shall not be less than eighteen (18) feet.

1603.2.6 Roadway Shoulders

All roadway shoulders must be at least three (3) feet in width on each side of the roadway.

1603.2.7 Drainage Pipes

All drainage pipes must be corrugated metal or comparable material with a twelve (12) inch minimum diameter. Drainage pipes must be at least ten (10) inches below gravel base. Any drainage pipe currently in place that provides adequate flow and drainage may be accepted subject to verification (re: 1603.2.13).

1603.2.8 Driveways

Driveways shall not interfere with natural drainage flow.

1603.2.9 Intersections

Proposed roadways shall intersect with existing roadways at ninety (90) degrees with a clear seventy-five (75) foot line of sight at existing intersections, and not exceed a four (4) percent grade in seventy-five (75) feet.

1603.2.10 Sidewalks

The Town Council may require sidewalks to be constructed to a proposed road when it will intersect with an existing road with sidewalks.

1603.2.11 Pavement

Road acceptance proposals within the compact area may be required to be paved.

1603.2.12 Ditches

All ditches must be cleared and grubbed, be twenty (20) inches in depth, and flow away from low points.

1603.2.13 Slope

All ditches shall be constructed at a three (3) foot to one (1) foot ratio from the edge of the road to the bottom of the ditch. Steeper slopes shall require specific approval by the Town Manager and adequate safety requirements. Slopes and ditches shall have adequate erosion control.

1603.2.14 Entrance to Existing Roads

All roadways shall be constructed to intersect with existing roadways at ninety (90) degrees with a clear seventy-five (75) foot line of sight at existing intersections and not exceed a four (4) percent grade in seventy-five (75) feet.

1603.2.15 Conveyance

Conveyance of an easement interest must be in deed form with all interests joining as grantors.

1603.2.16 Verification

Compliance with all standards must be verified by the Town Manager, Public Works Director, and Council Roadway Committee. All documentation must be approved by the Town Attorney. In the event of a dispute as to the compliance with all standards, an engineer may be retained by the Town to resolve the dispute. Costs incurred are to be borne by the Petitioner(s).

1603.2.17 Acceptance

Final acceptance of easement shall be by majority vote of the Lincoln Town Council.

1603.2.18 Location/Town Lines

All easements must be located within the boundaries of the Town of Lincoln. In the event that a portion of the easement is located outside the boundaries of the Town of Lincoln, the petitioner(s) must secure the necessary easement rights from the affected municipality and/or all owners of the proposed right of way.

1603.2.19 Termination

All proposed easements must terminate and be connected to a Town way, County way, or State highway.

1603.2.20 Description

The proposed easement shall be defined by courses and distances with all owners of record conveying an easement interest. Abutting owners shall join in the deed of conveyance designating tax map and lot number. The proposed easement shall show sufficient data so that a competent and skilled engineer or surveyor can

readily determine its location, direction, and length. In addition to the deed of conveyance, the Petitioner(s) shall cause to be prepared a map, in a recordable form, to be recorded in the Penobscot County Registry of Deeds, showing the location, direction, and length of the proposed easement.

1603.2.21 Maintenance

Petitioner(s) shall indicate the discretionary level of maintenance anticipated.

1603.2.22 Preexistence

Petitioner(s) shall provide proof that the traveled way with the qualifying density (re: 1603.2.20) was in existence prior to the date of acceptance of this ordinance.

1603.2.23 Qualifying Density

(a) To qualify for year-round maintenance there must be at least ten (10) year-round residences per mile.

(b) To qualify for seasonal maintenance i.e., April 1 through October 31, there must be at least ten (10) seasonal and/or year-round residences per mile.

Density shall be prorated with no less than two (2) residences per road.

1603.2.24 Town Maintenance

Maintenance is discretionary with the Town of Lincoln. Degree of maintenance shall be determined annually by Town Council.

1603.2.25 Public Easement – Year-Round Maintenance

All requirements of Section 1603.1 through Section 1603.2.21 of the ordinance must be complied with for year-round maintenance.

1603.2.26 Public Easement – Seasonal Maintenance

The requirements of Sections 1603.2.6, 1603.2.7, 1603.2.9 and 1603.2.10 may be waived by the Lincoln Town Council for seasonal maintenance i.e., April 1 through October 31.

1603.2.27 Filing and Approval

The Petitioner(s) shall file with the Town Manager the application, proposed deed, and map. The Town Manager shall cause the application to be placed on the Town Council Agenda. If the proposed deed and map meet the requirements of this ordinance, the deed shall be accepted by the Town Council, and the map shall be signed by the members of the Town Council. Both the deed and the map shall be recorded forthwith in the Penobscot County Registry of Deeds. The cost of recording shall be borne by the Petitioner(s).

1603.2.28 Conditional Acceptance

A road may not be accepted on a conditional basis of some future event.

1604. ALCOHOL AND DRUG TESTING ORDINANCE

Alcohol and Drug Policy and Testing Procedures for the Omnibus Transportation Employee Testing Act of 1991

1604.1 Policy Statement and Authorization

The Town of Lincoln (Town) has a strong commitment to the health, safety, and welfare of its employees, their families, its customers, and the public at large.

Accordingly, the Town seeks to hire and employ workers requiring a Commercial Driver's License (CDL) who are free from the illegal use and abuse of drugs and alcohol, and to protect employees, their families, and the public from the adverse effects of alcohol and drugs abuse. The Town requires that final applicants selected for positions requiring a CDL undergo an Alcohol and Drug Test to detect the presence of alcohol and drug abuse substances in the body.

Any applicant with a positive pre-employment test may be denied employment with the Town by reason of the positive test.

1604.1.2 The use and misuse of alcohol or drugs, whether prescribed or illegal, impairs the ability of an employee to perform assigned duties, particularly those requiring a CDL, and may endanger the employee, co-workers, the public, the Town, and public and private property. The Town seeks to prevent employees from using alcohol and drugs when the use of such is illegal, or in any way endangers the Town or the public. The Town also wants to provide appropriate and reasonable assistance to employees whose use or misuse impairs their ability to perform their duties.

1604.1.3 This policy is designed to comply with the Omnibus Transportation Employee Testing Act of 1991, and with the Rules and Regulations under CFR 49 Part 653, Prevention of Prohibited Drug Use in Transit Operations and CFR 49 Part 382, Substances and Alcohol Use and Testing (both published February 15, 1994) and related parts, and to provide guidance to Town officials on the implementation of the requirements of the Act.

1604.2 Drug and Alcohol Testing

The following circumstances shall require Drug and Alcohol Testing:

1604.2.1 Pre-employment. Pre-employment Testing shall be conducted before applicants are hired or after an offer to hire, but before actually performing safety-sensitive functions for the first time. Testing is also required when employees transfer to a safety-sensitive (driver) position;

1604.2.2 Post-Accident. Post-Accident testing shall be conducted after accidents on drivers whose performance could have contributed to the accident (as determined by a citation for a moving traffic violation), and for all fatal accidents, even if the driver is not cited for a moving traffic violation;

1604.2.3 Reasonable Suspicion. Reasonable Suspicion testing shall be conducted when a trained supervisor has reasonable suspicion, based upon specific,

contemporaneous, articulate observations concerning the appearance, behavior speech, or body odors of the employee;

1604.2.3.1 Unlawful Drug Use. Unlawfully use illicit drugs and/or abused controlled substances;

1604.2.3.2 Drug Use at Work. Reported to work under the influence of or has illicitly ingested controlled substances or alcohol during work hours;

1604.2.4 Random Testing. Random testing shall be conducted on a random, unannounced basis just before, during, or just after performance of a safety sensitive function. Fifty (50) percent of employees in safety sensitive positions must be tested for controlled substances, and twenty-five (25) percent of employees in safety sensitive positions must be tested for alcohol on an annual basis.

1604.2.5 Return to Duty and Follow-up. Return to duty and follow-up testing shall be conducted when an individual who has violated the prohibited alcohol or drug conduct standards returns to performing safety-sensitive duties. Follow-up tests are unannounced, and at least six (6) tests must be conducted in the first twelve (12) months after a driver returns to duty. Follow-up testing may be extended for up to sixty (60) months following return to duty.

1604.3 Responsibility

It is the responsibility of the department head under the direction of the Town Manager to administer and enforce this policy and the procedures as outlined. Employment by the Town shall not be deemed to have been offered, nor shall a perspective employee have the right to accept, any offer or suggestion of an offer of employment until such time as a drug test evaluation has been received and cleared by the Department Head. Any work performed by an individual for or on behalf of the Town prior to such approval shall not be involved with the operation of any Town equipment requiring a CDL prior to testing.

The Town Manager's Office will contract for specimen collection, medical review, testing, and training for supervisors and employees. It is the responsibility of each department head to administer applicable sections of this policy.

It is the responsibility of the department head to see that supervisors are properly trained and that employees have notice of, and are familiar with, these drug and alcohol policies and procedures.

1604.4 Definition

1604.4.1 Alcohol and Drug Test. A generally accepted and proven test methodology or methodologies as recommended by the Rules and Regulations under CFR 49 Part

653, Prevention and Prohibited Drug Use in Transit Operations, and CFR Part 382, Substances and Alcohol Use and Testing. This test method determines whether an individual has ingested or otherwise used the substance in question within a period of time before the test.

1604.4.2 Applicant. A person who has applied for a position with the Town of Lincoln, including past employees eligible for rehire, and present employees voluntarily seeking another position.

1604.4.3 Medical Review Officer (MRO). Physician responsible for reviewing all test results for confirmation prior to communicating same to the employer. The MRO is required to protect the confidentiality of the individual involved.

1604.4.4 NIDA. The National Institute on Drug Abuse.

1604.4.5 Positive Test. Alcohol and Drug test results that meet or exceed the standards outlined under CFR 49.

1604.4.6 Random Testing. A scientific method used to select employees for testing at random. This method will occur throughout the year, and involve a minimum of fifty (50) percent employees/positions requiring a CDL selected for drug testing. The minimum percent to be tested may decrease in subsequent years based on the number of confirmed positive test results.

1604.4.7 Reasonable Suspicion. A determination made by a trained supervisor that an employee is in violation of the Omnibus Transportation Employee Testing Act of 1991 concerning alcohol or controlled substances. This determination must be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, and body odors of the driver. Circumstances which may constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

1604.4.7.1 A pattern of abnormal erratic behavior;

1604.4.7.2 Information provided by a reliable and credible source;

1604.4.7.3 Direct observation of drug or alcohol use;

1604.4.7.4 Presence of the physical symptoms of drug or alcohol use (i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination, and/or reflexes);

1604.4.7.5 Any trained supervisor who has reasonable suspicion to believe that a violation has occurred must complete an "Observed Behavior-Reasonable Cause Record" form within twenty-four (24) hours of the observed behavior or before the results of the tests are released, whichever is earlier.

1604.4.8 Substance Abuse. The use of alcohol, or prescription or over the counter drugs, any of which impairs the ability of an employee to perform the job safely and effectively, or the use of illegal drugs or other controlled substances without a valid prescription.

1604.4.9 Work-Related Vehicular Accident. Any reportable vehicular accident that damages property or involves injury to self or others for which a moving traffic violation citation is issued (does not include minor personal injury not requiring transport to a medical facility or care beyond first aid.) Any vehicular accident involving a fatality.

1604.5 Conduct Prohibited

1604.5.1 The following conduct or behavior is determined to be unacceptable and therefore is prohibited under this policy. Violation shall be cause for disciplinary action.

1604.5.1.1 Reporting to or remaining on duty with a blood/alcohol concentration of 0.04 or greater.

1604.5.1.2 Possessing alcohol on duty that is not manifested or part of a shipment.

1604.5.1.3 Use of alcohol while on duty.

1604.5.1.4 Use of alcohol for eight (8) hours after an accident that will require a post-accident test or until the test is performed, whichever occurs first.

1604.5.1.5 Any use of alcohol within four (4) hours of reporting on duty to perform a safety-sensitive position.

1604.5.1.6 Refusal to submit and properly participate in a required alcohol and/or controlled substances test. A refusal is defined as;

1604.5.1.6.1 Failing to report immediately to the identified testing site, once notified, but in no case more than two (2) hours after notification.

1604.5.1.6.2 Failing to follow proper instruction or participate in the required testing procedures

1604.5.1.7 Reporting to or remaining on duty while using any controlled substance, except when used under the direct orders of a physician and the physician has informed the employee that the use will not affect the safety use and operation of the commercial vehicle.

1604.5.1.8 Reporting to or remaining on duty after testing positive for any controlled substance under this Policy.

1604.5.2 The following conduct or behavior is determined to be unacceptable.

1604.5.2.1 Reporting to or remaining on duty when a blood/alcohol concentration of greater than 0.02 but less than 0.04.

1604.5.2.2 Any employee found to be in violation of 5.2.1 shall be immediately removed from the safety sensitive position, and shall not be permitted to perform that function until the start of the driver's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test.

1604.6 Testing for Job Applicants and Employees

1604.6.1 Drugs to be tested for include: When chemical drug and alcohol screening is required under the provisions of this policy and CFR Title 49, a breath test and/or urinalysis test will be given to detect the presence of the following drug groups:

Alcohol (ethyl)

Amphetamines

Cocaine

Opiates

Phencyclidine (PCP)

THC (Marijuana)

1604.6.1.7 Applicant Testing: General Standard.

Applicants for all classes of employment requiring a CDL will be required to undergo a chemical drug and alcohol test upon an offer of employment and prior to their final appointment to the position.

1604.6.2 Current Employee Testing: General Standard

1604.6.2.1 The Town may require a current Town employee whose position requires a CDL to undergo drug and alcohol test upon an offer of employment and prior to their final appointment to the position.

1604.6.2.2 Supervisors are required to document the specific facts, symptoms, or observations which formed the basis that reasonable suspicion by the immediate supervisor or other trained management personnel within the department that the employee is under the influence of drugs or alcohol during work hours.

1604.6.2.3 The Town will require a current Town employee in a position requiring a CDL to undergo post-accident drug and alcohol testing if he/she is involved in a reportable vehicular accident, or if there is a fatality.

1604.6.2.4 All current employees in safety sensitive positions requiring the use of CDL will be subject to Random Testing.

1604.6.2.5 Employees having had a confirmed positive test will be subject to retesting at the time they return to work. After returning to work they will be subject to follow-up testing without notice for up to 60 months.

1604.6.2.6 This section shall not restrict the testing of current employees who are applying for other employment positions requiring a CDL. (See sections 1604.2 and 1604.4.2 of this Policy)

1604.6.3 Testing of Supervisors

1604.6.3.1 All supervisors in safety sensitive positions and who are required to use a CDL are subject to the testing rules and procedures outlined in this Policy.

1604.6.3.2 If an employee suspects a supervisor of substance abuse, the employee will notify the department head or the Town Manager of the employee's suspicions. The department head and/or the Town Manager will act in accordance with 1604.6.3.1 or 1604.6.3.2 and in accordance with reasonable suspicion sections 1604.4.7 and 1604.8.3. All employee reports are kept strictly confidential. Anonymous complaints will not be investigated.

1604.7 Training and Notices

1604.7.1 Supervisory Training:
The Town shall provide or shall contract for training, as required by 49 CFR, to assist supervisory personnel in identifying indicators of drug and alcohol use among employees. This shall consist of a minimum of one (1) hour each for Drug and Alcohol use and misuse.

1604.7.2 Provision of Testing Policy and General Information:
The Town shall provide written notice of its drug and alcohol testing policy to all employees and job applicants who are in or applying for safety sensitive positions. The notice shall contain the following information:

The need for drug and alcohol testing;

The circumstances under which testing may be required;

The procedure for confirming an initial positive drug test result;

The consequences of a confirmed positive test result and the appeal procedures available;

The consequences of refusing to undergo a drug and alcohol test;

The right to explain a positive test result and the appeal procedures available; and

The availability of drug abuse counseling and referral services.

1604.7.3 Record Keeping

1604.7.3.1 Records shall be maintained by the department head and copies shall be forwarded to the Town Manager.

1604.7.3.2 Records shall be maintained by the department head that employees have been provided with information required under this Policy, and copies shall be forwarded to the Town Manager.

1604.8 Testing Procedures

1604.8.1 Notice and Consent

1604.8.1.1 Before a drug and alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting the release of test results to those Town officials with a need to know. The chemical screen consent form shall provide space to indicate current or recent use of prescription and over-the-counter medication.

1604.8.1.2 All recruitment announcements for any position requiring a CDL including in-house recruitment and promotion will disclose that a chemical, alcohol, and drug screening test will be required for the applicant.

1604.8.2 Pre-employment Testing

1604.8.2.1 Before any department head or supervisor makes a conditional offer of employment to an applicant, he/she will notify the Town Manager, or his/her designee, of the final or top applicant for the position. The Town Manager, or his/her designee, will schedule a chemical, alcohol, and drug screening test for the applicant.

1604.8.2.2 The applicant shall be given a copy of this Policy, as well as a consent form to complete and sign, and will be informed of the test appointment.

1604.8.2.3 The MRO will notify the applicant of the test results, and if positive, will give the applicant an opportunity to discuss the same prior to release of the information to the Town.

1604.8.2.4 After the Town Manager, or his/her designee, has received the test results from the MRO or medical facility, they will not inform the hiring department head or supervisor of the test results. This disclosure from the MRO shall be kept confidential by the Town Manager or his/her designee, and will state whether the test is positive or negative, and if positive, which substances were detected.

1604.8.2.5 After the Town Manager, or his/her designee, has received the test results from the MRO or medical facility, he/she will inform the department head or supervisor whether or not the applicant is eligible for employment. All results shall be kept confidential.

1604.8.3 Reasonable Suspicion Testing

1604.8.3.1 A supervisor may upon reasonable suspicion and after at least attempting to consult with the department head, if available, ask any on-duty employee to submit to an immediate alcohol and drug test. The department head or designee should be notified as soon as possible.

1604.8.3.2 The employee's department head or designee shall immediately advise the Town Manager or his/her designee of the determination of reasonable suspicion.

1604.8.3.3 The employee shall immediately be given a "Test Consent Form" to complete and sign.

1604.8.3.4 The employee will be immediately taken by the supervisor or another supervisor or management employee of the department to the appropriate medical facility/clinic for testing.

1604.8.3.5 If the employee is not able to be taken to the appropriate medical facility/clinic for testing, the supervisor shall immediately telephone the agency and primary medical facility (any time day or night), and/or call medical personnel from the primary medical facility, and request that they go to where the employee has been taken to acquire the drug and alcohol test samples.

1604.8.3.6 The employee shall be immediately removed from duty and assisted in getting home after the drug and alcohol test.

1604.8.3.7 When "reasonable suspicion" is the grounds for requiring a drug/alcohol test, the employee shall be placed on paid administrative leave until the test results are available and a preliminary administrative review has been conducted.

1604.8.3.8 An alcohol and drug test for reasonable suspicion will include the urinalysis test.

1604.8.3.9 Results from the alcohol and drug screen test will be given by the laboratory to the MRO who, after confirmation, will forward to the Town Manager.

1604.8.4 Random Testing

1604.8.4.1 This procedure will occur throughout the year, and will initially involve a minimum of fifty (50) percent of the employees/positions requiring a CDL for drug testing and twenty-five (25) percent for alcohol testing selected at random and unannounced throughout the year.

1604.8.4.2 If the test yields a positive result, and the positive result is confirmed by the MRO, then the employee will be subject to disciplinary action as described in Section 11.2.

1604.8.5 Post-Accident Testing

1604.8.5.1 A post-accident test will be conducted on any CDL employee involved in a work-related motor vehicle accident if:

The accident results in a loss of life; or

The operator receives a citation under local or State Law for a moving traffic violation arising from the accident.

1604.8.6 Return-to-Duty Testing

1604.8.6.1 Any employee returning to duty following a confirmed positive test must be subjected to a return-to duty test following the same guidelines described in Section 8.2. The test must show a verified negative result prior to the employee returning to duty.

1604.8.7 Follow-up Testing

1604.8.7.1 An employee returning to work following a confirmed positive test and period of assistance/discipline, will be subject to follow-up testing without notice for a period of not more than sixty (60) months. There will be a mandatory minimum of six (6) tests within the first twelve (12) months.

1604.8.7.2 Follow-up tests may be used to determine whether or not a controlled substance is still being used.

1604.9 Refusal to Consent

1604.9.1 Applicants

A job applicant who refuses to consent to a drug and alcohol screening test will be denied employment with the Town. If the applicant is a current Town employee, the applicant will be denied employment in the position for which the application was made. No denial shall be made without first attempting to discuss the impact of the refusal with the applicant.

1604.9.2 Employees

An employee who refuses to consent to a drug and alcohol screening test when selected for random testing, post-accident, or when reasonable suspicion of drug or alcohol use has been identified, is subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action. No disciplinary action shall be taken without first discussing the matter with the employee, Department head, and the Town Manager or his/her designee.

1604.10 Consequences of Confirmed Positive Test Results-Drug and Alcohol

1604.10.1 Applicants: Job applicants will be denied employment with the Town if their initial positive test results have been confirmed. Applicants who are current Town employees shall be denied employment in the position for which application was made. Applicants shall be informed in writing if they are rejected on the basis of a confirmed positive test result. Employee applicants shall be handled in accordance with Section 10.2 below.

1604.10.1.1 The applicant will be provided an opportunity to discuss with the MRO the results of any positive test and seek a second confirmation test as provided in Section 11.0.

1604.10.2 If an employee's positive test result has been confirmed for Drug or Alcohol use, the employee is subject to the action as follows:

1604.10.2.1 Positive Drug Test: The employee shall be referred to a Substance Abuse Professional through the Town's designated Health Care Provider. The Substance Abuse Professional shall determine what assistance, if any, is needed to resolve problems associated with controlled substance abuse. In accordance with MRSA 26 Section 685, the Town is obligated to offer treatment assistance and limited financial assistance. Failure to comply with the recommended treatment, if any, however, shall be cause for disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include, but are not limited to: employee's work history; length of employment; current job performance; and the existence of past disciplinary action(s). No

disciplinary action shall be taken against any employee who voluntarily identified himself/herself as a substance abuser prior to the time that it is apparent that the use has been detected. A second positive test or further violation of this policy following an initial positive test shall be cause for discharge. Prior to a disciplinary action being imposed by the Town, the employee is entitled to a disciplinary hearing.

1604.10.2.2 Positive Alcohol Test: The employee shall be referred to a Substance Abuse Professional through the Town's designated Health Care Provider. The Substance Abuse Professional shall determine what assistance, if any, is needed to resolve problems associated with alcohol abuse and shall make those recommendations to the employee. Notwithstanding any recommendations made by the Substance Abuse Professional, the Town may take disciplinary action up to and including termination. Factors to be considered when determining the appropriate disciplinary response include, but are not limited to: employee's work history; length of employment; current job performance; and existence of past disciplinary action(s). No disciplinary action shall be taken against any employee who voluntarily identifies himself/herself as an alcohol abuser prior to the time it is apparent that the use has been detected. A second positive test, should the employee continue to be employed following an initial positive test, shall be cause for discharge. Prior to any disciplinary action being imposed by the Town, the employee is entitled to a disciplinary hearing.

1604.11 Consequences of a Controlled Substance Test Results (Drug Test)

1604.11.1 An employee or job applicant whose drug test yields a positive result, confirmed by the MRO, shall be given a second test.

1604.11.2 If the second test confirms the positive test result, the employee or applicant shall be notified of the results by the MRO, who will offer the employee an opportunity to discuss the results. The MRO will then notify the Town Manager in writing. The letter of notification shall identify the particular substance found and its concentration level.

1604.12 Confidentiality of Test Results

1604.12.1 All information from an employee's or applicant's drug and alcohol test is confidential, and only those with a need to know are to be informed of test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant, or upon subpoena. The results of a positive drug test shall not be released by the MRO until confirmed. The records of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory. All positive test results will be maintained by the MRO, and reported to the Town Manager, or his/her designee, where they will be kept on file.

1604.13 Privacy in Chemical Drug Testing

1604.13.1 Urine samples shall be provided in a private restroom stall or similar enclosure so that employees and applicants may not be viewed while providing the sample. Employees and applicants may be required to disrobe and will be given hospital gowns to wear while they are providing test samples in order to ensure that there is no tampering. Street clothes, bags, briefcases, purses, and other containers may not be carried into the test area. The water in the commode, if any, shall be colored with dye to protect against dilution of test samples.

1604.13.2 An applicant or employee may waive the right to privacy and provide the urine sample in the presence of a witness (of the same gender) and not be required to disrobe and wear a hospital gown.

1604.14 Laboratory Testing Requirements

1604.14.1 All chemical drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the Town. To be considered as a testing site, a medical facility or lab must submit in writing a description of the procedures that will be used to maintain test samples. In addition to NIDA certification, factors to be considered by the Town in selecting a testing facility include:

Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;

Methods of analysis which ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results;

Chain-of-custody procedures which ensure proper identification, labeling, and handling of test samples; and

Retention and storage procedures which ensure reliable results on confirmatory tests of original samples.

1604.14.2 Second Confirmation Test

1604.14.2.1 The applicant or employee may request from the MRO a second confirmation test of the same sample within seventy-two (72) hours of notice that the first test was positive.

1604.14.2.2 The cost of the second confirmation test must be paid in advance by the applicant or employee. If the test is negative, the Town shall reimburse the applicant or employee for the cost of the test.

1604.14.2.3 The second confirmation test will be performed by a NIDA certified laboratory selected by the MRO.

1604.15 Responsible Town Official

1604.15.1 The Town Manager, or his/her designee, may be contacted for further information about this policy or its applicability.

1604.16 Effective Date

1604.16.1 This policy shall become effective January 1, 1996.

1605. DIVISION OF TREE CARE

There shall be a Division of Tree Care, the head of which shall be the Tree Warden. The Public Works Director shall serve as Tree Warden. The Tree Warden shall:

Be responsible for the care and control of all public shade trees upon and along all highways, streets, and parks;

Work in conjunction with State agents in the planting and replacing of shade trees along public ways, parks, and public areas;

Be responsible for the tree planting program initiated by the Conservation Commission for the Town;

Be responsible for a Town forest, should one be developed.

1606. ADMINISTRATIVE PROCEDURES

1606.1 No construction may commence on any road proposed to be built within the Town of Lincoln, which is intended for acceptance by the Town as a public road, without the final approval by the Lincoln Town Council of a design plan as described in Article 1607 of this ordinance.

1606.2 Application for review of a road design plan shall be made to the Code Enforcement Officer and Public Works Director of the Town of Lincoln. The Applicant will be furnished with an application form and a copy of this Ordinance, which outlines information required of the applicant before the review procedure may commence.

1606.3 When the applicant has furnished the required information to the Code Enforcement Officer, the Code Enforcement Officer will issue the applicant a dated receipt. The Code Enforcement Officer will then forward one copy of the design plan to the Lincoln Public Works Department, Lincoln Sanitary District, Lincoln Water District, and the Lincoln Fire Chief. The Lincoln Sanitary District, Lincoln Water District, Lincoln Public Works Department, and the Lincoln Fire Chief will review and comment in writing on the design plan, and return the plan to the Code Enforcement Officer within thirty (30) days.

1606.4 The Lincoln Sanitary District shall be limited to assuring that the size, length and proper elevation placement of proposed sewer lines and sewer basins are adequate to meet the estimated discharge volumes anticipated.

1606.5 All water service construction for domestic service and fire protection shall be case specific and must meet all the requirements of the Town of Lincoln Fire Chief & Lincoln Water District, as required by the State of Maine, Public Utilities Commission and the State of Maine drinking water program. The District specifies the proper size and materials for all mains and services, fire hydrants, valves, and all other aspects of the water system construction, including disinfection. The Lincoln Water District does not invest in water main or service installation. All cost is the developer's responsibility.

1606.6 When the design plan has been returned to the Code Enforcement Office from the Lincoln Fire Chief, Lincoln Sanitary District, Lincoln Water District and the Lincoln Public Works Department the Code Enforcement Officer will place the request on the next agenda for the design plan to be reviewed by the Lincoln Planning Board at their next regular scheduled meeting. The Lincoln Planning Board will then review and comment in writing on the design plan.

1606.7 The Planning Board review shall be limited to assuring that the design plan encompasses the requirements of Article 1606 of this ordinance, and that the public health, safety, and welfare are adequately protected.

1606.8 Following favorable review of the design plan by the Lincoln Sanitary District, Lincoln Fire Chief, Lincoln Water District, Public Works Department, and the Lincoln Planning Board, the Code Enforcement Officer shall present the design plan to the Lincoln Town Council for its consideration.

1606.9 If the design plan is approved by the Lincoln Town Council, construction of the road may commence. If the design plan is rejected by the Council, the applicant shall be notified in writing indicating specific reasons for such rejection.

1606.10 In no instance shall the review process exceed one hundred twenty (120) days from the date that the completed application is accepted by the Code Enforcement Officer.

1607. DESIGN STANDARDS

1607.1 A design plan will not be considered for review unless the information outlined in this section has been provided by the applicant.

1607.2 The applicant shall furnish four (4) copies of a design plan four (4) weeks in advance of the proposed road drawn to scale of one (1) inch equaling not more than one hundred (100) feet. Such plan shall include, but not limited to, the following information:

A) Geographic location of the proposed road;

B) Road profile and cross sections;

C) Date, scale, and north point;

D) Widths of right of ways;

E) Approximate road grades and profiles;

F) Location and size of culverts, bridges, and/or other water diversions;

G) Surface or subsurface storm water drainage, water drainage easements;

H) Centerline geometry with tangents and curves defined showing utilities (water complete with valves, bends, and hydrants);

I) Sewer complete with manhole station, offset, rim, and invert elevations;

J) Drainage basins locations, offset, rim, and invert elevations, or if open drainage, location of ditches and other storm water improvements, approximate locations of driveway culverts, and drainage easements. Detail intersection grading plans demonstrating positive drainage in all direction;

K) Cross sections shall include minimum standard cross section showing depth of gravel, thickness of pavement, fabric, ditches, storm water, water, sewer typical locations; and

L) Any other pertinent information requested by either the Lincoln Sanitary District, Lincoln Water District, Lincoln Public Works Department, Lincoln Fire Chief, or the Lincoln Planning Board during the course of their respective reviews.

GENERAL CONSIDERATIONS

1607.3 All right-of-way's (ROWs) for roads shall be not less than fifty (50) feet in width with no obstructions. The center of the right-of-way shall also be the center of the road.

1607.4 All new roads accepted after October 19, 2009 shall enter existing roads at right angles, or as close to right angles as practicable.

1607.5 Dead end roads will be avoided whenever possible. However, when it is necessary to construct a dead-end road, a turnaround will be provided. This turn around will be a cul-de-sac with a minimum radius of seventy (70) feet ROW including a paved fifty (50) foot radius. Exception to the cul-de-sac requirement may be granted by the Public Works Director if a satisfactory alternative is provided with a proposed easement. The construction specifications for the cul-de-sac shall be the same as for construction of the road.

1607.6 In an instance where plans call for a road to be extended at some future date, a temporary cul-de-sac shall be constructed. In such instance, an easement shall be given to the Town of Lincoln for the area beyond the fifty (50) foot right-of-way.

1607.7 Where intersections with any State Highway are proposed, the Maine State Department of Transportation shall be consulted. A letter of approval from the Department of Transportation shall accompany the final design plan to be presented to the Lincoln Town Council for consideration.

1607.8 Sidewalks will be required if the proposed road is located within one-half mile from any school. In areas where a proposed road will interfere with an existing sidewalk, the existing sidewalk will be maintained at all times to meet the American with Disabilities Act (ADA). All newly proposed sidewalks will need to meet the American with Disabilities Act (ADA).

1607.9 If it is determined that a subsurface water drainage system is required, a determination of the road width will be made during the course of review. The road width will depend on the present and future amount of traffic anticipated.

1608. CONSTRUCTION STANDARDS

1608.1 Right of Ways shall be cleared and grubbed. This shall consist of cutting and disposing of all trees, down timber, stumps, brush, and bushes that interfere with excavation, embankment, clear vision, or are otherwise considered objectionable within the right-of-way.

1607.10 If fill areas of five (5) feet or less, measured from subgrade to old ground, all stumps, bushes, and other objectionable material shall be removed and disposed of prior to placing fill.

1607.11 Excavation shall consist of removing and satisfactorily disposing of all materials encountered within the limits of work. Suitable material taken from the excavation may be used to fill areas. Suitable material shall mean excavation that is free from all stumps, roots, bushes, grass, turf, or other objectionable materials. In case the foundation material is soft or otherwise unsatisfactory it may be necessary to excavate to a greater depth and backfill with a granular material. In

cases that excavating more material is not an option, a woven geo-fabric needs to be inserted before any granular material may be used.

1607.12 The subgrade shall be compacted and shaped to provide proper drainage before the application of the gravel base. The subgrade shall be a minimum of twenty-six (26) feet in width.

1607.13 All drainage pipes except subsurface storm drainage systems shall be new corrugated aluminized metal pipe, or polyethylene plastic pipe with a minimum diameter of fifteen (15) inches. Larger size pipe will be required where the potential flow of water dictates. Culverts shall be installed below the required eighteen (18) inches of gravel base and compacted with the same type of material as contained in the subbase. Culverts shall be of sufficient length to reach from the center of the ditch on each side of the roadway. Driveway culverts shall be a minimum diameter of fifteen (15) inches and a minimum length of twenty-four (24) feet in length, not exceeding thirty (30) feet in length. Where the potential flow of water dictates, larger size culverts will be required. The ends of all culverts shall be rip-rapped with six (6) inch field stone that will not disintegrate by exposure to water or weather.

1607.14 The gravel subbase course shall consist of a foundation of hard durable particles of granular material to a minimum depth of eighteen (18) inches. All base gravel shall be placed in two (2) layers, and each layer shall be compacted before placing second layer of gravel.

1607.15 All subbase gravel will meet standard MDOT Subbase Gravel spec 703.06(b) -- - Type C. Maximum lifts of nine (9) inches will be placed and thoroughly compacted to ninety-five (95) percent maximum density and shaped with the proper crown.

1607.16 All surface gravel will meet standard MDOT Subbase Gravel spec 703.06(a) -- - Type A. The gravel shall be properly shaped and compacted during placement. Samples of all gravel may be obtained by the Town at any time to ensure quality and for periodic testing.

1608.10 All roads will have a minimum twenty (20) foot Bituminous surface treatment consisting of:

A minimum of two (2) inch Grade C mix 12.5 (Binder) after compaction; and

A minimum of one (1) inch Grade B mix 9.5 (Surface mix) after compaction.

1608.11 All roads constructed after October 19, 2009 shall be constructed utilizing a woven geo-textile suitable for roadway separation, which shall be placed between the shaped sub-grade and base gravel.

1608.12 Cross slope shall be three (3) percent for all gravel roadways and two (2) percent for proposed asphalt surfaces.

1608.13 The slope from the edge of the shoulder to the bottom of the ditch shall be no greater than a three (3) to one (1) ratio. The back slope of the ditch shall be a two (2) to one (1) ratio. If topography of the area dictates a slope greater than a three (3) to one (1) ratio, provisions must be made to protect the traveling public in these areas. The distance from the outer edge of the shoulder to the center of the ditch shall be a minimum of seven and one half (7.5) feet, and shall be uniform the entire length of the road.

1608.14 Whenever the new road connects with an existing road, the grade shall be no greater than four (4) percent for a distance of seventy-five (75) feet from the right-of-way of the existing road.

1608.15 After construction has been completed, cleanup of the areas shall include at least the following:

- Picking up all debris left from clearing and selective thinning;
- Trimming all branches overhanging the roadbed to sixteen (16) feet above the roadbed and shoulder;
- Cleaning out all sand and silt from all culverts
- Sodding or riprapping ends of culverts and all slopes of ditches where there is a possibility of erosion;
- Cleaning up all ditches and check for proper drainage; and
- Cleaning up, compacting, and grading all driveways and field and woodlot entrances.

1609. INSPECTIONS

Inspection of the construction of all roads shall be made during and after completion of construction by the Public Works Director or his/her designee.

1609.1 The applicant shall notify the Public Works Director prior to the application of the first base course and again prior to the application of the second base course so that an inspection may be conducted.

1609.2 An inspection shall be made by the Public Works Director or his/her designee and may occur without prior notice at any time during the construction of the road. The Public Works Director will provide written reports to the contractor indicating any deficiencies or concerns.

1609.3 The inspector shall report to the Public Works Director upon completion of each inspection, indicating whether or not construction is being carried out in accordance with the provisions of this ordinance.

1609.4 If construction practices are found to be at variance with either the approved design plan or the provisions of this Ordinance, the Public Works Director or his/her designee will immediately notify the applicant in writing, indicating what steps are necessary to bring the construction into conformity with the approved design plan and/ or this Ordinance.

1609.5 Upon completion of construction, the applicant shall notify the Town Manager and Public Works Director that the project is ready for final inspection. The Public Works Director will schedule a final inspection of the project and provide a written report of his findings.

1609.6 If the final inspection reveals that all of the requirements of this Ordinance have not been met, the Public Works Director shall so notify the applicant in writing as outlined in Section 1609.4 above. When the applicant is again ready for final inspection, he shall proceed as in Section 1609.5 above.

1609.7 If the final inspection reveals that construction has been completed satisfactorily and in accordance with the provisions of this ordinance, the Public Works Director/Code Enforcement Officer shall so notify the applicant and the Town Manager in writing. The Town Manager shall then present the completed road to the Lincoln Town Council for consideration of acceptance.

1609.8 The applicant shall deed to the Town of Lincoln clear title to all land within the limits of the right-of-way of the road and water drainage easements prior to consideration by the Town Council. Where strict conformity with the provisions of this ordinance would cause undue hardships to the applicant, a design and/or construction plan substantially in conformity with this ordinance may be approved by the Lincoln Town Council, provided that the spirit of this ordinance and the public convenience and welfare will not be adversely affected.

1609.9 If a variance is requested by the applicant, the Lincoln Planning Board, Lincoln Public Works Director, Lincoln Water District, Lincoln Sanitary District, and Lincoln Fire Chief shall consider such a request during the course of their respective reviews. Upon completion of the reviews, recommendations concerning the variance request shall be forwarded to the Lincoln Town Council for considerations along with the complete design plan.

1609.10 In the instance where a road has already been constructed and acceptance of the road requested, the applicant shall furnish a statement from a registered professional engineer that, in his opinion, the road as constructed meets or exceeds the construction standards of this ordinance.

1609.11 This Ordinance may be amended, rescinded, superseded by the Lincoln Town Council as provided by State Law or Town Charter. The Chairman of the Town

Council shall transmit a record of any such changes so authorized to the Penobscot County Register of Deeds in accordance with the provisions of Title 33MRSA section 662-A.

1610. ENFORCMENT

1610.1 No person, firm, corporation, or legal entity may construct or begin to construct any road or way within the Town of Lincoln that will be maintained by the Town without confirming to the requirements of this Ordinance.

1610.1 In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance or code of the Town of Lincoln or State of Maine, the provision which establishes the higher standard or is the more restrictive shall apply.

1700. SOLID WASTE-TRANSFER DEPARTMENT

There shall be a department of Solid Waste-Transfer Station, the head of which shall be the Transfer Station Director/Recycling Coordinator, who shall be appointed by the Town Manager, with confirmation by the Town Council.

1701. SANITARY FACILITIES

Every building intended for human occupancy shall have sufficient sanitary facilities as defined in the State Plumbing Code. Sewage facilities shall conform to the Uniform Plumbing Code and Municipal Sewer District requirements.

1702. HEALTH HAZARDS

Each resident shall be responsible for the removal of solid waste from his property to approved dump area.

1704. SOLID WASTE/RECYCLE ORDINANCE

1704.1 Section I. General

1704.1.1 This Ordinance hereby establishes a Solid Waste and Recycling Department in the Town of Lincoln. This Ordinance shall be known as and may be cited as the "Solid Waste/Recycling Ordinance" for the Town of Lincoln, Maine and herein described as the "Ordinance".

1704.1.2 The purpose of this Ordinance is to protect the health, safety, and general well-being of the citizens of Lincoln, to enhance and maintain the quality of the environment, to conserve natural resources, and to prevent water and air pollution by providing for a comprehensive, rational, and effective means of regulating the

disposal of solid waste in Lincoln in accordance with the provisions of Title MRSA Sec. 1304-B, 1305, and 1310-U, as amended from time to time. This Ordinance will also afford the Town of Lincoln enforcement rights concerning how the Transfer Station will be operated and what materials will be accepted.

1704.2 Section II. Definitions

1704.2.1 Unless otherwise defined herein, all definitions shall be accepted as set forth in the Maine State Solid Waste Management Regulations of 1989, as amended, and any amendments made thereto. Any definitions not covered by this section of the Maine State Solid Waste Management Regulations shall be understood or accepted as the meaning set forth in Webster's Collegiate Dictionary, newest edition.

1704.2.2 ACCEPTED SOLID WASTE shall mean municipal solid waste (MSW) accepted at the Transfer Station that has been generated within the boundaries of the Town of Lincoln, as well as recycled materials generated within the boundaries of the Town of Lincoln and from other communities with contract approval by the Town Council

1704.2.3 ASH shall mean that residue from the burning of wood, coal, or other combustible material.

1704.2.4 COMMERCIAL SOLID WASTE HAULER shall mean a person, firm, corporation, or other entity that generates revenue through the collection, recycling, or hauling the solid waste of another person, firm, corporation, or other entity for a fee.

1704.2.5 COMPOSTING shall mean the biological decomposition and stabilization of organic matter under controlled aerobic conditions of high temperature. Materials considered by this Ordinance to be of a composting nature include, but are not limited to, the following: grass clippings, leaves, hay, or straw; wastes consisting of plant matter from farms, homes, plant nurseries, and greenhouses; and plant stalks, hells, and tree waste processed through a chipper.

1704.2.6 COUNCIL shall mean the Lincoln Town Council or the Town of Lincoln.

1704.2.7 FURNITURE/BULKY WASTE shall include, but not be limited to; beds, mattresses, sofas, chairs, entertainment centers, rugs, carpets, linoleum, and tables.

1704.2.8 PERMITTED USER shall mean any person owning land or residing in Lincoln as well as those contracted towns authorized by the Lincoln Town Council

1704.2.9 PERSON shall mean any individual, partnership, association, firm, company, corporation, or any other entity responsible in any way for an activity subject to these rules.

1704.2.10 RESIDENT shall mean any person who owns land or resides within the boundaries of the Town of Lincoln.

1704.2.11 RECYCLABLES shall mean solid waste, including, but not limited to, the following: glass; plastic; paper; newspaper; metals; cardboard; or other material designated by the Solid Waste Committee or Town as recyclable.

1704.2.12 SOLID WASTE MANAGEMENT REGULATIONS shall mean the 1989 regulations set forth by the State, and adopted by the Board of Environmental Protection, for the purposes of facility management and handling practices of solid waste.

1704.2.13 TOWN shall mean the duly appointed administration of the Town of Lincoln.

1704.2.14 TRANSFER STATION shall mean the Lincoln Transfer Station located on Park Avenue in Lincoln, and/or shall mean any land or structure or combinations of land area and structures owned or operated by, or under a contract with, the Town, including a transfer station or similar facility used in connection with the disposal of acceptable solid waste and licensed in connection with the handling of acceptable solid waste.

1704.2.15 WHITE GOODS shall mean large appliances, including, but not limited to, stoves, refrigerators, freezers, washing machines, clothes dryers, dishwashers, and air conditioners.

1704.3 Section III. Transfer Station

1704.3.1 The Transfer Station shall be under the direction of the Transfer Station Director. The Transfer Station Director is directly responsible to the Town Manager.

1704.3.2 The Transfer Station Director, with approval of the Town Manager, shall appoint such agents as he/she deems necessary to act in his/her stead in carrying out and enforcing this Ordinance. All such appointments shall be made in accordance with the Town's Personnel Rules and Regulations.

1704.3.3 All pertinent rules and regulations of operation (hours, material placement, etc.) shall be posted at the entrance of the Transfer Station and placed on file at the office of the Town Clerk.

1704.3.4 The operation of the designated Transfer Station shall conform to all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction.

1704.4 Section IV. Recycling

1704.4.1 The Town of Lincoln shall provide a drop-off center, where residents, businesses, and industry can participate in a voluntary recycling program. The materials to be accepted in the recycling program shall be established by the Solid Waste/Recycling Committee and the Town.

1704.4.2 Recyclable materials that the Committee shall determine as acceptable shall not be mixed with general household waste that is disposed of in the Transfer Station hopper. Items shall be separated out, prepared as specified, taken to the recycling room, and deposited in the designated area. These recyclable materials include:

CORRUGATED CARDBOARD: All cardboard must be clean from packing material, trash, or plastic.

PAPER: Newspaper, magazines, junk mail, loose-leaf paper, office paper, telephone books, books, and gift wrap. Paper shall be placed in the designated area.

#2HDPE PLASTIC: Milk jugs, detergent bottles, oil bottles, and some toys with the # 2 marking. #2 containers shall be free from contents, rinsed out, and placed in the designated area.

MIXED PLASTIC: #1 PETE, #3 V PVS, #4LDPE, #5 PP, #7 BPA and Others. Water bottles, soda bottles, squeezable bottles, pails, bulky plastic toys, laundry baskets, bins and other plastics. Mixed plastic shall be fairly clean and placed in the designated area.

METAL: Tin cans, pots, pans, appliances, copper, metal siding, metal roofing, aluminum, wire, and scrap metal. Metal shall be placed in designated area.

MOTOR OIL: Motor oil that does not include items such as anti-freeze, gasoline, water, etc. Motor oil shall be placed in the designated area.

1704.5 Section V. Restrictions, Rules, Regulations and Fees for Disposal

1704.5.1 The use of the designated Transfer Station is limited exclusively to residents and resident businesses, commercial solid waste haulers and permitted users, subject to this Section.

1704.5.2 Each vehicle entering the Transfer Station area shall have a decal issued by the Town and then affixed to its windshield. The decal may not be placed on any

other vehicle, loaned, transferred, or sold. In the event of the change of ownership or transfer of a decal, the old decal must be removed and a new decal issued. Failure to exhibit such permit shall result in denial of use of the Transfer Station.

1704.5.3 Permitted users are allowed to deposit solid waste at the Transfer Station so long as the solid waste is derived from and with their ownership or occupancy of residential property or their business/institutional property located within Lincoln.

1704.5.4 Commercial haulers shall not co-mingle refuse collected in Lincoln with refuse collected in other communities.

1704.5.5 No person, or persons, shall dispose of solid waste at the designated Transfer Station without prior authorization from the Town in the form of a Transfer Station Permit Sticker or Permit.

1704.5.6 No person, or persons, shall discharge or dispose of any solid waste, special waste, hazardous waste, hazardous material, or any foreign material into any Town well or storm drain.

1704.5.7 No person, or persons, shall at any time throw or deposit any brush, large quantities of dirt, filth, or solid waste of any kind within the limits of any street, highway, Town way, passageway, or over a bridge in Lincoln, or into the waters of any lake, pond, or river in Lincoln, or upon the ice thereof, or on private property.

1704.5.8 No persons shall transport through any of the public streets or highways in the Town of Lincoln any garbage, swill, waste paper, or vegetable matter, except in a securely covered receptacle or properly delivered to the Transfer Station.

1704.5.9 It shall be a violation of this Ordinance for any person to dispose/deliver waste within Lincoln at any location or place other than at the Council designated Transfer Station, or the property owners land, as long as said waste is handled in accordance with Title 38 MRSA Sec. 1301-0 et. sec., as amended from time to time.

1704.5.10 Certain materials may be excluded by order or regulation from that solid waste which may be deposited at the Transfer Station. These excluded materials may include: junk automobile bodies and similar bulky waste which may require special processing prior to disposal; burning materials or materials containing hot or live coals, except unintentional hot loads; hazardous wastes; and other materials which the Town deems necessary to exclude. Hazardous waste and biomedical wastes shall be handled in accordance with Title 38 MRSA Sec. 1319-0 as amended from time to time.

1704.5.11 The Town reserves the right to limit the days of operation that demolition debris, or solid waste, is accepted. This restriction will be imposed by the Transfer Director, with approval of the Town Manager, based upon the Town's ability to properly handle the volume of Solid Waste delivered to the Transfer Station.

1704.5.12 The Transfer Station Director may require acceptable solid waste to be separated into such categories as may be established by the Town and disposed of only in such manner and at such sites and locations as designated.

1704.5.13 The Council shall establish a schedule of fees for disposal of Acceptable Solid Waste. The Council may amend that schedule of fees whenever it deems appropriate.

1704.5.14 Residents shall apply at the Town Office for a special permit to dispose goods or units containing refrigerants. Residents will be given a Refrigerant Disposal Permit in the form of a printed tag that the resident shall cause to be affixed to the good or unit proposed to be disposed. Goods or units without such a permit will be considered as unacceptable waste. Residents who bring goods or units that have already had refrigerant removed by a certified technician may deposit the good or unit without charge.

All other circumstances shall require a disposal fee as stated within Appendix A of this code.

1704.6 Section VI. Permitting Demolition Debris

1704.6.1 All commercial solid waste haulers, independent contractors, and homeowners shall receive a permit issued from the Code Enforcement Officer allowing demolition debris to be delivered at the Transfer Station. Unpermitted haulers will not be allowed to use the Transfer Station Facility. Violators shall be subject to the fines and/or penalties listed in the Appendix to the Code.

1704.7 Section VII. Property Rights

1704.7.1 In the event a person, partnership, corporation, association, or other legal entity willfully disposes of any waste at the Transfer Station in violation of this Ordinance, he shall remove said wastes, at his sole cost and expense with all due dispatch and under the direction of the Transfer Station Director or Lincoln Police.

1704.7.2 The Lincoln Council reserves the right to limit the acceptance of any commercial waste, furniture/bulky waste, or construction/demolition debris if the type or quantities of such waste is beyond the Town's financial or operational ability. The Town Council shall reserve this exclusive right of determining type and quantity relating to the Town's ability to accept.

1704.8 Section VIII. Penalties

1704.8.1 In the event a person, partnership, corporation, association, or other legal entity willfully disposes solid waste at the Transfer Station in violation of this Ordinance adopted pursuant hereto, he/she/they shall remove, at once, the solid waste so deposited.

1704.8.2 Any person who violates any provision of this Ordinance shall be guilty of a civil offense and upon conviction shall be punished by a fine of up to Five Hundred Dollars ($500.00), plus any costs incurred by the Town, including, but not limited to, enforcement costs, remediation costs, attorney's fees, and reimbursement of any damages which the Town may become liable for to PERC as a result of the violation. Each day that such violation continues after notification shall constitute a separate offense. This provision shall not limit the Town's ability to obtain equitable relief.

1704.8.3 The use of the Transfer Station is a privilege and all rules and regulations set forth herein shall be complied with or said privilege may be revoked by the Transfer Station Operator, with approval from the Town Manager, or enforced through and by section 1704.7.2. In the event a permitted user's privilege to use the Transfer Station is revoked, the permitted user may grieve the revocation with the Lincoln Appeals Board.

1704.9 Section IX. Miscellaneous

1704.9.1 It shall be the duty of the Transfer Station Director and/or the Lincoln Police Department, to enforce the provisions of this Ordinance.

1704.9.2 All ordinances or parts of ordinance in conflict with this Ordinance are hereby repealed.

1704.9.3 If any section, subsection, sentence or part of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

1704.10 Section X. Landfill

1704.10.1 Whoever shall trespass in the boundaries of the Lincoln Landfill, located on Clay Road, Lincoln, Maine, and subsequently cause damage, shall be punished by a fine of not less than One Hundred Dollars ($100.00) plus the costs of damages.

1800. CEMETERY, PARKS & RECREATION DEPARTMENT

There shall be a Department of Cemetery, Parks & Recreation, the head of which shall be the Recreation Director, who shall be appointed by the Town Manager with confirmation of the Town Council. The Department shall be responsible for the coordination of recreation programs, including the annual summer program. Town parks and cemeteries shall be maintained by the department with a seasonal staff. Maintenance of the cemeteries will include maintenance in conformance with the Cemetery Ordinance Section 1802 and will include oversight of all burials in Town cemeteries.

1800.1 Duties of the Cemetery, Parks & Recreation Director

Be responsible for all aspects of the Cemetery, Parks & Recreation Department, including the supervision of all public recreation programs. Be responsible for maintenance of all recreational areas within the Town, including areas designated as Town parks, forests, or public areas. The Cemetery, Parks & Recreation Director will be the immediate supervisor of the Waterfront Director, Assistant Recreation Director, Cemetery Laborers, and all part-time staff.

1801. PUBLIC PARKS AND BEACHES

1801.1 Hours of Operation

All public parks, beaches, basketball courts, and boat landings, and all their associated parking lots, shall open daily to the public during the hours set forth by the Cemetery, Parks & Recreation Department.

1801.2 Unlawful use

It shall be unlawful for any person, firm, or corporation, (other than Town Authorized Personnel conducting business therein) to occupy or be present in said parks, beaches, basketball courts, and boat landings, and their associated parking lots, during any hours in which the parks, beaches, basketball courts, and boat landings, and their associated parking lots, are not open to the public.

1801.3 Supervision

The Police Chief, Cemetery, Parks & Recreation Director, and Public Works Director shall be charged with the responsibility of enforcing this ordinance.

1801.4 Penalty

Any person, firm, or corporation found violating any provision of this ordinance shall be subject to a fine not to exceed one hundred dollars ($100.00) for the first offense, and to double the fine for each subsequent offense.

1802. CEMETERY ORDINANCE OF THE TOWN OF LINCOLN[13]

1802.1 Purpose

It is the desire of the Town to make the Lincoln cemeteries quiet, beautiful resting places for the deceased where a sense of repose will be obtained by dignified landscape effects on a well-maintained lawn. To preserve these effects will require the cooperation of every lot owner. Anything which would mar the general beauty and harmony of the cemeteries must be avoided. Peace and good order must prevail, and the sacredness of the place be maintained at all times.

1802.2 Definitions

For the purpose of interpreting this Ordinance, the following terms, phrases, words, and their derivation shall have the meaning given herein.

CEMETERY LOT CONVEYANCE: Legal document transferring "ownership" of a cemetery lot(s) from the Town of Lincoln or a previous owner to the lot owner. The terms "Lot Owner" or "Ownership" shall be construed to mean the rights to use a lot or part of a lot, as purchased from the Town for consideration or acquired by a previous owner with written consent of the Town, **for burial purposes only**, and under the rules and regulations as prescribed by the Town for such use.

DISINTERMENT: The act of taking out the grave or tomb.

HOLIDAY: All legal holidays observed by the Town as listed in Personnel Rules & Regulations.

FOUNDATION: Each monument or grave marker over fourteen (14) inches by twenty-six (26) inches or one (1) foot high shall rest on a foundation. The foundation base for a monument or grave marker will be a cement pad two (2) to four (4) feet in depth, which is consistent with the headstone size, constructed with a smooth sided form to minimize frost heaving. Pea Stone may also be used for leveling purposes. The use of patio blocks is permitted with prior approval granted during the permit process by the Cemetery, Parks & Recreation Director depending on the cemetery lot's location listed in application. All types of foundations will be concealed with four (4) inches of sod that is ground level.

INTERMENT: The act of depositing in the earth or in a tomb.

LOT: A portion of land set aside for the burial of a human body or bodies.

LOT SIZE: The dimension of a burial lot shall differ depending on the location within the cemetery.

[13] Council approved change 2-14-2022

LOT OWNER: The person or persons holding title to a cemetery lot by virtue of a cemetery lot conveyance.

MAUSOLEUM: A stone building with places for entombment of the dead above ground.

RESIDENT: A person who resides in an established home or owns property within the boundaries of the Town of Lincoln.

WEEKDAYS: Monday through Friday, 8:00am to 5:00 pm.

WEEKENDS: The period of time not covered by weekday and holiday definitions.

1802.3 Purchase of Lots

The Town will only sell lots to residents of the Town of Lincoln. The Town will make available suitable plots showing size, price and such other information as may be required. The Town will render assistance to those desiring to purchase a lot. The lot sale will be completed by paying the appropriate fees to the Town Treasurer and a cemetery lot conveyance issued therefore.

1802.4 Ownership and Title of Lots

The terms "Lot Owner" or "Ownership" shall be construed to mean the rights to use a lot or part of a lot, as purchased from the Town for consideration or acquired by a previous owner with written consent of the Town, for burial purposes only, and under the rules and regulations as prescribed by the Town for such use.

All burial rights in cemetery lots purchased from the Town, or acquired by a previous owner with written consent of the Town, occupy the same position as an estate at the death of the owner. Only such persons as names appear on the cemetery records of the Town will be recognized as owners or part owners of lots. In case of death of a lot owner, when the cemetery lot is disposed of by will, a certified copy of the will must be delivered to the Town before the Town will recognize the change in ownership. If the deceased lot owner left no will, a copy of the proof of inheritance made in Probate Court must be presented.

The lot owner has the right to use such lot for burial purposes only for themselves, their heirs, or any such persons as they may choose to admit, provided such admission is free of charge, without compensation, and in accordance with the Cemetery Ordinance of the Town of Lincoln.

The lot owner cannot resell or transfer their lot(s) to any person or persons whomsoever, without prior express written permission from the Town. Upon permission from the Town to transfer lot(s) and submission of the original conveyance and payment of the transfer fee set forth in the Appendix to the Code, the Town Clerk/Treasurer shall issue a new conveyance transferring the cemetery

lot. If perpetual care was not paid on a lot(s) at the time of initial purchase, perpetual care shall be paid prior to the transfer of ownership of said lot(s).

Lots will be of such size as to accommodate one grave. The cost of said lot will be as specified in Section 15 herein. As many single sites as are needed may be purchased to make a desired lot. (Some sections of the cemetery have multiple grave site lots.)

From time to time, the Town acknowledges that there may be errors and omissions made during the transfer of cemetery lots or during actual burials. To correct these errors and omission takes great patience as well as delicacy. Given the delicate nature of how these errors and omissions are corrected, the Town Council Chairman is advised to correct these errors or omissions in the best interest of the Town and in the individual(s) involved.

1802.5 Care of Lots

Effective with the enactment of this ordinance, lot sales shall be made with perpetual care at the rates specified in Section 14 herein.

Owners of lots or other interested persons may secure perpetual care of lots in the older portions of the cemeteries by payment to the Town of the perpetual care charges at the rate specified in Section 14 herein.

The term "Perpetual Care" shall be construed to mean the obligation which the Town assumes to expend each year, by virtue of the annual budget process, from the "Perpetual Care Trust Fund" set aside for the lots in furnishing such care as mowing the grass and raking and cleaning lots. It is understood that such expenditures shall be made at the discretion, and under the direction, of the Town Manager and Town Council. It is also understood that the Town shall not be bound to make any separate investment of the sum of money set aside as perpetual care, but that the interest allocation shall be available to be expended from the perpetual care trust fund of the Town. The proceeds therefrom shall be used by the Town in the manner as heretofore provided. Nothing herein shall be construed as modifying any existing agreements as to perpetual care.

1802.6 Regulations for Plants, Flowers, Decorations, Trees, Shrubs and Lot Improvements – (New Text)

It is up to the discretion of the Cemetery, Parks & Recreation Director (hereinafter referred to as Director) to remove without notice anything that violates any part of Section 1802.6, including objects or containers in and around all tombstones and graves, and the cemetery in general that prohibits proper maintenance of the lot including mowing, trimming and reseeding. If the removal is to be permanent, the Director will attempt to notify the owner.

The Town reserves the right for its workers, and those persons necessary to the performance of normal cemetery operation, to enter upon or cross over any lot in

the cemeteries in the performance of their duties. The Town or its employees assume no liability for damage, physical or mental anguish, in the performance of normal operations or loss by vandalism or other acts beyond reasonable control.

1. Enclosures – No enclosure of any nature, such as fences, copings, hedges or ditches shall hereafter be erected on any lot.
2. Grave mounds shall not be allowed. No lots shall be raised above the established grade.
3. All flowers/decorations will be placed around the upright monument, or the top of the grave/head of the lot. The middle and foot of the grave/lot shall be left clear to allow for maintenance activities. Artificial flowers/decorations are allowed ONLY if they are secured to the grave site. Decorations must be maintained in a presentable manner. Any decorations not kept in this manner will be removed by the Director.
4. Fresh flowers are allowed in vases or baskets, as are plants in beds adjacent to monuments.
5. No trees shall be planted in the Town of Lincoln cemeteries hereafter. Shrubs may be planted in the Town of Lincoln cemeteries with the consent of the Director. Shrubs must be maintained, and the Town of Lincoln reserves the right to maintain shrubs at the discretion of the Director.
6. Lot owners may improve, cultivate and care for their lots and existing trees, shrubs and plants in accordance with this ordinance and may utilize sound wood, concrete or metal containers, plants or flowers of such kind or size as do not interfere with adjacent lots. Owners shall not change the grade of any lot or interfere in any way with the general plan of landscaping of cemeteries, nor add any material to his/her lot which is considered by the Director to be unfit for the cultivation of grass.
7. No person shall destroy, mutilate, deface, injure or remove any monument, marker, gravestone, fence, railing, other structure, plant or other Town properties with the cemeteries.
8. Some articles are considered injurious to the beauty and dignity of the cemeteries and can create safety hazards and reduce the peaceful ambiance therein. The following objects are not permitted in the Town of Lincoln cemeteries:
    - Breakable items
    - Unsightly items
    - Eternal flames or any open flames
    - Balloons
    - Toys
    - Ornaments
    - Resin figures

9. Around October 15th of each year the Town shall have the right, at their discretion, to remove and dispose of any summer decorations. Around April 15th of each year the Town shall have the right at their discretion to remove any and all decorations from the previous winter.

10. All general maintenance in the cemeteries will normally be done by the Town, but lot owners may feel free at any time to consult with the town regarding matters pertaining to permissible plantings or the general care of the lots.
11. No person will be permitted to trim, prune or remove branches from any tree or ornamental shrub in the cemeteries, except on their own lot. All work pruning, trimming or removing trees and shrubs shall be done by the Town or under its direction and at its discretion.
12. The Town reserves the right to remove any trees, shrubs, vines, or any part thereof which, in its opinion, may have become unsightly, dangerous or not in keeping with the landscape design.

1802.7 Rules for Visitors

The cemeteries will be open to visitors at all times between sunrise and sunset. Permission to enter the cemeteries at any other time must be obtained from the Town, the Director, or the Director's designee.

Firearms will be allowed in the cemeteries only at military funerals or memorial services, and only by authorized personnel.

Visitors are required to use the walks and drives. Visitors shall not pick any flowers (either wild or cultivated), injure any shrubs, trees, plants or deface any monument, stone or structure in the cemeteries.

1802.8 Interments

Permission in writing from a lot owner must accompany all requests for permits to bury persons not members of the immediate family. Such permission shall not be for remuneration.

All graves shall be dug by the Town under the direction of the Director or his designee. A charge for opening/closing a grave will be made as provided in Section 14 herein.

No burial will be permitted until legal burial permit has been presented to the Town. Undertakers will be held responsible for all interments charges.

The lot owner or funeral director shall designate the location of the grave on the lot to the Director and any change in location made after the opening of the grave has begun shall be at the cost of an additional opening/closing. The Town shall have the discretion of scheduling openings, if weather permits, within twenty-four (24) hours' notice in the summer and thirty-six (36) hours' notice in winter *(from December 1 through May 31)* prior to interment.

The interment of two bodies in one single grave space will not be allowed, except in the case of parent and infant, cremated remains, or children. No interment of anybody other than that of a human being will be permitted. The size of the

outside container will determine the number of exceptions allowed in one site and any exception shall be permitted at the sole discretion of the Town.

In all interments the casket shall be enclosed in a permanent outside container. The following are considered permanent outside containers: concrete boxes, concrete, copper, steel burial vaults, sectional concrete crypts, and plastic children's casket/vaults.

The Director or his/her designee shall attend every interment to ensure that the rules and regulations of the cemetery are observed.

As soon as flowers, wreaths, emblems, etc., used at funerals or placed on graves at other times become unsightly and faded, they will be removed and no responsibility for their protection or maintenance is assumed.

1802.9 Removals

Removals of bodies from graves in the cemeteries will only be made by the Town in accordance with the requirements of the laws of the State of Maine and this Ordinance. Charges for removal will be made in accordance with the difficulty of the work and are payable in advance.

Owners or their heirs desiring graves opened shall secure the necessary disinterment permit from the Town Clerk and deliver the same to the Director. All removals will be made by the Town under the supervision of a licensed funeral director.

For sanitary reasons, graves will not be reopened for inspection except for official investigation or by court order.

Any markers or monuments designating the location of an interment shall be removed at the time a disinterment is made.

1802.10 Stone and Monumental Work

All memorial foundation installation and erection shall require a permit. This permit will be issued without charge from the Director or his/her designee according to the following procedure:

1. An application for a permit shall be filed with the Director or his/her designee three (3) working days prior to installation.

2. No foundation shall be installed or erected prior to receiving a permit listing the approved lot site from the Director or his designee.

3. The monument dealer shall consult with the Cemetery, Parks & Recreation Director or his/her designee to determine the proper location for the memorial prior to placement on the gravesite.

4. All material removed for foundation excavation must be disposed of properly.

5. The monument dealer involved shall be responsible to the Town of Lincoln for any damage done to the surrounding area and for cleaning up the gravesite. Stones placed improperly *without a permit* shall be subject to removal or relocation by order of the Town at the expense of the monument dealer.

All memorial foundations shall be placed on solid ground not included in actual grave space except where grave liner is of permanent type and of sufficient strength to support weight of foundation and memorial.

Each monument or grave marker over fourteen (14) inches by twenty-six inches (26), or one (1) foot high or over, shall rest on a foundation.

The foundation base for a monument or grave marker will be a cement pad two (2) to four (4) feet in depth which is consistent with the headstone size, constructed with a smooth sided form to minimize frost heaving. Pea Stone may also be used for leveling purposes. The use of patio blocks is permitted with prior approval granted during the permit process by the Cemetery, Parks & Recreation Director depending on the cemetery lot's location listed in application. All types of foundations will be concealed with four (4) inches of sod that is ground level.

The setting of monuments, stones, and markers, as well as the transportation of all tools, materials, etc., within the cemetery grounds, shall be subject to the supervision and control of The Director /or designee. Heavy teaming or trucking will not be permitted within the cemeteries when in the opinion of the Director such work might cause injury to the driveways. Except when special permission is obtained, all work as outlined above shall be completed, and rubbish removed, before Friday at sunset.

Stone or monumental work will not be permitted on a lot until the lot is fully paid for, and the Town reserves the right to refuse permission to erect any monumental work not in keeping with the good appearance of the grounds.

Stone work or monumental work once placed on its foundation shall not be removed, except by permission of the Town.

Markers or monuments shall be placed on the head of a grave plot. No markers shall be placed nearer than four (4) inches to a lot line. No more than one (1)

marker shall be placed at any one (1) grave. No marker shall embrace two (2) or more graves unless all graves are on the same lot. No marker shall be set unless it meets with these regulations. Flat markers also may be placed at the foot of a grave.

1802.11 Mausoleums

All applications to erect mausoleums shall be made in writing to the Town Manager, and permits shall be obtained before any construction work is begun. The right is reserved to prohibit the erection of any structure that is not, in the opinion of the Town Council, considered safe, suitable or desirable.
Before the mausoleum may be erected, the lot owner will be required to deposit in the perpetual care trust fund of the Town an amount equal to twenty-five (25) percent of the cost of structure.
Duplicate keys for mausoleums shall be left in care of the Town.

The building shall not exceed twenty (20) percent of the lot. The position of the building on the lot shall be as determined by the Town, but in no case will permission be given to set the building nearer to the lot line than ten (10) feet.

1802.13 Suggestions

Receptacles for cut flowers should be sunk level with the ground at lot level and of such construction that contents may be emptied without damaging the sod, thus ensuring the safety of such articles, and to facilitate the mowing of grass on the lot.

It is urged that lot owners interest themselves in the present and future care of their lots, as a single neglected lot mars the beauty of the entire section.

It is important that care be taken in selecting a monument to get a design which will harmonize with its surroundings and not be a monotonous repetition of other stones in the cemetery.

1802.14 Fees, Charges and Payments

The payment of all fees and charges shall be made at the Town Office, where receipts will be issued for all amounts paid.

Fees for lot purchase and burials are contained in the Appendix to the Code.

1900. PUBLIC LIBRARY DEPARTMENT

1900.1 Creation of the Public Library Department

1900.1.1 There shall be a Public Library Department in the Town of Lincoln to be known as the Lincoln Memorial Library.

1900.1.2 Purpose

The purpose of the said Public Library Department shall be to provide the inhabitants of the Town of Lincoln and the inhabitants of surrounding towns and unorganized territories, as those entities of their inhabitants may contract with the Town of Lincoln, with public library service and facilities.

1900.2 Library Director

1900.2.1 Appointment

The Department shall be headed by the Library Director who shall be appointed by the Town Manager subject to the confirmation of the Town Council.

1900.2.2 Chain of Command

The Library Director shall be the Chief Administrative Officer of the Lincoln Memorial Library and shall be responsible to the Town Manager for the proper administration of all Library affairs.

1900.2.3 Powers and Duties

a. Exercise such authority as the Town Manager may grant to appoint, prescribe the duties of, and when necessary for the good of the Library, remove employees of the Library, pursuant to procedures authorized by the Charter and Personnel Policy;
b. Prepare in conjunction with the Library Advisor Committee a budget and submit it to the Town Manager;
c. Prepare and submit, as of the end of the year, a complete report on the finances and administrative activities for the preceding year to be included in the Annual Report of the Town;
d. Attend meetings of the Library Advisor Committee except when excused by the Committee;
e. Act as purchasing agent for the Library , to the extent that such authority is delegated by the Manager and subject to the Manager's supervision and applicable rules and regulations of the Town;
f. Provide for the maintenance and all Town-owned equipment and buildings used by the Library Department;
g. Provide a training program for Library personnel within the Department in cooperation with appropriate governmental agencies; and
h. Perform such other duties as may be prescribed by law, ordinance, or required by the Manager, not inconsistent with this ordinance or the Town Charter.

1900.2.4 Assistants

To assist the Library Director in carrying out his/her duties the municipality may employ Library personnel who shall be appointed by the Library Director and confirmed by the Town Manager in accordance with the provisions of the Charter and Personnel Rules and Regulations. Library personnel shall be appointed for an indefinite period, and they may serve until removed for just cause, or until resignation or retirement.

1900.3 Library Advisory Committee

1900.3.1 Appointment and Duration of Term

The Town Council may appoint a Library Advisory Committee composed of seven volunteer members each of whom shall be appointed for a term of three (3) years, or until his/her successor is appointed and qualified.

1900.3.2 Chain of Command and Authority

The Library Advisory Committee exists to work in cooperation with the Library Director to make recommendations to the Town Manager and Town Council on such matters as library service to the community, policy review, goal setting, budget preparation, and personnel matters.

1900.3.3 Committee Empowered to Make Rules

The Library Advisory Committee shall have the authority to make its own rules, subject to final approval by the Town Council, as it deems appropriate for effective and efficient conduct of its business. These rules may include setting regular meeting days, attendance of its members, election of officers, and establishing a quorum.

1900.4 Validity

1900.4.1 It is the intention of the Town Council that each separate section of this ordinance shall be deemed independent of all other sections herein, as it is further the intention of the Town Council that if any provisions of this ordinance be declared invalid, all other sections thereof shall remain valid and effective.

1900.5 Amendments

1900.5.1 This ordinance may be amended by a majority vote of the Town Council when such amendment is promulgated in accordance with the provisions of the Town Charter.

1900.6 Effective Date

1900.6.1 This ordinance shall be in full force and effect as soon as the Town Council votes to enact it.

1900.7 Repeal of Conflicting Ordinances

1900.7.1 All existing ordinance of the Town of Lincoln are hereby repealed insofar as they may be inconsistent with the provisions for this ordinance.

1901. LINCOLN MEMORIAL LIBRARY STATEMENT OF OBJECTIVES AND POLICIES

1901.1 Objectives:

A. The Library shall identify and help meet the information, educational, intellectual, cultural, and recreational needs of all members of the community.
B. The Library will select, assemble, preserve, and administer organized collections of print and non-print material. The Library will promote, through guidance and stimulation, the communication of ideas, an enlightened citizenship and enriched personal lives.
C. The Library will serve the community as a center of reliable information.
D. The Library will seek continually to identify community needs, to provide programs of service to meet such needs, and to cooperate with other organizations, agencies, and institutions which can provide programs or service to meet community needs.

1901.2 Who May Use the Library:

A. PRIVILEGES

1. Privileges at the Lincoln Memorial Library shall be free to all residents of Lincoln and all non-resident taxpayers.
2. Patrons shall read the Lincoln Memorial Library Patron Policy and sign the registration card.
3. The fee for privileges to all other patrons shall be as listed in the Appendix to the Code.
4. Services shall not be denied or abridged because of race, color, religion, age, political affiliation, national origin, social or economic status, or sexual preference.

B. REVOCATION OF LIBRARY PRIVILEGES

A patron may have library privileges revoked for:

1. Violation of the Lincoln Memorial Library Patron Policy.
2. Causing a public nuisance, use of alcohol or drugs while in the library, disturbing other patrons, or loud or abusive behavior.

1901.3 Services of the Library:

A. HOURS – SCHEDULE

Hours of the Library are located in the Appendix to the Code.

B. LOAN PERIOD – LENDING POLICIES:

1. **Each patron** is required to show their Borrower's Card or another form of ID when borrowing materials.

2. **Patrons under age 18** shall have parent/guardian signature on their registration card which must be signed in the presence of a staff member.
3. **Books/Print Materials:** The loan period for books, except new books, shall be for a period of twenty-one (21) days. Up to two (2) renewal periods are allowed provided there are no reserves on the item being renewed.

4. New Books

a. Patrons are limited to two (2) new books per loan period, for a maximum of twenty-one (21) days with one (1) option for renewal.
b. New books shall have a designated area in the library where any and all patrons shall have daily access. The books will be distinguishable from other library books by a color coded sticker.
c. The status of these books will be determined by the volume of traffic and demand. Once the demand has diminished, the book will be placed in the appropriate area and subject to our standard book lending policy.

5. Non-print Media

a. Non-print media includes books on tape, video tapes, and CD-ROM;
b. Patrons must be fourteen (14) years old to borrow all non-print materials;
c. Loan period is for twenty-one (21) days for all non-print materials, with no option for renewal;
d. Patrons will be charged a fee if video tapes are not rewound.

6. Computers

Internet access and word processing are available free to the public. All users are required to sign the Lincoln Memorial Library Computer/Internet Policy.

C. RESERVE POLICY:

1. Patrons may request to reserve materials.
2. Reserved materials must be picked up within three (3) days of notification.
3. Materials on reserve may not be renewed.

D. FINES:

1. A list of library fines is located in the Schedule of Fees located in the Appendix to the Code.
2. Replacement Fees - Damaged or destroyed material shall also be replaced at current cost of material.

3. Procedure for Notifying Patrons of Overdue Materials:
    a. The patron is notified once by phone or by mail within two (2) weeks from due date.
    b. A bill is sent to the patron after four (4) weeks, if the overdue material is not returned.
    c. A certified letter is sent after two (2) months. The bill includes a processing fee.
    d. Patrons with overdue material with value of twenty-five dollars ($25) or higher could be prosecuted according to State law.

E. CIRCULATION RESTRICTIONS:

1. New borrowers are limited to two (2) items for their first visit.
2. In special circumstances (school assignments, etc.) the circulation of certain materials may be restricted.
3. Designated Reference and Special Collection items do not circulate.

F. INTERLIBRARY LOAN

1. The Library staff shall attempt to obtain material for patrons not available at Lincoln Memorial Library, through inter-library loan.
2. The Lincoln Memorial Library will charge no fees for inter-library loan services. If a lending library charges fines or fees associated with materials, the requesting patron is responsible for these charges.
3. A patron may have no more than five (5) inter-library loan requests in the system at one time.

1901.3 Material Selection

The Library will provide any materials which help to meet its objectives. Such materials may include books and non-print media. The Library Director will be responsible for the selection of materials. Materials will be of high quality in content, expression, and format, and books and other materials will be selected to represent values of interest, information, and enlightenment of all people in the community. In no case will Library materials be excluded because of the race or nationality of the authors, nor will they be excluded because of the author's social, political, or religious views.

The Library will try to provide books and other materials presenting all points of view concerning the problems and issues of our times; materials are not to be removed from the Library because of doctrinal disapproval.
The Library will maintain a numerical balance in its collection of approximately one-half non-fiction, one-fourth fiction, and one-fourth juvenile literature.

To avoid unnecessary duplication, the Library will keep itself informed of material available for loan outside the Library.

The Library subscribes to the Library bill of rights, the Freedom to Read, and the Freedom to View statements of the American Library Association (included in the appendix) the Library will challenge censorship and attempted censorship on the maintenance of its responsibility to provide information and enlightenment.

The collection will be regularly reviewed and evaluated by the Library Director. Materials which no longer meet the stated objectives of the Library will be discarded according to professional practices and guidelines. Disposition of Library materials will be at the discretion of the Librarian.

1901.5 Procedures for Handling Complaints

A. Complainants who come in by person or call by telephone should be listened to courteously and invited to submit a complaint in writing, if the problem cannot be resolved through informal discussion. The complaint form to be used is "citizen's request for consideration of a book," and is available at the circulation desk. If the complaint comes by letter, it should be acknowledged promptly by the Librarian.

B. As soon as the complaint has been submitted, the objections should be reviewed. The Librarian, at this time, will inform the Town Manager and Library Committee that a formal complaint has been made. The Library Director will evaluate the original reasons for the purchase of the item. The objections will be considered in terms of the material selection policy, the principles of the Library bill of rights, and the opinions of the various reviewing sources used in materials selection.

C. A written response will then be made to the complaint. If the complainant is still not satisfied, an appeal can be made to the Town Manager and Council. See copy of "Citizen's Request Form for Reconsideration of Library Material" in Appendix after Section 1901.9.

1901.6 Gifts and Donations:

A. Gifts of money of up to and including five hundred dollars ($500.00) will be accepted for the purchase of books and other materials by the Library Director. Gifts exceeding the five hundred dollars ($500.00) value must be accepted by the Town Council.

B. Gifts of books and other items may be accepted at the discretion of the Library Director in accordance with the Material Selection statement (Section IV).

1901.7 Public Relations:

A. Displays and Exhibits

Displays and Exhibits shall be governed as follows:

1. **Announcements:** Announcements of music and drama events, civil programs, and similar activities may be displayed in the Library by permission of the Library Director.
2. **Exhibits:** Art, craft, and hobby exhibits are encouraged as space permits, but shall be displayed at the owner's risk, by permission of the Library Director.
    a. Exhibit request forms may be obtained from the Library Director. A sample of this form is included in the appendix after Section 1901.9

3. **Election Material:** No materials, leaflets, or posters which refer to the election of a candidate, political or otherwise, shall be displayed in the Library.

B. Solicitations: No organization or individual shall place any receptacle in the Library to solicit donations, nor shall any display or poster be permitted which advocates or solicits consideration of any product or item by a commercial or charitable enterprise. The circulation of petitions in the Library shall not be permitted.

C. Friends of the Lincoln Library: The Library Advisory Committee shall act as the liaison between the Library and such organizations that are formed to assist the Library in carrying out its functions.

D. Confidentiality Policy: The Library Director and staff are not authorized to give out any information concerning patrons of this Library without specific prior approval of the Town Council/Manager, or written approval from the patron.

1901.8 Library Facilities – Use by the Public

The facilities are open to the public during the regular posted hours of business. Smoking is not permitted in the Library.

1901.9 Amendment of Policies:

These policies and objectives may be amended by a majority vote of the Library Advisory Committee according to Robert's Rules, and such amendments shall be submitted to the Town Manager/Council for approval.

LINCOLN MEMORIAL LIBRARY APPENDIX TO OBJECTIVES & POLICIES

LIBRARY BILL OF RIGHTS

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

1. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or view of those contributing to their creation.

2. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

3. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.

4. Libraries should cooperate with all persons and groups concerned with resisting abridgement of free expression and free access to ideas.

5. A person's right to use a library should not be denied or abridged because of race, origin, age, background, or views.

6. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

THE FREEDOM TO READ

The freedom to read is essential to our democracy. It is continuously under attack. Private groups and public authorities in various parts of the country are working to remove books from sale, to censor textbooks, to label "controversial" books, to distribute lists of "objectionable" books or authors, and to purge libraries. These actions apparently rise from view that our national tradition of free expression is no longer valid; that censorship and suppression are needed to avoid the subversion of politics and the corruption of morals. We, as citizens devoted to the use of books and as librarians and publishers responsible for disseminating them, wish to assert the public interest in the preservation of the freedom to read. We are deeply concerned about these attempts at suppression. Must such attempts rest on a denial of the fundamental premise of democracy: that the ordinary citizen by exercising his critical judgment, will accept the good and reject the bad. The censors, public and private, assume that they should determine what is good and what is bad for their fellow citizens.

We trust Americans to recognize propaganda, and to reject it. We do not believe they need the help of censors to assist them in this task. We do not believe they are prepared to sacrifice their heritage of a free press in order to be "protected" against what others thing may be bad for them. We believe they still favor free enterprise in ideas and expression.

We are aware, of course, that books are not alone in being subjected to efforts at suppression. We are aware that these efforts are related to a larger pattern of pressures being brought against education, the press, films, radio, and television. The problem is not only one of

actual censorship. The shadow of fear cast by these pressures leads, we suspect, to an even larger voluntary curtailment of expression by those who seek to avoid controversy.

Such pressure toward conformity is perhaps natural to a time of uneasy change and pervading fear. Especially when so many of our apprehensions are directed against an ideology, the expression of a dissident idea becomes a thing feared in itself, and we tend to move against it as against a hostile deed, with suppression.

And yet suppression is never more dangerous than in such time of social tension. Freedom has given the United States the elasticity to endure strain. Freedom keeps open the path of novel and creative solutions, and enables change to come by choice. Every silencing of a heresy, every enforcement of an orthodox, diminishes the toughness and resilience of our society and leaves it the less able to deal with stress.

Now as always in our history, books are among our greatest instruments of freedom. They are almost the only means for making generally available ideas or manners of expression that can initially command only a small audience. They are the natural medium for the new idea and the untried voice from which come the original contributions to social growth. They are essential to the extended discussion which serious thought requires, and to the accumulation of knowledge and ideas into organized collections.

We believe that free communication is essential to the preservation of a free society and a creative culture. We believe that these pressures towards conformity present the danger of limiting the range and variety of inquiry and expression on which our democracy and our culture depend. We believe that every American community must jealously guard the freedom to publish and to circulate, in order to preserve its own freedom to read. We believe that publishers and librarians have a profound responsibility to give validity to that freedom to read by making it possible for the readers to choose freely from a variety of offerings.

The freedom to read is guaranteed by the Constitution. Those with faith in free men will stand firm on these constitutional guarantees of essential rights and will exercise the responsibilities that accompany these rights.

We therefore affirm these propositions:

1. It is in the public interest for publishers and librarians to make available in the widest diversity of views and expressions, including those which are unorthodox or unpopular with the majority. Creative thought is by definition new, and what is new is different. The bearer of every new thought is a revel until his idea is refined and tested. Totalitarian systems attempt to maintain themselves in power by the ruthless suppression of any consent which challenges the established orthodoxy. The power of a democratic system to adapt to change is vastly strengthened by the freedom of its citizens to choose widely from among conflicting opinions offered freely to them. To stifle every nonconformist idea at birth would mark the end of the democratic process. Furthermore, only through constant activity of weighing

and selecting can the democratic mind attain the strength demanded by times like these. We need to know not only what we believe but why we believe it.

2. Publishers, librarians, and booksellers do not need to endorse every idea or presentation contained in the books they make available. It would conflict with the public interest for them to establish their own political, moral, or aesthetic views as a standard for determining what books should be published or circulated. Publishers and librarians serve the educational process by helping to make available knowledge and ideas required for the growth of the mind and the increase of learning. They do not foster education by imposing as mentors the patterns of their own thought. The people should have the freedom to read and consider a broader range of ideas than those that may be held by any single librarian or publisher or government or church. It is wrong that what one man can read should be confined to what another thinks proper.

3. It is contrary to the public interest for publishers or librarians to determine the acceptability of a book on the basis of the personal history or political affiliations of the author. A book should be judged as a book. No art or literature can flourish if it is to be measured by the political views or private lives of its creators. No society of free men can flourish which draws up lists of writers to whom it will not listen, whatever they may have to say.

4. There is no place in our society for efforts to coerce the taste of others, to confine adults to the reading matter deemed suitable for adolescents, or to inhibit the efforts of writers to achieve artistic expression. To some, much of modern literature is shocking. But is not much of life itself shocking? We cut off literature at the source if we prevent writers from dealing with the stuff of life. Parents and teachers have a responsibility to prepare the young to meet the diversity of experience in life to which they will think critically for themselves. These are affirmative responsibilities, not to be discharged simply by preventing them from reading words for which they are not yet prepared. In these matters, taste differs, and taste cannot be legislated,[1] nor can machinery be devised which will suit the demands of one group without limiting the freedom of others.

5. It is not in the public interest to force a reader to accept with any book the prejudgment of a label characterizing the book or author as subversive or dangerous. The idea of labeling presupposes the existence of individuals or groups with wisdom to determine by authority what is good or bad for the citizen. It presupposes that each individual must be directed in making up his mind about the ideas he examines. But Americans do not need others to do their thinking for them.

6. It is the responsibility of publishers and librarians as guardians of the people's freedom to read, to contest encroachments upon that freedom by individuals or groups seeking to impose their own standards or tastes upon the community at large. It is inevitable in the give and take of the democratic process that the political, the moral, or aesthetic concepts of an individual or group will occasionally collide with those of another individual or group. In a free society, each individual

is free to determine for himself what he wishes to read, and each group is free to determine what it will recommend to its freely associate members. But no group has the right to take the law into its own hands, and to impose its own concept of politics or morality upon other members of a democratic society. Freedom is not freedom if it is accorded only to the accepted and the inoffensive.

7. It is the responsibility of publishers and librarians to give full meaning to the freedom to read by providing books that enrich the quality and diversity of thought and expression. By the exercise of this affirmative responsibility, bookmen can demonstrate that the answer to a bad book is a good one, the answer to a bad idea is a good one.

The freedom to read is of little consequence when expended on the trivial[3], and it is frustrated when the reader cannot obtain matter fit for his purpose. What is needed is not only the absence of restraint, but the positive provision of opportunity for the people to read the best that has been thought and said. Books are the major channel by which the intellectual inheritance is handed down, and the principal means of its testing and growth. The defense of their freedom and integrity, and the enlargement of their service to society, require of all bookmen the utmost of their faculties, and deserve of all citizens the fullest of their support. We state these propositions neither lightly nor as easy generalizations. We here stake out a lofty claim for the value of books. We do so because we believe that they are good, possesses of enormous variety and usefulness, worthy of cherishing and keeping free. We realize that the application of these propositions may mean the dissemination of ideas and manners of expression that are repugnant to many persons. We do not state these propositions in the comfortable belief that what people read is deeply important; that ideas can be dangerous; but that the suppression of ideas is fatal to a democratic society. Freedom itself is a dangerous way of life, but it is ours.

THE FREEDOM TO VIEW STATEMENT[14]

The Freedom to View, along with the freedom to speak, to hear, and to read, is protected by the First Amendment to the Constitution of the United States. In a free society, there is no place for censorship of any medium of expression. Therefore, these principles are affirmed:

1. To provide the broadest access to film, video, and other audiovisual materials because they are a means for the communications of ideas. Liberty of circulation is essential to insure the constitutional guarantees of freedom of expression.

2. To protect the confidentiality of all individuals and institutions using film, video, and other audiovisual materials.

[14] This statement was originally drafted by the Freedom to View Committee of the American Film and Video Association (formerly the Educational Film Library Association) and was adopted by the AFVA. Board of Directors in February 1979. This statement was updated and approved by the AFVA Board of Directors in 1989. Endorsed by the ALA Council January 10, 1990.

3. To provide film, video, and other audiovisual materials which represent a diversity of views and expression. Selection of a work does not constitute or imply agreement with or approval of the content.

4. To provide a diversity of viewpoints without the constraint of labeling or prejudging film, video, or other audiovisual materials on the basis of the moral, religious, or political beliefs of the producer or filmmaker or on the basis of controversial content.

5. To contest vigorously, by all lawful means, every encroachment upon the public's freedom to view.

LINCOLN MEMORIAL LIBRARY EXHIBIT REQUEST FORM

INDIVIDUAL OR ORGANIZATION REQUESTING EXHIBIT: _____
DESCRIPTION OF EXHIBIT: _____
DISPLAY DATE: _____

WAIVER OF RESPONSIBILITY:
THE UNDERSIGNED HEREBY RELEASES THE LINCOLN MEMORIAL LIBRARY AND THE TOWN OF LINCOLN FROM ALL LIABILITY RESULTING FROM LOSS OR DAMAGE OF THE ABOVE DESCRIBED ITEMS.

_____
SIGNATURE OF EXHIBITOR DATE

_____
APPROVAL BY LIBRARY DIRECTOR DATE

CITIZEN'S REQUEST FORM FOR RECONSIDERATION OF A LIBRARY MATERIAL

AUTHOR:_____

TITLE:_____

PUBLISHER (IF KNOWN):_____

COMPLAINANT'S NAME:_____

ADDRESS:_____

COMPLAINANT REPRESENTS:
HIMSELF/HERSELF:_____

ORGANIZATION OR GROUP:_____

ITS NAME:_____

1. TO WHAT IN THE MATERIAL DO YOU OBJECT? (PLEASE BE SPECIFIC; CITE PAGES)
_____
_____
2. WHAT DO YOU FEEL MIGHT BE THE RESULT OF READING THIS MATERIAL?
_____
_____
3. FOR WHAT AGE GROUP WOULD YOU RECOMMEND THIS MATERIAL? _____
4. IS THERE ANYTHING GOOD ABOUT THE MATERIAL?_____
5. DID YOU READ/VIEW THE ENTIRE MATERIAL?_____ WHAT PARTS? _____
_____
6. ARE YOU AWARE OF THE JUDGEMENT OF THIS MATERIAL BY LITERARY CRITICS?___
_____
7. WHAT DO YOU BELIEVE IS THE THEME OF THIS MATERIAL?_____
_____
8. WHAT WOULD YOU LIKE THE LIBRARY TO DO ABOUT THIS MATERIAL?_____
_____
9. IN ITS PLACE, WHAT MATERIAL OF LITERARY QUALITY WOULD YOU RECOMMEND THAT WOULD CONVEY AS VALUABLE A PICTURE AND PERSPECTIVE OF OUR CIVILIZATION?_____

SIGNATURE OF
COMPLAINANT:_____DATE:_____

1902. RULES OF THE LINCOLN MEMORIAL LIBRARY ADVISORY COMMITTEE

A. Meetings

1. **Regular:** A minimum of six (6) regular meetings per year, to be called at the discretion of the Library Director and the Chairperson. The Library Director shall attend all committee meetings.

2. **Annual:** An annual meeting of the Advisory Committee shall be help in May for the purpose of election of officers from members of its own body.

3. **Meeting Place:** The Library shall be the official meeting place, unless otherwise ordered by the committee.

4. **Quorum:** Four (4) members of the committee shall constitute a quorum, not including the Library Director.

5. **Attendance:** If a committee member is unable to attend three (3) consecutive meetings, without suitable cause, they will be removed from the committee.

6. **Rules of Order:** The proceedings of the committee shall be conducted in accordance with Robert's Rules of Order, except as otherwise specified in these rules.

B. Officers of the Committee

1. **Officers:** A Chairperson and a Secretary shall be elected by a majority vote of the committee at each annual meeting. No officer shall serve for more than two (2) years in succession.

2. **Chairperson:** The Chairperson shall preside at all meetings, appoint all committees, and authorize the calls for meetings. The Chairperson shall be, ex officio, a member of all committees. In the absence of the Chairperson from any meeting, the committee may select a temporary Chairperson for that meeting.

3. **Secretary:** The Secretary of the Committee shall keep an accurate, written account of all proceedings of the meetings, shall have custody of the minutes and other records of the committee, shall issue notices of all meetings, shall notify the Town Manager and Council of vacancies of the committee, and shall provide a written report of all meetings to the Town Council and the Town Manager.

C. Amendments of Rules

1. Amendments: These rules may be amended by a majority vote of the Committee according to Robert's Rules of Order and submitted to the Town Council and Town Manager for approval.

2001. CABLE TELEVISION

2001.1 General Provisions

2001.1.1 Title

This Ordinance shall be known and may be cited as the "TOWN OF LINCOLN Cable Television Ordinance. "

2001.1.2 Purpose

The TOWN OF LINCOLN finds that the development of cable television systems has the potential to greatly benefit, and have a positive impact on, the people of LINCOLN. Cable technology is rapidly changing, and cable is expected to play

an essential role as part of the TOWN's basic infrastructure. Cable television systems extensively make use of scarce and valuable Public Rights-of-Way, in a manner different from the way in which the general public uses them, and in a manner reserved primarily for those that provide services to the public, such as utility companies. The TOWN finds that public convenience, safety, and general welfare can best be served by establishing regulatory powers vested in the TOWN or such Persons as the TOWN so designates to protect the public interest. In light of the foregoing, the following goals, and the State policies set forth at 30-A MRSA § 3008(1), among others, under the provision set forth in this Ordinance:

a. Cable should be available to as many TOWN residents as possible;
b. A Cable System should be capable of accommodating both the present and reasonably foreseeable future cable-related needs of the community, to the extent economically feasible;
c. A Cable System should be constructed and maintained during a Franchise term so that changes in technology may be integrated into existing system facilities to the maximum extent that is economically feasible; and
d. A Cable System should be responsive to the needs and interests of the local community.

The TOWN intends that all provisions set forth in this Ordinance be construed to serve the public interest and the foregoing public purposes, and that any Franchise issued pursuant to this Ordinance be construed to include the foregoing findings and public purposes as integral parts thereof.

2001.2 Definitions and Word Usage

For the purposes of this Ordinance, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. When not inconsistent with the context, words used in the present tense included the future tense, words in the plural number include the singular number, words in the singular number include the plural number, and masculine gender includes the feminine gender. The words "shall" and "will" are mandatory, and "may" is permissive. Unless otherwise expressly stated, words not defined herein shall be given the meaning set forth in Title 47 of the United States Code, Chapter 5, Subchapter V-A USC §§ 521 et seq., as amended, and, if not defined therein, their common and ordinary meaning.

2001.2.1 Affiliate

Any Person who owns or controls, is owned or controlled by, or is under common ownership or control with, a Grantee.

2001.2.2 Basic Cable Service

Any Service Tier that includes the retransmission of local television broadcast signal.

2001.2.3 Cable Act

The Cable Communications Policy Act of 1984, 47 USC §§ 521 et seq., as amended by the Cable Competition and Consumer Protection Act of 1992, the Telecommunications Act of 1996, and as it may be further amended form time to time.

2001.2.4 Cable Programming Service

Any video programming provider over a Cable System, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than (A) video programming carried on the Basic Cable Service tier; and (B) video programming offered on a per-channel, or per-program basis.

2001.2.5 Cable Service

This term shall have the meaning given it by the Cable Act, as amended.

2001.2.6 Cable System or Systems

A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment, that is designed to provide cable television service including video programming, and which is provided to multiple Subscribers within the TOWN. Such term does not include: (i) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (ii) a facility that serves Subscribers without using any Public Right-of-way; (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, except that such facility shall be considered a Cable System to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (iv) an open video system that complies with federal law; or (v) any facilities of any electric utility used solely for operating its electric utility system. A reference to a Cable System refers to any part thereof, including, without limitation, facilities located in the interior of a Subscriber's residence or other premises.

2001.2.7 Town

The TOWN OF LINCOLN, Maine, and any agency, department or agent thereof.

2001.2.8 FCC

The Federal Communications Commission, its designee, or any successor governmental entity thereto.

2001.2.9 Franchise

The non-exclusive authorization granted in accordance with this Ordinance to construct, operate, and maintain a Cable System along the Public Rights-of-way within the TOWN. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the TOWN, as required by the ordinances and laws of the TOWN, or for attaching devices to poles or other structures, whether owned by the TOWN or a private entity, or for excavating or performing other work in or along Public Rights-of way.

2001.2.10 Franchise Agreement

A contract entered into in accordance with the provisions of this Ordinance between the TOWN and a Grantee that sets forth, subject to applicable state and federal law, the terms and conditions under which a Franchise will be exercised.

2001.2.11 Franchise Area

The term "franchise area" for any Franchise granted under this Ordinance shall mean the whole of the TOWN OF LINCOLN. All new or renewal Franchise Agreements granted under this Ordinance shall require the Grantee, within a reasonable period after the effective date of the Franchise Agreement, to extend service to all areas of the TOWN that meet density requirements to be set out in the Franchise Agreement. No Franchise or renewal Franchise approved under this Ordinance shall contain density requirements that are less restrictive than the density requirements of Franchise Agreements with other Grantees that are then in force.

2001.2.12 Grantee

The natural Person(s), partnership(s), domestic or foreign corporation(s), association(s), joint venture(s), or organization(s) of any kind which has or have been granted a cable television Franchise by the TOWN.

2001.2.13 Gross Revenues

Those items within the scope of the term "gross revenues" as used in the Cable Act, as amended, including any and all cash, credits, or other consideration of any kind or nature received directly or indirectly by a Grantee, an Affiliate of a Grantee, or any Person in which a Grantee has a five percent (5%) or greater financial interest, or by any other entity that is a cable operator of a Cable System arising from, attributable to, or in any way derived from the operation of a Grantee's Cable System to provide Cable Service, including the facilities associated therewith. Gross Revenues include, but are not limited to, monthly fees charged to Subscribers for any basic, optional, premium, per-channel, or per-program service; installation, disconnection, reconnection, and change-in-service fees; leased channel fees; late fees; payments, or other consideration received from programmers for carriage of programming on the System; revenues from converter rentals or Sales; advertising revenues; barter; revenues from program guides; and revenues from home shopping channels. "Gross Revenues" do not include reimbursed expenses unless the expense is separately claimed. Gross Revenues earned on a system-wide basis shall be allocated to the TOWN on the basis of the ratio of the subscribers in the TOWN to the total subscribers in all the franchising authorities served by the TOWN. Gross Revenues shall be the basis for computing the Franchise Fee under this Ordinance. Gross Revenues shall not include: (i) to the extent consistent with generally accepted accounting principles, actual bad debt write-offs, provided, however, that all or part of any such actual bad debt that is written off, but subsequently collected, shall be included in Gross Revenues in the period collected; (ii) the value of free cable services provided to

Grantee's employees or to the TOWN; (iii) revenues received by an Affiliate from the Grantee on which the Grantee has already paid the Franchise Fee; (iv) any taxes on services furnished by a Grantee which are imposed directly on any Subscriber or user by the state, TOWN, or other governmental unit and which are collected by a Grantee on behalf of said governmental unit; and (v) revenues from the provision of telecommunications services.

2001.2.14 Person

An individual, partnership, association, joint stock company, organization, corporation, or any lawful successor thereto, or transferee thereof, but such term does not include the TOWN.

2001.2.15 Public Right-of-way

The surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar property, in which the TOWN now or hereafter holds any property interest, or may lawfully grant the use of, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a Cable System. No reference to a "Public Right-of-way" herein, or in any Franchise Agreement, shall be deemed to be a representative or guarantee by the TOWN that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a Grantee shall be deemed to gain only those rights to use as are property in the TOWN and as the TOWN may have the undisputed right and power to give.

2001.2.16 Sale

Any sale, exchange, or barter transaction.

2001.2.17 Service Tier

A package of two or more Cable Services for which a separate charge is made by the Grantee, other than a package of premium and pay-per-view services that may also be sold on a true a la carte basis.

2001.2.18 Subscriber

Any Person who legally receives Cable Service, whether or not a fee is paid for such service.

2001.2.19 Transfer

Any transaction in which: (i) an ownership or other interest in a Grantee, its Cable System, or any Person that is a cable operator of the Cable System is transferred from one Person or group of Persons to another Person or group of Persons so that control of a Grantee is transferred; or (ii) the rights or obligations held by a Grantee under a Franchise Agreement are transferred or assigned to another Person or group of Persons. Control for these purposes means working control, in whatever manner exercised. By way of illustration, and not limitation, the addition, deletion, or other change of any general partner of a Grantee, any person

who owns or controls a Grantee, or a cable operator of a Cable System, is such a change of control.

2001.2.20 User
A Person or organization utilizing a channel or equipment and facilities for purposes of producing or transmitting material, as contrasted with the receipt thereof in the capacity of a Subscriber.

2001.3 Grant of Franchise

2001.3.1 Grant of Franchise
The TOWN may grant one or more cable television Franchises, and each such Franchise shall be awarded in accordance with and subject to the provisions of the Ordinance. In no event shall this Ordinance be considered a contract the TOWN and a Grantee.

2001.3.2 Franchise Required
No Persons may construct or operate a Cable System without a Franchise granted by the TOWN unless otherwise authorized by law, and no Person may be granted a Franchise without having entered into a Franchise Agreement with the TOWN pursuant to this Ordinance

2001.3.3 Franchise Characteristics

2001.3.3.1 Authority Granted by Franchise: A Franchise authorizes use of Public Rights-of-ways for installing cables, wires, lines, optical fiber, underground conduit, and other devices necessary and appurtenant to the operation of a Cable System within a Franchise Area, but does not expressly or implicitly authorize a Grantee to provide service to, or install, a Cable System on private property without owner consent (except for use of compatible easements pursuant to Section 621 of the Cable Act, 47 USC § 541(a)(2), or to use publicly or privately owned conduits without a separate agreement with the owners).

2001.3.3.2 Term of Franchise: The Term of a Franchise may not exceed fifteen (15) years.

2001.3.3.3 Non-exclusivity: A Franchise is non-exclusive and will not explicitly or implicitly preclude the issuance of other Franchises to operate Cable Systems within the TOWN, affect the TOWN's right to authorize use of Public Rights-of-way by other Persons to operate Cable Systems or for other purposes as it determines appropriate, or affect the TOWN's right to itself construct, operate, or maintain Cable System, with or without a Franchise.

2001.3.3.4 Franchise Agreement Constitutes Contract: Once a Franchise Agreement has been accepted and executed by the TOWN and a Grantee, such Franchise Agreement shall constitute a contract between the Grantee and the TOWN, and the terms, conditions, and provisions of such Franchise Agreement, subject to the Ordinance in effect as of the effective date of such Franchise Agreement and all

other duly enacted and applicable laws, shall define the rights and obligations of the Grantee and the TOWN relating to the Franchise. Nothing in this Ordinance or a Franchise Agreement shall be deemed a waiver of, or restriction on, the TOWN's police powers, or a waiver of any of the terms of any TOWN ordinance regarding the use or management of the Public Rights-of-Way intended to protect the public's safety.

2001.3.3.5 **Use of Public Rights-of-way:** All privileges prescribed by a Franchise shall be subordinate to any prior lawful occupancy of the Public Rights-of-way, and the TOWN reserves the right to reasonably designate where a Grantee's facilities are to be placed within the Pubic Rights-of way. The rights and privileges granted pursuant to a Franchise shall not be in preference or hindrance to the right of the TOWN, or other governmental agency, improvement district, or other authority having jurisdiction, to perform or carry on any public works or public improvement, and should a Cable System in any way interfere with the construction, maintenance, or repair of such public works or improvements, the Grantee shall promptly, at its own expense, protect or relocate its System or part thereof, as directed by the TOWN or other authority having jurisdiction.

2001.3.3.6 **Franchise Personal to Grantee:** A Franchise shall be a privilege that is in the public trust and personal to the original Grantee. No Transfer of a Franchise shall occur without the prior consent of the TOWN and unless application is made by the Grantee and TOWN approval obtained, pursuant to this Ordinance and the Franchise Agreement. Approval shall not be unreasonably withheld, provided, however, that the Grantee may make assignments of collateral to a lender upon reasonable prior notice to the TOWN. No such assignments of collateral shall be deemed to permit any person to avoid any obligations under this Ordinance or a Franchise Agreement.

2001.3.3.7 **Exclusive Contracts Unenforceable:** A Franchise holder may not enter into or enforce any exclusive contract with a Subscriber as a condition of providing or continuing service.

2001.3.4 **Grantee Subject to Other Laws, Police Power**

2001.3.4.1 **Compliance with Laws:** A Grantee shall at all times be subject to and shall comply with all applicable federal, state, and local laws. A Grantee shall at all times be subject to all lawful exercise of the police power of the TOWN, including all rights the TOWN may have under 47 USC § 552.

2001.3.4.2 **No Waiver of TOWN Rights:** No course of dealing between a Grantee and the TOWN, nor any delay on the part of the TOWN in exercising any rights hereunder, shall operate as a waiver of any such rights of the TOWN, or acquiescence in the actions of a Grantee in contravention of rights, except to the extent expressly waived by the TOWN or expressly provided for in a Franchise Agreement or other applicable laws, rules or regulations.

2001.3.4.3 TOWN Has Maximum Regulatory Authority: The TOWN shall have the maximum plenary authority to regulate Cable Systems, Grantees, and Franchises as may now or hereafter be lawfully permissible. Except where rights are expressly waived by a Franchise Agreement, they are reserved, whether expressly enumerated or not.

2001.3.5 Interpretation of Franchise Terms

2001.3.5.1 Provision to TOWN's Benefit Controlling: In the event of a conflict between this ordinance as effective on the effective date of a Franchise Agreement and that Franchise Agreement, the terms of this ordinance as effective on the effective date of that franchise Agreement shall control, except as otherwise provided in a Franchise Agreement.

2001.3.5.2 Liberal Construction: To the extent permitted by law, the provisions of this Ordinance and a Franchise Agreement will be liberally construed in favor of the TOWN in order to effectuate their purposes and objectives, and to promote the public interest, except as otherwise provided in a Franchise Agreement.

2001.3.5.3 Governing Law: Except as to matters that are governed solely by federal law or regulation, a Franchise Agreement will be governed by, and construed in accordance with, the laws of the State of Maine.

2001.3.6 Operation of a Cable System without a Franchise

Any Person who occupies Public Rights-of-way for the purpose of operating or constructing a Cable System, and who does not hold a valid Franchise from the TOWN, shall be subject to all provisions of this Ordinance, including, but not limited to, its provisions regarding construction, technical standards, and Franchise fees. In its discretion, the TOWN at any time may: require such Person to enter into a Franchise Agreement within thirty (30) days of receipt of a written notice by the TOWN that a Franchise Agreement is required; require such Person to remove its property and restore the area to a condition satisfactory to the TOWN within such time period; remove the property itself and restore the area to a satisfactory condition and charge the Person the costs thereof; and/or take any other action it is entitled to take under applicable law, including filing for and seeking damages under trespass. In no event shall a Franchise be created unless it is issued by action of the TOWN and subject to a Franchise Agreement.

2001.3.7 Right of Condemnation Reserved

Nothing in this Ordinance or any Franchise Agreement shall limit any right the TOWN may have to acquire, by eminent domain or otherwise, any property of Grantee.

2001.3.8 Acts at Grantee's Expense

Any act that a Grantee is or may be required to perform under this Ordinance, a Franchise Agreement, or applicable law shall be performed at the Grantee's expense, unless expressly provided to the contrary in the Ordinance, the Franchise Agreement, or applicable law.

2001.4 Applications for Grant, Renewal, or Modification of Franchises

2001.4.1 Written Application

2001.4.1.1 Application Requirement: A written application shall be filed with the TOWN for: (i) grant of an initial Franchise; (ii) renewal of a Franchise under 47 USC §546(a)-(g); or (iii) modification of a Franchise Agreement pursuant to this Ordinance or a Franchise Agreement. An applicant shall demonstrate in its application compliance with all requirements of this Ordinance, any existing Franchise Agreement held by the applicant, and all applicable laws.

2001.4.1.2 Acceptability for Filing: To be acceptable for filing, a signed original of the application shall be submitted together with twelve (12) copies. The Town Manager may, in combination with neighboring communities, establish a joint application procedure, provided that any such procedure conforms to the standards of this Ordinance. The application must be accompanied by the required application filing fee as set forth in Article 4.6, conform to any applicable request for proposals, and contain all required information. All applications shall include the names and addresses of Persons authorized to act on behalf of the applicant with respect to the application.

2001.4.2 Application for Grant of a Franchise, Other Than a Cable Act Renewal Franchise

2001.4.2.1 Application: A Person may apply for an initial Franchise by submitting an application containing the information required in Article 4.4 and requesting an evaluation of that application pursuant to Article 4.2.2. Prior to evaluating that application, the TOWN shall conduct such reasonable investigations as are necessary to determine whether the application satisfies the standards set forth in Article 4.2.2, and may seek additional applications.

2001.4.2.2 Factors in Evaluating Application for Franchise or Renewal of Existing Franchise: In evaluating an application for a Franchise, the TOWN shall consider, among other things, the following factors:

a. Whether the applicant has substantially complied with the applicable law and the material terms of an existing Cable Franchise from the TOWN;
b. Whether the quality of the applicant's service under an existing Franchise from the TOWN, including signal quality, response to customer complaints, billing practices, and the like, has been reasonable in light of the needs and interests of the communities served;
c. Whether the applicant has the financial, technical, and legal qualifications to provide Cable Service;

d. Whether the application satisfied any minimum requirement established by the TOWN and is otherwise reasonable to meet the future cable-related needs and interests of the community, taking into account the cost of meeting such needs and interests;

e. Whether, to the extent not considered as part of Article 4.2.2e, the application will provide adequate Public, Educational, and Governmental Access Channel capacity, facilities, or financial support, consistent with community needs and interests;

f. Whether issuance of a Franchise is warranted in the public interest considering the immediate and future effect on the Public Rights-of-Way and private property that would be used by the Cable System, including the extent to which installation or maintenance as planed would require replacement of property, or involve disruption of property, public services, or use of the Public Rights-of-Way; the effect of granting a Franchise on the ability of the applicant and its proposed facilities to meet the cable-related needs and interests of the community; and

g. Whether the applicant or an Affiliate of the applicant owns or controls any other Cable System in the TOWN, or whether grant of the application may eliminate or reduce competition in the delivery of Cable Service in the TOWN.

2001.4.2.3 TOWN Determination: If the TOWN finds that it is in the public interest to issue a Franchise after considering the factors set forth above, and subject to the applicant's entry into an appropriate Franchise Agreement, it shall issue a Franchise. If the TOWN denies a Franchise, it will issue within thirty (30) days a written decision explaining why the Franchise was denied. Prior to deciding whether or not to issue a Franchise, the TOWN may hold one (1) or more public hearings, or implement other procedures under which comments from the public on an applicant may be received. The TOWN also may grant or deny a request for a Franchise based on its review of an application without further proceedings and may reject any application that is incomplete. This Ordinance is not intended, and shall not be interpreted, to grant any applicant or existing Grantee standing to challenge the issuance of a Franchise to another, except as provided by applicable State or Federal laws or regulations.

2001.4.2.4 Joint Review: The TOWN may elect to delegate review of an application to a consortium of local governments or a formally constituted interlocal body of which the TOWN is a member. Any such entity shall review the application in accordance with the standards of Section 4.2.2 and make a recommendation to the TOWN. In such a case, the LINCOLN TOWN COUNCIL shall review the recommendation of the designated body and approve or reject it in accordance with the terms of Section 4.2.3.

2001.4.3 Application for Grant of a Cable Act Renewal Franchise

Applications for renewal under the Cable Act shall be received and reviewed in a manner consistent with Section 626 of the Cable Act, 47 USC § 546. If neither a Grantee nor the TOWN activates in a timely manner or can activate the renewal process set forth in 47 USC § (a) – (g) (including, for example, if the provisions are repealed), and except as to applications submitted pursuant to 47 USC § 546(h), the provisions of Article 4.2 shall apply and a renewal request shall be treated the same as any other request for a Franchise. The following requirements shall apply to renewal requests properly submitted pursuant to the Cable Act:

2001.4.3.1 **Issuance of RFP:** If the provisions of 47 USC § 546(a) – (g) are properly invoked, the TOWN may issue an RFP after conducting a proceeding to review the applicant's past performance and to identify future cable-related community needs and interests. The TOWN Administrator, or the Administrator's designee, shall establish deadlines and procedures for responding to the RFP, may seek additional information from the applicant, and shall establish deadlines for the submission of that additional information. Following receipt of the application responding to the RFP (and such additional information as may be provided in response to requests), the TOWN will determine that the Franchise should be renewed, or make a preliminary assessment that the Franchise should not be renewed. That determination shall be in accordance with the time limits established by the Cable Act. The preliminary determination shall be made by Order. If the TOWN determines that the Franchise should not be renewed, and the applicant that submitted the renewal application notifies the TOWN, either in its RFP response or within ten (10) working days of the preliminary assessment, that it wishes to pursue any rights to an administrative proceeding it has under the Cable Act, then the TOWN shall commence an administrative proceeding after providing prompt public notice thereof, in accordance with the Cable Act. If the TOWN decides preliminarily to grant renewal, it shall prepare a final Franchise Agreement that incorporates, as appropriate, the commitments made by the applicant in the renewal application. If the applicant accepts the Franchise Agreement, and the final agreement is ratified by the TOWN, the Franchise shall be renewed. If the Franchise Agreement is not so accepted and ratified within the time limits established by 47 USC §546(C)(1), renewal shall be deemed preliminarily denied, and an administrative proceeding commenced if the applicant that submitted the renewal application requests it within ten (10) days of the expiration of the time limit established by 47 USC § 546(C)(1).

2001.4.3.2 **Administrative Hearing:** If an administrative hearing is commenced pursuant to 47 USC § 546(C), the applicant's renewal application shall be evaluated considering such matters as may be considered consistent with federal law. The following procedures shall apply:

a. The LINCOLN TOWN COUNCIL shall, by order, appoint an administrative hearing officer or officers (referred to hereafter as "hearing officer"). The LINCOLN TOWN COUNCIL may appoint itself as hearing officer;

b. The hearing officer shall establish a schedule for proceeding which allows for documentary discovery and interrogatory responses, production of evidence, and cross-examination of witnesses. Depositions shall not be permitted unless the party requesting the deposition shows that documentary discovery and interrogatory responses will not provide it an adequate opportunity to require the production of evidence by the applicant that submitted the renewal application and any entity that owns or controls, or is owned or controlled by, such applicant directly or indirectly. The hearing officer may issue protective orders to the extent permitted under applicable State law. Any order may be enforced by a court of competent jurisdiction, or by imposing appropriate sanctions in the administrative hearing;

c. The hearing officer may conduct a pre-hearing conference and establish appropriate prehearing procedures. Intervention by non-parties is not authorized except to the extent permitted by the Cable Act;

d. The hearing officer may require the TOWN and the applicant to submit prepared testimony prior to the hearing. Unless the parties agree otherwise, the applicant shall present evidence first, and the TOWN shall present evidence second;

e. Any reports, transcript, or summary of any proceedings conducted pursuant to 47 USC § 546(a) shall for purposes of the administrative hearing be regarded no differently than any other evidence. The TOWN and the applicant must be afforded full procedural protection regarding evidence related to these proceedings, including the right to refute any evidence introduced in those proceedings, or sought to be introduced by the other party. Both shall have the opportunity to submit additional evidence related to issues raised in the proceeding conducted pursuant to 47 USC § 546(a);

f. Following completion of any hearing, the hearing officer shall require the parties to submit proposed findings of fact with respect to the matters that the TOWN is entitled to consider in determining whether renewal should be granted. Based on the record of the hearing, the hearing officer shall then prepare written findings with respect to those matters, and submit those findings to the LINCOLN TOWN COUNCIL and to the parties (unless the hearing officer is the LINCOLN TOWN COUNCIL, in which case the written findings shall constitute the final decision of the TOWN, if permitted by applicable laws or rules);

g. If the hearing officer is not the LINCOLN TOWN COUNCIL, the parties shall have thirty (30) days from the date the findings are submitted to the LINCOLN TOWN COUNCIL to file exceptions to those findings. The LINCOLN TOWN COUNCIL shall thereafter issue a written decision granting or denying the

application for renewal, consistent with the requirements of the Cable Act and based on the record of such proceeding. A copy of that decision of the LINCOLN TOWN COUNCIL shall be provided to the applicant;

h. The proceeding shall be conducted with due speed; and

i. In conducting the proceeding, and except as inconsistent with the foregoing, the hearing officer will follow the Maine Administrative Procedures Act or the successor statutes thereto unless otherwise governed by Federal law or regulations. The hearing officer may request that the LINCOLN TOWN COUNCIL adopt additional procedures and requirements as necessary in the interest of justice.

2001.4.3.3 Informal Renewal Applications: This Article does not prohibit any Grantee from submitting an informal renewal application pursuant to 47 USC § 546(h), which application may be granted or denied in accordance with the provisions of 47 USC § 546(h).

2001.4.3.4 Consistency with Cable Act: The provisions of this Ordinance shall be read and applied so that they are consistent with Section 626 of the Cable Act, 47 USC § 546.

2001.4.4 Contents of Applications

If issued by the TOWN, an RFP for the grant of a renewal Franchise under 47 USC § 546(c) shall require, and any application for an initial or renewal franchise (other than an application submitted pursuant to 47 USC § 546(h)) shall contain, at a minimum, the following information:

2001.4.4.1 Identification of Applicant and Its Ownership and Control: Name and address of the applicant, and identification of the ownership and control of the applicant, including: the names and addresses of the ten (10) largest holders of an ownership interest in the applicant and controlling Affiliates of the applicant, and all Persons with five (5) percent or more ownership interest in the applicant and its Affiliates; the Persons who control the applicant and its Affiliates; all officers and directors of the applicant and its Affiliates; and any other business affiliation and Cable System ownership interest of each named Person.

2001.4.4.2 Statement of Applicant's Technical Ability: A demonstration of the applicant's technical ability to construct and/or operate the proposed Cable System, including identification of key personnel.

2001.4.4.3 Statement of Applicant's Legal Qualifications: A demonstration of the applicant's legal qualifications to construct and/or operate the proposed Cable System, including, but not limited to, a demonstration that the applicant meets the following criteria:

a. The applicant must not have submitted an application for an initial or renewal Franchise to the TOWN, which was denied on the ground that the applicant failed to propose a System meeting the cable-related needs and interests of the community, or as to which any challenges to such licensing decision were finally resolved adversely to the applicant, within one (1) year preceding the submission of the application;
b. The applicant must not have had any cable television Franchise validly revoked by a licensing authority within three (3) years preceding the submission of the application;
c. The applicant must have the necessary authority under Maine law to operate a Cable System within Maine;
d. The applicant shall not be issued a Franchise if it may not hold the Franchise as a matter of federal law. An applicant must have, or show that it is qualified to obtain, any necessary federal approvals or waivers required to operate the System proposed;
e. The applicant shall not be issued a Franchise if, at any time during the ten (10) years preceding the submission of the application, the applicant was convicted of any act or omission of such character that the applicant cannot be relied upon to deal truthfully with the TOWN and the Subscribers of the Cable System, or to substantially comply with its lawful obligations under applicable law, including obligations under consumer protection laws and laws prohibiting anticompetitive acts, fraud, racketeering, or other similar conduct;
f. The applicant shall not be issued a Franchise if it files materially misleading information in its application, or intentionally withholds information that the applicant lawfully is required to provide;
g. The applicant shall not be issued a Franchise if an elected official of the TOWN holds a controlling interest in the applicant or an Affiliate of the applicant. Notwithstanding the foregoing, the TOWN shall provide an opportunity to an applicant to show that it would be inappropriate to deny it a Franchise under Article 4.4.3.b. In doing so the TOWN shall consider the particular circumstances surrounding the matter and the steps taken by the applicant to cure all harms flowing therefrom and prevent their recurrence, the lack of involvement of the applicant's principals, or the remoteness of the matter from the operation of cable television Systems.

2001.4.4.4 Statement of Applicant's Financial Qualifications: A statement prepared by a certified public accountant regarding the applicant's financial ability to complete the construction and operation of the Cable System proposed.

2001.4.4.5 Description of Prior Experience: A description of the applicant's prior experience in Cable System ownership, construction, and operation, and identification of communities in which the applicant or any of its principals have, or have had, a cable Franchise or license or any interest therein, provided that, an applicant that holds a Franchise for the town and is seeking renewal of that Franchise need only provide this information for other communities where its

Franchise was scheduled to expire in the two (2) calendar years prior to and after its application was submitted.

2001.4.4.6 Identification of Area to Be Served: Identification of the area of the TOWN to be served by the proposed Cable System, including a description of the proposed Franchise Area's boundaries. All Grantees shall be bound and required to serve the same areas within the Town.

2001.4.4.7 Description of Physical Facilities: A detailed description of the physical facilities proposed, including channel capacity, technical design, performance characteristics, headend, and access facilities.

2001.4.4.8 Description of Construction of Proposed System: Where applicable, a description of the construction of the proposed System, including an estimate of plant mileage and its location, the proposed construction schedule, a description, where appropriate, of how services will be converted from existing facilities to new facilities, and information on the availability of space in conduits including, where appropriate, an estimate of the cost of any necessary rearrangement of existing facilities.

2001.4.4.9 Proposed Rate Structure: The proposed rate structure, including projected charges for each Service Tier, installation, converters, and other equipment or services.

2001.4.4.10 Demonstration of How Future Community Needs and Interests Will be Met: A demonstration of how the applicant will reasonably meet the future cable-related needs and interests of the community including descriptions of how the applicant will meet the needs described in any recent community needs assessment conducted by or for the Town, and how the applicant will provide adequate Public, Educational, and Governmental Access Channel capacity, facilities, or financial support to meet the community's needs and interests. The Town Manager may, in coordination with neighboring communities, establish procedures for conducting a joint needs assessment.

2001.4.4.11 Pro Forma Financial Projections: Pro forma financial projections for the proposed Franchise term, including a statement of projected income, and a schedule of planned capital additions, with all significant assumptions explained in notes or supporting schedules.

2001.4.4.12 Identification of Area of Overbuild: If the applicant proposes to provide Cable Service to an area already served by an existing cable Grantee, the identification of the area where the overbuild would occur, the potential Subscriber density in the area that would encompass the overbuild, and the ability of the Public Rights-of-Way and other property that would be used by the applicant to accommodate an additional System.

2001.4.4.13 Other Information: Any other information as may be reasonably necessary to demonstrate compliance with the requirements of this Ordinance.

2001.4.4.14 Information Requested by Town: Information that the Town may reasonably request of the applicant that is relevant to the Town's consideration of the application.

2001.4.4.15 Certification of Accuracy: An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments, and certifying that the application meets all federal and state law requirements.

2001.4.5 Application for Modification of a Franchise

An application for modification of a Franchise Agreement shall include, at minimum, the following information:

a. The specific modification requested;
b. The justification for the requested modification, including the impact of the requested modification on Subscribers, and the financial impact on the applicant if the modification is approved or disapproved, demonstrated through, inter alia, submission of financial pro formas;
c. A statement whether the modification is sought pursuant to Section 625 of the Cable Act, 47 USC § 545, and, if so, a demonstration that the requested modification meets the standards set forth in 47 USC § 545;
d. Any other information that the applicant believes is necessary for the Town to make an informed determination on the application for modification; and
e. An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, and certifying that the application is consistent with all federal and state law requirements.

2001.4.6 Filing Fees

To be acceptable for filing, an application submitted after the effective date of this Ordinance shall be accompanied by a filing fee in the following amount to cover costs incidental to the awarding or enforcement of the Franchise, as appropriate:

a. For an initial Franchise: $500
b. For renewal of a Franchise: $500
c. For modification of a Franchise Agreement: $500

The Town may also elect to share the costs of reviewing an application with other communities served by the system of which an existing or proposed cable system in the Town is a part. In that case, the filing fees shown above shall not apply, and shall be replaced with combined filing fees for all communities with whom the Town is sharing expenses. The combined filing fees shall be seven thousand dollars ($7,000) for an initial grant or a modification, and seven thousand dollars ($7,000) for a renewal.

Combined filing fees shall be prorated among the participating communities on the basis of the number of residents in each community as of the most recent US Census, or allocated according to some other mutually agreeable method.

Application fees for franchise renewals may be increased as necessary to recover the Town's additional cost of conducting any hearings required under 47 USC § 546(a) through (g), if the Grantee has invoked that procedure in its renewal application.

2001.4.7 Public Hearings

An applicant shall be notified in writing at least ten (10) calendar days in advance of any public hearings in connection with the evaluation of its application, and shall be given an opportunity to be heard. In addition, prior to the issuance of a Franchise, the Town shall provide for the holding of a public hearing within the proposed Franchise Area, following reasonable notice to the public, at which every applicant and its applications shall be examined and the public and all interested parties afforded a reasonable opportunity to be heard. Reasonable notice to the public shall include causing notice of the time and place of such hearing to be published in a newspaper of general circulation in the proposed Franchise Area once a week for two (2) consecutive weeks. The first publication shall be not less than fourteen (14) days before the day of the hearing. Nothing herein shall be deemed to prevent or limit communities in which the applicant has requested grant or renewal of a franchise from holding joint public hearings in a location reasonably accessible to residents of each community which is the subject thereof.

2001.5 Insurance and Indemnity

2001.5.1 Insurance Required

A Grantee shall maintain, and by its acceptance of a Franchise specifically agrees that it will maintain, throughout the entire length of the Franchise period, such insurance as will protect the Town and elected officials, employees, and agents from any claims that may arise directly or indirectly or result from its acceptance of the Franchise or its activities under the Franchise, whether such activities are performed by the Grantee, or by anyone for whose acts the Grantee may be liable, including, but not limited to, the following:

a. Workers' compensation, including disability benefits and any other legally required employee benefits, meeting all statutory amounts;
b. Property insurance, all risk, replacement cost basis, on all of the Grantee's assets;
c. General liability insurance, in the following minimum amounts:

Bodily injury or death	$1,000,000 per person

Primary insurance	$1,000,000 per occurrence
Umbrella insurance	$5,000,000
Property damage	$1,000,000

The Town may review these amounts no more than once a year and may require reasonable adjustments to them consistent with the public interest. The Franchise Agreement may specify the procedures to be followed in the event that the Grantee objects to an increase in a policy limit and the parties are unable to agree on a mutually acceptable amount.

2001.5.2 Qualifications of Sureties

All insurance policies shall be with sureties qualified to do business in the State of Maine, with an A or better rating of insurance by Best's Key Rating Guide, Property/Casualty Edition, and in a form acceptable to the Town.

2001.5.3 Evidence of Insurance

A Grantee shall keep on file with the Town current certificates of insurance. A Grantee shall provide the Town with copies of all insurance policies in effect during the franchise period upon the written request of the Town.

2001.5.4 Additional Insured; Prior Notice of Policy Cancellation

All general liability insurance policies shall name the Town, elected officials, officers, boards, commissions, commissioners, agents, and employees as additional insured, and shall further provide that any cancellation or reduction in coverage shall not be effective unless thirty (30) days' prior written notice thereof has been given to the Town. A Grantee shall not cancel any required insurance policy without submission of proof that the Grantee has obtained alternative insurance satisfactory to the Town which complies with this Ordinance.

2001.5.5 Indemnification

2001.5.5.1 Indemnification for Damages and Equitable Relief: A Grantee shall, at its sole cost and expense, indemnify, hold harmless, and defend the Town, its inhabitants, elected officials, officers, boards, commissions, commissioners, agents, and employees, against any and all claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of its Cable System; copyright infringements or a failure by the Grantee to secure consents from the owners, authorized distributors, or Grantees of programs to be delivered by the Cable System; the conduct of the Grantee's business in the Town; or in any way arising out of the Grantee's enjoyment or exercise of a Franchise granted hereunder, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by this Ordinance or a Franchise Agreement.

2001.5.5.2 Indemnification for Cable Act Claims: A Grantee shall, at its sole cost and expense, fully indemnify, defend, and hold harmless the Town, and in its capacity

as such, the officers, agents, and employees thereof, from and against any and all claims, suits, actions, liability, and judgments for damages or otherwise subject to Section 638 of the Cable Act, 47 USC § 558, arising out of or alleged to arise out of the installation, construction, operation, or maintenance of its System, including but not limited to any claim against the Grantee for invasion of the right of privacy, defamation of any Person, firm or corporation, or the violation or infringement of any copyright, trade mark, trade name, service mark or patent, or of any other right of any Person, firm or corporation. This indemnity does not apply to programming carried on any channel set aside for public, education, or government use, or channels leased pursuant to 47 USC § 532, unless the Grantee was in any respect engaged in determining the editorial content of the program, or adopts a policy of prescreening programming for the purported purpose of banning indecent or obscene programming.

2001.5.5.3 **Attorneys' Fees:** The indemnity provision includes, but is not limited to, the Town's reasonable attorneys' fees incurred in defending against any such claim, suit, action, or proceeding.

2001.5.6 **No Limit of Liability**

Neither the provisions of this Article nor any damages recovered by the Town shall be construed to limit the liability of a Grantee for damages under any Franchise issued hereunder.

2001.5.7 **No Recourse**

Without limiting such immunities as it may have under applicable law, the town shall not be liable to the Grantee for any damages or loss that the Grantee may suffer as the result of the Town's exercise of its lawful authority pursuant to this Ordinance, a Franchise Agreement, or other applicable law.

2001.6 **Performance Bond**

2001.6.1 **Requirement of Bond**

Prior to any construction, rebuild, or upgrade of the Cable System requiring work in the Public Rights-of-Way other than installation of aerial facilities and utility poles, a Grantee shall establish in the Town's favor an irrevocable performance bond in an amount specified in the Franchise Agreement or otherwise determined as reasonable by municipal officers as necessary to ensure the Grantee's faithful performance of the construction, upgrade, or other work. The amount of such performance bond shall not exceed the lesser of ten (10) percent of the total cost of the work being done in the Public Right-of-Way other than installation of aerial facilities and utility poles, or Fifty Thousand Dollars ($50,000.00).

2001.6.2 **Recovery under Performance Bond**

In the event that a Grantee subject to such a performance bond fails to complete the Cable System construction, upgrade, or other work in the Public Rights-of-Way in a safe, timely (subject to the force majeure provision of Section 17.2), and

competent manner in accordance with the provisions of a Franchise Agreement, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the Grantee, or the cost of completing or repairing the System construction, upgrade, or other work in the Public Rights-of-Way, plus a reasonable allowance for attorneys' fees, up to the full amount of the bond. The Town may also recover against the bond any amount recoverable against the security fund required under Article 7.0 of this Ordinance, where such amount exceeds that available under the security fund.

2001.6.3 Elimination or Reduction of Bond

Any performance bond shall remain in place for one (1) full year after completion to the satisfaction of the Town of the work in the Public Right-of-Way.

2001.6.4 New Bond for New Project

The Town may subsequently require a new bond, for any subsequent construction, or other work in the Public Rights-of-Way other than installation of aerial facilities and utility poles, whose cost exceeds an amount specified in a Franchise Agreement. In the event a Grantee fails to complete the work secured by such a new performance bond in a safe, timely, and competent manner, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the town as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the Grantee, or the cost of completing or repairing the System construction, upgrade, or other work in the Public Rights-of-Way, plus a reasonable allowance for attorneys' fees, up to the full amount of the bond. The Town may also recover against the bond any amount recoverable against the security fund required under Article 7.0 of this Ordinance, where such amount exceeds that available under the security fund. In any event, the total amount of the bond shall not exceed the lesser of ten (10) percent of the cost of the work being done in the Public Right-of-Way, or Fifty Thousand Dollars ($50,000).

2001.6.5 Issuance of Bond; Notice of Cancellation Required

Any performance bond shall be issued by a surety qualified to do business in the State of Maine, and having an A-I or better rating of insurance in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the Town; and shall contain the following endorsements:

"This bond may not be canceled, or allowed to lapse, until sixty (60) days after notice to the Town, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

2001.6.6 Forfeiture

The total amount of any outstanding bond shall be forfeited in favor of the Town in the event that:

a. The Grantee abandons the Cable System or any part thereof at any time during the term of the Franchise; or
b. The Grantee fails to purchase and maintain insurance as required by Article 5.0 hereof; or
c. The Franchise is revoked as provided in Article 8.2 hereof.

2001.7 Security Fund

2001.7.1 Establishment of Security Fund

a. A Franchise Agreement may provide that, prior to the Franchise's becoming effective, the Grantee shall post with the Town a cash security deposit to be used as a security fund to ensure the Grantee's faithful performance of and compliance with all provisions of this Ordinance, the Franchise Agreement, and other applicable laws, and compliance with all orders, permits, and directions of the Town or any agency thereof having jurisdiction over the Grantee's acts or defaults under the Franchise, and the payment by the Grantee of any claims, liens, fees, or taxes due to the Town which arise by reason of the construction, operation or maintenance of the System. The amount of any security fund shall be specified in a Franchise Agreement.
b. In lieu of a cash security fund, a Grantee may agree to file and maintain with the Town an irrevocable letter of credit with a bank having an office in the State of Maine in the amount specified in the preceding paragraph to serve the same purposes as set forth therein. Said letter of credit shall remain in effect for the full term of the Franchise plus an additional six (6) months thereafter. The Grantee and its surety shall be jointly and severally liable under the terms of the letter of credit for the Grantee's failure to enforce its faithful performance of and compliance with all provisions of this Ordinance, the Franchise Agreement, and other applicable law, and compliance with all orders, permits, and directions of the Town, and the payment by the Grantee of any claims, liens, fees, or taxes due the Town which arise by reason of the construction, operation, or maintenance of the System. The letter credit shall provide for thirty (30) days' prior written notice to the Town of any intention of the part of the Grantee to cancel, fail to renew, or otherwise materially alter its terms. Neither the filing of a letter of credit with the Town, nor the receipt of any damages recovered by the Town thereunder, shall be construed to excuse faithful performance by the grantee or limit the liability of the Grantee under the terms of its Franchise for damages, either to the full amount of the letter of credit or otherwise.

2001.7.2 Use of Fund

If a Grantee fails to make timely payment to the Town of any amount due as a result of Franchise requirements, fails to make timely payment to the Town of any amounts due under a Franchise Agreement or applicable law, fails to make timely payment to the Town of any taxes lawfully due, or fails to compensate the Town for any damages, costs, or expenses the town suffers or incurs by reason of any act or omission of the Grantee in connection with its Franchise Agreement, the

Town may withdraw the amount thereof from the security fund. To invoke the provisions of this Article, the Town shall give the Grantee written notice of the default in the Grantee's performance. If within thirty (30) calendar days following such written notice from the Town to the Grantee, the Grantee has not remedied the default to the satisfaction of the Town, the Town may proceed to withdraw the amount in question from the security fund, provided that, if by its nature the default cannot be remedied within thirty (30) days and the Grantee has demonstrated to the satisfaction of the Town that it is making a continuing good faith effort to remedy the default, the Town shall not draw on the security fund.

2001.7.3 Notification

Within ten (10) business days of a withdrawal from the security fund, the Town shall mail, by certified mail, return receipt requested, written notification of the amount, date, and purpose of such withdrawal to the Grantee.

2001.7.4 Inadequate Fund Balance

If at the time of a withdrawal from the security fund by the Town, the amount of the fund is insufficient to provide the total payment towards which the withdrawal is directed, the balance of such payment shall continue as the obligation of the Grantee to the Town until it is paid.

2001.7.5 Replenishment

No later than thirty (30) days after mailing of notification to the Grantee by certified mail, return receipt requested, of a withdrawal under the security fund, shall the Grantee deliver to the Town for deposit in the security fund an amount equal to the amount so withdrawn. Failure to make timely delivery of such amount to the Town shall constitute a material violation of the Franchise.

2001.7.6 Disposition

Upon termination of the Franchise under conditions other than those stipulating forfeiture of the security fund, the balance then remaining in the security fund shall be withdrawn by the Town and paid to the Grantee within ninety (90) days of such termination, provided that there is then no outstanding material default on the part of the Grantee.

2001.7.7 Grantor Rights

The rights reserved to the Town with respect to Articles 5.0, 6.0, and 7.0 hereof are in addition to all other rights of the Town, whether reserved by this Ordinance, or authorized by other law or a Franchise Agreement, and no action, proceeding, or exercise of a right with respect to such sections shall affect any other right the Town may have.

2001.8 Remedies

2001.8.1 Available Remedies

In addition to any other remedies available at law or equity, the Town may pursue the following remedies in the event a Grantee or any other person violates this Ordinance, its Franchise Agreement, or applicable state or federal law:

a. Seek a determination from a court of competent jurisdiction that a provision of this Ordinance has been violated. If such a violation is found to exist by the Court, the minimum fine imposed shall be fifty dollars ($50), and the maximum fine imposed per violation shall be two hundred fifty dollars ($250). Each day the violation is found to exist shall constitute a separate violation for which the above in indicated fine may be assessed. Any violation found to exist on the day of trial may be found, at a minimum, to have existed from the filing date of the complaint until the day of trial and the fine assessed accordingly, unless Grantee affirmatively proves that said violation did not exist during any part of or all of the aforementioned time period. If the Grantee is found by the Court to have been adjudicated in violation of any provision of this Ordinance on more than one (1) occasion within two (2) years, whether or not a violation of the same provision of this Ordinance, the minimum fine per violation shall be one hundred dollars ($100), and the maximum fine per violation shall be five hundred dollars ($500);
b. Seek legal or equitable relief from any court of competent jurisdiction; and
c. Apply any remedy provided for in a Franchise Agreement, including enforcing provisions, if any.

2001.8.2 Revocation or Termination of Franchise

2001.8.2.1 Town Right to Revoke Franchise: The Town shall have the right to revoke the Franchise for a Grantee's substantial failure to construct or operate the Cable System as required by this Ordinance or a Franchise agreement, for defrauding or attempting to defraud the Town or Subscribers, if the Grantee is declared bankrupt, or for any other material violation of this Ordinance or material breach of a Franchise Agreement. To invoke the provisions of this Article, the Town shall give the Grantee written notice of the default in its performance. If within thirty (30) calendar days following such written notice from the town to the grantee, the Grantee has not taken corrective action or corrective action is not being actively and expeditiously pursued to the satisfaction of the Town, the Town may give written notice to the Grantee of its intent to revoke the Franchise, stating its reasons; provided that no opportunity to cure shall be provided where the grantee has defrauded or attempted to defraud the Town or its Subscribers, or in the event the Grantee is declared bankrupt. In the case of a fraud or attempted fraud, the Franchise may be revoked after the hearing required under Article 8.2.2; revocation for bankruptcy shall be governed by Article 8.2.3.

2001.8.2.2 Public Hearing: Prior to revoking a franchise, the Town shall hold a public hearing, on thirty (30) calendar days' written notice, at which time the Grantee and the public shall be given an opportunity to be heard. Following the public hearing, the Town may determine to revoke the Franchise based on the

information presented at the hearing, and other information of record. If the Town determines to revoke a Franchise, it shall issue a written decision setting forth the reasons for its decision. A copy of such decision shall be transmitted to the Grantee.

2001.8.2.3 Revocation after Assignment for Benefit of Creditors or Appointment of Receiver or Trustee: To the extent provided by law, any Franchise, may at the option of the Town following a public hearing, be revoked one hundred twenty (120) calendar days after an assignment for the benefit of creditors of the appointment of a receiver or trustee to take over the business of the Grantee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding, unless within that one hundred twenty (120) day period:

a. Such assignment, receivership, or trustee-ship has been vacated;
b. Such assignee, receiver, or trustee has fully complied with the material terms and conditions of this Ordinance and a Franchise Agreement and has executed an agreement, approved by a court of competent jurisdiction, assuming and agreeing to be bound by the terms and conditions of this Ordinance and a Franchise Agreement, and such other conditions as may be established or as are required under Article 13.0 of this Ordinance;
c. In the event of foreclosure or other judicial sale of any of the facilities, equipment, or property of a Grantee, the Town may revoke the Franchise, following a public hearing before the Town, by serving notice on the Grantee and the successful bidder at the sale, in which event the Franchise and all rights and privileges of the Franchise will be revoked and will terminate thirty (30) calendar days after serving such notice, unless the Town has approved the Transfer of the Franchise to the successful bidder, and the successful bidder has covenanted and agreed with the Town to assume and be bound by the terms and conditions of the Franchise Agreement and this Ordinance, and such other conditions as may be established or as are required pursuant to Article 9.0 of this Ordinance.

2001.8.2.4 Procedures on Revocation, Abandonment, and Termination
If the Town revokes a Franchise, or if for any other reason a Grantee abandons, terminates, or fails to operate or maintain service to its Subscribers, the following procedures and rights are effective:

a. The Town may require the former Grantee to remove its facilities and equipment located in the Public Rights-of-Way and on public premises at the former Grantee's expense. If the former Grantee fails to do so within a reasonable period of time, the Town may have the removal done at the former Grantee's and/or surety's expense. The foregoing provisions shall not apply if, within three (3) months after expiration, termination or revocation of the Franchise, the Grantee obtains certification from the

FCC to operate an open video system or any other federal or state certification to provide telecommunications service;

b. In the event of revocation, the Town, by written order, may acquire ownership of the Cable System at not less than fair market value, determined on the basis of the cable system valued as a going concern, but with no value allocated to the franchise itself, as specified at 47 USC § 547(a)(1);

c. If a Cable System is abandoned by a Grantee or the Franchise otherwise terminates, the ownership of all portions of the Cable System in the Public Rights-of-Way shall revert to the Town and the Town may sell, assign, or Transfer all or part of the assets of the System. If a Grantee abandons a portion of its System, the ownership of the abandoned portions of the Cable System in the Public Rights-of-Way shall revert to the Town, and the Town may sell, assign, or transfer the abandoned facilities. A Cable System, or a portion thereof, shall be deemed "abandoned" if a Grantee: (i) gives the Town written notice of its decision to abandon the System or the portion in question; or (ii) fails to provide Cable Service to Subscribers served by the System or the relevant portion thereof on a continuous basis for a period of thirty (30) consecutive calendar days or more.

2001.8.2.5 Forfeiture for Failure to Comply with Franchise Obligation: Notwithstanding any other provision of this Ordinance other than the force majeure clause of Section 17.2, where the Town has issued a Franchise specifically conditioned in the Franchise Agreement on the completion of construction, System upgrade, or other specific obligation by a specified date, failure of the Grantee to complete such construction or upgrade, or to comply with such other specific obligations as required, will result in the automatic forfeiture of the Franchise without further action by the Town where it is so provided in the Franchise Agreement, unless the Town, at its discretion and for good cause demonstrated by the Grantee, grants an extension of time.

2001.8.3 Obligation of Compliance

The Town's exercise of one (1) remedy or a Grantee's payment of liquidated damages or penalties shall not relieve a Grantee of its obligations to comply with its Franchise. In addition, the Town may exercise any rights it has at law or equity.

2001.8.4 Relation to Insurance and Indemnity Requirements

Recovery by the Town of any amounts under insurance of the performance bond, the security fund, or letter of credit, or otherwise, does not limit a Grantee's duty to indemnify the Town in any way; nor shall such recovery relieve a Grantee of its obligations under a Franchise, limit the amounts owed to the Town, or in any respect prevent the Town from exercising any other right or remedy it may have; provided that this section shall not be interpreted as permitting the Town to recover twice for the same damage. In addition, any civil fine imposed pursuant

to Section 8.1(a) or other applicable law shall not be treated as a recovery for purposes of this section.

2001.9 Transfers

2001.9.1 Town Approval Required

No Transfer shall occur without prior approval of the Town; provided, however, that no such approval shall be required for Transfers resulting from the transfer of ownership interests between existing holders of ownership interests in a Grantee, where such holders were also holders of ownership interests in the Grantee at the time of the original grant of the Franchise to the Grantee.

2001.9.2 Application

An application for a Transfer shall provide complete information on the proposed transaction, including details on the legal, financial, technical and other qualifications of the transferee, and on the potential impact of the Transfer on Subscriber rates and services. At a minimum, the information required under federal law and in Article 4.4.1-4, 4.4.9-11, 4.4-13, and 4.4.1S of this Ordinance shall be provided with respect to the proposed transferee.

2001.9.3 Determination by Town

In making a determination as to whether to grant, deny, or grant subject to conditions an application for a Transfer of a Franchise, the town shall not unreasonably withhold its consent, but shall first consider: (i) the legal, financial, and technical qualifications of the transferee to operate the System; (ii) whether the incumbent cable operator is in compliance with its Franchise Agreement and this Ordinance, and, if not, the proposed transferee's commitment to cure such noncompliance; (iii) whether the transferee owns or controls any other Cable System in the Town, or whether operation by the transferee may eliminate or reduce competition in the delivery of Cable Service in the Town; and (iv) whether operation by the transferee or approval of the Transfer would adversely affect Subscribers, the Town's interest under this Ordinance, the Franchise Agreement, or other applicable law, or make it less likely that the future cable-related needs and interests of the community would be satisfied at a reasonable cost. The Town reserves the right to review the purchase price of any transfer or assignment of a Cable System. To the extent permitted by applicable law, any negotiated sale value which the town deems unreasonable will not be considered in the rate base for any subsequent request for rate increases.

2001.9.4 Transferee's Agreement

No application for a Transfer of a Franchise shall be granted unless the transferee agrees in writing that it will abide by and accept all terms of this Ordinance and the Franchise Agreement, and that it will assume the obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the previous Grantee under this Ordinance and the franchise Agreement for all purposes,

including renewal, unless the Town, in its sole discretion, expressly waives this requirement in whole or in part.

2001.9.5 Approval does not Constitute Waiver

Approval by the Town of a Transfer of a Franchise shall not constitute a waiver or release of any of the rights of the Town under this Ordinance or a Franchise Agreement, whether arising before or after the date of the Transfer.

2001.9.6 Processing Fee

As a condition of considering a Transfer, the Town may impose a fee on the transferee to cover its estimated out-of-pocket expenses in considering the application for Transfer of a Franchise. Any amount collected in excess of the estimated amount shall be returned to the transferee.

2001.10 Franchise Fee

2001.10.1 Finding

The Town finds that the Public Rights-of-Way of the town, county, and state to be used by a Grantee for the operation of a Cable System are valuable public property acquired and maintained by the county, state, and Town at great expense to the taxpayers. The Town further finds that the grant of a Franchise to use Public Rights-of-Way is a valuable property right without which a Grantee would be required to invest substantial capital.

2001.10.2 Payment to Town

As compensation for use of the Public Rights-of-Way, and in light of the scope of any Franchise, in addition to providing channels, facilities, and other support for public, educational and governmental use of the Cable System, a Grantee shall pay the Town a Franchise fee. The amount of the fee shall be paid annually, provided that provisions for more frequent payments may be specified in a Franchise Agreement. At least once a year, the Grantee shall provide the Town a report setting forth the total of Gross Revenues for the year or other period in question, and identifying the amount of revenues attributable to each category of Gross Revenues received by the Grantee, including non-Subscriber Gross Revenues, and the number of Subscribers receiving each category of Cable service offered by the Grantee.

2001.10.2.1 Town Right to Request Audit: The Town shall have the right to retain an independent auditor to: (i) audit the records of a Grantee to verify the computation of amounts payable under this Ordinance or a Franchise Agreement; and (ii) recompute any amounts determined to be payable under this Ordinance or a Franchise Agreement, whether the records are held by the Grantee, an Affiliate or any other entity that collects or receives funds related to the Grantee's operation in the Town, including, by way of illustration and not limitation, any entity that sells advertising on the Grantee's behalf. The Grantee shall be responsible for all reasonable costs associated with any such audit, including the auditor's fees, as a cost incidental to the enforcement of the Franchise, and shall have no control over

the identity or selection of the auditor. The Town shall have sole discretion in selecting the auditor and shall not be responsible for any costs associated with the audit. The Town shall have the right to review the auditor's report and methodology, including the right to obtain an explanation of all of the auditor's assumptions and calculations, and the right to challenge and request changes to any such assumptions and calculations. The Town shall not, however, be permitted to obtain copies of documents received by the auditor, except for documents voluntarily provided by the Grantee to the Town, or subject to copying by the Town pursuant to Section 15.1. The Grantee shall be responsible for providing all such records to the auditor, without regard to by whom they are held. The records shall be maintained for at least three (3) years. Any additional amounts due to the Town as a result of an audit shall be paid within (30) days following written notice to the Grantee by the Town of the underpayment, which notice shall include a copy of the audit report. The Town may exercise its audit right no more frequently than once per year, and only upon written notice to the Grantee.

2001.10.2.2 Maintenance of Records: A Grantee shall maintain its fiscal and financial records, and have all relevant fiscal and financial records maintained by others on its behalf in such a manner as to enable the Town to: (i) determine the cost of assets of the Grantee which are used in providing services within the Town for purposes of assessing any personal property or other taxes and for purposes of verifying any filings that may be made in connection with any cost of service proceedings; and (ii) to determine Gross Revenues. For purposes of assessing state and local taxes, the cost of assets shall be determined in accordance with FCC rules pertaining to cost of service proceedings.

2001.11 Construction Provisions

2001.11.1 System Construction Schedule

Every Franchise Agreement shall specify the construction schedule that will apply to any required construction, upgrade, or rebuilding of the Cable System.

2001.11.2 Construction Standards

2001.11.2.1 Construction Shall be in Accordance with all Applicable Laws: The construction, operation, maintenance, and repair of a Cable System shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970, as amended, the national Electrical Safety Code, the National Electric Code, other applicable federal, state, or local laws and regulations that may apply to the operation, construction, maintenance, or repair of a Cable System including, without limitation, local zoning and construction codes, and laws and accepted industry practices, all as hereafter may be amended or adopted.

2001.11.2.2 Wires to Cause Minimum Inconvenience: All wires, cable lines, and other transmission lines, equipment, and structures shall be installed and located to cause minimum interference with the rights and convenience of property owners.

2001.11.2.3 Installation of Equipment to be of Permanent Nature: All installation of electronic equipment shall be of a permanent nature, using durable components.

2001.11.2.4 Antennae: Without limiting the foregoing, to the extent applicable, antennae and their supporting structures (towers) shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administrator, and all other applicable state or local laws, codes, and regulations all as hereafter may be amended or adopted.

2001.11.2.5 Good Engineering Practices: Without limiting the foregoing, all of a Grantee's plant and equipment, including, but not limited to, the antennae site, headend and distribution system, towers, house connections, structures, poles, wires, cable, coaxial cable, fiber optic cable, fixtures, and apparatuses shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained, and operated in accordance with good engineering practices, performed by experienced and properly trained maintenance and construction personnel, so as not to endanger or interfere with improvements the Town shall deem appropriate to make or to interfere in any manner with the Public Rights-of-Way or legal rights of any property owner or to unnecessarily hinder or obstruct pedestrian or vehicular traffic.

2001.11.2.6 Safety Practices: All safety practices required by law shall be used during construction, maintenance, and repair of a Cable System. A Grantee shall at all times employ reasonable care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public.

2001.11.2.7 No Interference with Other Utilities: A Grantee shall not place facilities, equipment, or fixtures where they will interfere with any gas, electric, telephone, water, sewer, or other utility facilities, or obstruct or hinder in any manner the various utilities serving the residents of the Town of their use of any Public Rights-of-Way.

2001.11.2.8 Repair of Rights-of-Way: Any and all Public Rights-of-Ways, public property, or private property that is disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance, or construction of a System or otherwise, including installation, repair maintenance, or replacement of a Grantee's equipment, shall be promptly repaired by the Grantee.

2001.11.2.9 Removal of System Due to Conditions in Rights-of-Way: A Grantee shall, by a time specified by the Town, protect, support, temporarily disconnect, relocate, or remove any of its property when required by the Town by reasons of traffic

conditions; public safety; Public Right-of-Way construction; Public Right-of-Way maintenance or repair (including resurfacing or widening); change of Public Right-of-Way grade; construction, installation or repair of sewers, drains, water pipes, power lines, signal lines, tracks, or any other type of government-owned communications system, public work or improvement or any government-owned utility; Public Right-of-Way vacation; or for any other purpose where the convenience of the Town would be served thereby; provided, however, that the Grantee shall, in all such cases, have the privilege of abandoning any property in place.

2001.11.2.10 Removal by Town Due to Emergency: In the event of an emergency, or where a Cable System creates, or is contributing to, an imminent danger to health, safety, or property, the Town may remove, relay, or relocate that portion of the Cable System. Unless the nature of the emergency or danger is such that immediate action is necessary to preserve life or property or to prevent physical harm to any individual, the Town shall provide telephonic notice to the Grantee prior to removing, relaying, or relocating any portion of a Grantee's Cable System.

2001.11.2.11 Raising or Lowering Wire to permit Moving of Buildings: A Grantee shall, on the request of any Person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the Person requesting same, and the Grantee shall have the authority to require such payment in advance, except in the case where the requesting person is the Town, in which case no such payment shall be required. The Grantee shall be given reasonable advance notice to arrange for such temporary wire changes, as provided in 35-A MRSA § 2516.

2001.11.2.12 Authority to Trim Trees: A Grantee shall have the authority to trim trees that overhang a Public Right-of-Way of the Town so as to prevent the branches of such trees from coming in contact with the wires, cables, and equipment of the Grantee. Except in emergencies, a Grantee shall notify the Town at least one business day prior to performing any such trimming. At the option of the Town, such trimming may be done by the Town, or under the Town's supervision and direction, at the expense of the Grantee.

2001.11.2.13 Use of Existing Utility Facilities: A Grantee shall use, with the owner's permission, existing underground conduits of overhead utility facilities whenever feasible, and may not erect poles or support equipment in Public Rights-of-Way without the express permission of the Town. Copies of agreements for use of conduits or other facilities shall be filed with the Town as required by a Franchise Agreement or upon the Town's written request.

2001.11.2.14 Undergrounding of Cable: (a) In Public Rights-of-Way or other places where electrical and telephone utility wiring is located underground, either at the time of

initial construction of a Cable System or at any time thereafter, a Grantee's Cable System also shall be located underground. (b) Between a Public Right-of-Way and a Subscriber's residence, if either electric or telephone wiring is aerial, a Grantee may install aerial cable except where a property owner or resident requests underground installation and agrees to bear the additional cost of such installation over and above the cost of aerial installation. Where existing subdivision approvals, deed covenants, municipal zoning, or other legal restrictions require underground installation, the Subscriber shall bear the additional cost of such installation on their property as a condition of receiving cable service.

2001.11.2.15 Town Use of Grantee's Poles: The Town shall have the right to install, and maintain free of charge upon the poles owned by a Grantee, any wire and pole fixtures that do not materially interfere with the Cable System operations of the Grantee.

2001.11.2.16 Town Approval of Construction: Prior to erection of any towers, poles, or conduits of the construction, upgrade, or rebuild of a Cable system authorized under this Ordinance or a Franchise Agreement, a Grantee shall first submit to the Town and other designated parties for approval a concise description of the Cable System proposed to be erected or installed, including engineering drawings, if required, together with a map and plans indicating the proposed location of all such facilities. No erection or installation of any tower, pole, underground conduit, or fixture, or any rebuilding or upgrading of a Cable System, shall be commenced by any Person until the Grantee has obtained all building permits, street operating permits, or other approvals required by the Town under any ordinance, regulation, or procedure generally applicable to such activities.

2001.11.2.17 Contractors and Subcontractors: Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of System equipment must be properly licensed under laws of the State and all applicable local ordinances. The Grantee must ensure that contractors, subcontractors, and all employees who will perform work for it are trained and experienced. Each contractor and subcontractor must perform work in compliance with all applicable provisions of law and a Franchise Agreement, and the Grantee shall implement a quality control program to ensure that the work is so performed.

2001.11.3 Publicizing Proposed Construction Work

Except in emergencies or to restore outages, Grantee shall publicize proposed construction work prior to commencement of that work by causing written notice of such construction work to be delivered to the Town and by notifying those Persons most likely to be affected by the work in at least two (2) of the following ways: by telephone, in person, by mail, by distribution of flyers to residences, by publication in local newspapers, or in any other manner reasonably calculated to provide adequate notice, including use of local informational channels. Whenever practicable, such notice shall be given at least one (1) week prior to commencement of the work concerned.

2001.11.4 Continuity of Service

2001.11.4.1 Subscriber Right: It is the right of all Subscribers in a Grantee's Franchise Area to receive all services that a Grantee is then providing under the terms of a valid Franchise as long as their financial and other obligations to the Grantee are satisfied; provided, however, that to the extent a Grantee's agreements with its programming providers prohibit the Grantee from providing certain Cable Services to nonresidential subscribers, the Grantee may exclude such services from its offerings to nonresidential Subscribers.

2001.11.4.2 Assurance of Continuous Uninterrupted Service: A Grantee shall ensure that all Subscribers receive continuous uninterrupted service. To this end, Grantee shall: (a) in the event of a Sale or Transfer of its Franchise, cooperate with the Town to assure an orderly transition from it to another Grantee, and take all steps necessary to maintain service to Subscribers until the Sale or transfer has been completed; (b) not abandon service to the entire Town without having given twelve (12) months' prior notice to the Town; and (c) not abandon service to any portion of the Town (excepting termination of service to individual subscribers as otherwise permitted) without having given six (6) months' prior written notice to the Town. Following such notice, the Grantee shall continue to be obligated to comply with the terms and conditions of its Franchise Agreement and applicable laws and regulations, and shall cooperate with the town to assure an orderly transition from it to another Grantee.

2001.11.4.3 Abandonment of System: If a Grantee abandons its System during the Franchise term, or fails to operate its System in accordance with this Article 11.0 during any Transition Period, the Town, at its option, may operate the System, designate another entity to operate the System temporarily until the Grantee restores service under conditions acceptable to the Town or until the Franchise is revoked and a new Grantee selected by the Town is providing service, or obtain an injunction requiring the grantee to continue operations. If the Town is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the town or its designee for all reasonable costs and damages incurred that are in excess of the revenues from the Cable System. In addition, any abandonment of a System shall be subject to all of the provisions of 30-A MRSA § 3008(3)(B).

2001.11.4.4 Injunctive Relief: The Town shall be entitled to injunctive relief under the preceding paragraph if:

a. The Grantee fails to provide Cable Service in accordance with its Franchise over a substantial portion of the Franchise Area for ninety-six (96) consecutive hours, unless the Town authorizes a longer interruption of service, or as permitted pursuant to the force majeure clause of § 17.2; or
b. The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with its Franchise over a substantial portion of the Franchise Area.

2001.12 System Facilities, Equipment, and Services

In addition to satisfying such requirements as may be established through the application process, every Cable System shall be subject to the following conditions, except as prohibited by federal law.

2001.12.1 Provision of Service

Each Franchise Agreement shall contain a line extension policy that shall govern a Grantee's obligation to extend service. Unless otherwise specified in a Franchise Agreement, after Cable Service has been established by activating trunk distribution cable for an area specified in a Franchise Agreement, a Grantee shall provide Cable Service to any household requesting Cable Service within that are, including multiple dwelling units in that area, except for multiple dwelling units to which it cannot legally obtain access. In providing services to multiple swelling units, a Grantee shall comply with all applicable provisions of 14 MRSA § 6041.

2001.12.2 Full Video Service to Municipal Buildings; Facilities and Equipment

A Franchise Agreement may require a Grantee to install, at no charge, at least one (1) service outlet at all municipal buildings within the Franchise Area that can be reached by a standard drop, and may provide that the Grantee to provide basic Cable Service and the lowest tier of Cable Programming Services to such buildings free of charge. Finally, a Franchise Agreement may provide that such service outlets shall be capable of providing the full range of non-cable electronic data and telecommunication services provided by a Grantee, and may require other facilities, equipment, and channel capacity in accordance with the Cable Act, at rate and terms set out in the Franchise Agreement.

2001.12.3 Technical Standards

2001.12.3.1 FCC Standards: Any Cable System within the Town shall meet or exceed the technical standards set forth in 47 CFR § 76.601 and any other applicable technical standards, including any such standards as hereafter may be amended or adopted by the Town in a manner consistent with federal law.

2001.12.3.2 Facilities Shall Not Interfere with Others' Signals or Facilities: A Grantee shall not design, install, or operate its facilities in a manner that will interfere with the signals of any broadcast station, the facilities of any public utility, the Cable System of another Grantee, or individual or master antennae used for receiving television or other broadcast signals.

2001.12.4 Proof of Performance Tests

At the times specified in a Franchise Agreement or as required by FCC rules, a Grantee shall perform proof of performance tests, and such other tests as may be specified in a Franchise Agreement, designed to demonstrate compliance with the Article, the Franchise Agreement, and FCC requirements. The Grantee shall provide the results of proof of performance tests promptly to the Town, upon the Town's written request. The Town shall have the right to inspect the Cable

System during and after its construction to ensure compliance with this Article, the applicable Franchise agreement, and applicable provisions of local, state and federal law, and may require the Grantee to perform additional tests based on the Town's investigation of Cable System performance or on Subscriber complaints.

2001.13 Consumer Protection Provisions

2001.13.1 Telephone and Office Availability

2001.13.1.1 Office; Hours of Operation; Telephone: Each Grantee shall maintain an office at a location reasonably convenient to Subscribers that shall be open at least fifty (50) hours each week, including, during the hours of 8:30am to 5:00pm Monday through Friday and 8:30am to 12:00pm Saturday, exclusive of all State and Federal holidays, to allow Subscribers to request service and conduct other business. Each Grantee shall ensure that its office shall meet all applicable access requirements of the Maine Home Rights Act,the Americans with Disabilities Act, and all other applicable federal and state laws and regulations. Each Grantee shall perform service calls, installations and disconnects during at least the hours for which its office is open for business, provided that a Grantee shall respond to outages twenty-four (24) hours a day, seven (7) days a week. Each Grantee shall establish a publicly listed toll-free telephone number, and shall either ensure that its telephone service has TTY and TDD capabilities, or contract with a third party to provide Grantee with such services. The phone must be answered by customer service representatives at least during the hours for which the Grantee's office is open for business, for the purpose of receiving requests for service, inquiries, and complaints from Subscribers. After those hours, a Grantee shall arrange for the phone to be answered so that customers can register complaints and report service problems on a twenty-four (24) hours per day, seven (7) days per week basis, and so that the Grantee can respond to service outages as required herein.

2001.13.1.2 Telephone Answering Time: Telephone answering time shall not exceed thirty (30) seconds or four (4) rings, and the time to transfer the call to a customer service representative (including hold time) shall not exceed an additional thirty (30) seconds. This standard shall be met ninety (90) percent of the time, measured quarterly. When the business office is closed, an answering machine or service capable of receiving and recording service complaints and inquiries shall be employed. Any after-hours answering service used shall comply with the same telephone answer time standard set forth in this Article 13.1. If required by its Franchise Agreement, a Grantee shall supply statistical data to verify it has met the standards set forth herein.

2001.13.1.3 Staff: A Grantee must hire sufficient staff so that it can adequately respond to customer inquiries, complaints, and requests for service in its office, over the phone, and at the Subscriber's residence.

2001.13.2 Scheduling Work

2001.13.2.1 Appointments: All appointments for service, installation, or disconnection shall be specified by date. Each Grantee shall offer a choice of morning, afternoon, or all-day appointment opportunities. If at any time an installer or technician believes it impossible to make a scheduled appoint time, an attempt to contact the customer will be made prior to the time of appointment and the appointment rescheduled.

2001.13.2.2 Missed Appointments: Subscribers who experience a missed installation appointment due to the fault of a Grantee shall receive standard installation free of charge. If the installation was to have been provided free of charge, or for other appointments, the Subscriber shall receive one (1) month of the subscribed to Service Tier free of charge, or a credit of twenty dollars ($20.00), whichever is greater.

2001.13.2.3 Mobility-Limited Customers: With regard to mobility-limited customers, upon subscriber request, each grantee shall arrange for pickup and/or replacement of converters or other Grantee equipment at the Subscriber's address or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer).

2001.13.2.4 Acknowledgement of and Response to Customer Requests: Requests for service, repair, and maintenance must be acknowledged by a Grantee within twenty-four (24) hours, or prior to the end of the next business day. A Grantee shall respond to all other inquiries (except billing inquiries) within five (5) business days of the inquiry or complaint. A Grantee shall acknowledge receipt of billing inquiries within five (5) days and provide a detail response within thirty (30) days.

2001.13.2.5 Completion of Work: Repairs and maintenance for service interruptions and other repairs not requiring in-unit work must be initiated within twenty-four (24) hours and must be completed within sixty-two (62) hours. All other requests for service must be completed within three (3) days from the date of the initial request, except installation requests, provided that Grantee shall complete the work in the shortest time possible where, for reasons beyond the Grantee's control, the work could not be completed in those time periods even with the exercise of all due diligence; the failure of a Grantee to hire sufficient staff or to properly train its staff shall not justify a Grantee's failure to comply with this provision. Except as federal law requires, no charge shall be made to the Subscriber for this service, except for the cost of repairs to the Grantee's equipment or facilities where it can be documented that the equipment or facility was damaged by a Subscriber.

2001.13.2.6 Work Standards: The standards of Article 13.2.4 and 13.2.5 shall be met ninety-five (95) percent of the time, measured on a quarterly basis.

2001.13.3 Notice to Subscribers

2001.13.3.1 Provision of Information to Subscribers: A Grantee shall provide each Subscriber at the time Cable Service is installed, and at least annually thereafter, written instructions for placing a service call, filing a complaint, or requesting an adjustment. Each Grantee shall also provide a notice informing subscribers of how to communicate their views and complaints to the cable company, the proper municipal official and the State Attorney General; stating the responsibility of the State Attorney General to receive consumer complaints concerning matters other than channel selection and rates; and stating the policy regarding and method by which subscribers may request rebates or pro-rata credits as provided in this Ordinance or applicable federal or state law or regulation. In addition, all Grantees shall provide Subscribers to their services a schedule of rates and charges, a copy of the service contract, delinquent Subscriber disconnect and reconnect procedures and a description of any other of the Grantee's policies in connection with its Subscribers. Copies of these notices shall be provided to the Town. A Grantee shall provide the Town and each Subscriber at least thirty (30) days advance notice of any significant changes in any of the information required by this section.

2001.13.3.2 Disclosure of Price Terms. All Grantee promotional materials, announcements, and advertising of residential Cable Services to Subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all promotional materials must clearly and accurately disclose price terms, and in the case of telephone orders, a Grantee shall take appropriate steps to ensure that the customer service representatives clearly and accurately disclose price terms to potential customers in advance of taking the order.

2001.13.3.3 Public File: Each Grantee shall maintain a public file containing all notices provided to Subscribers under these customer service standards, as well as all written promotional offers made to Subscribers by the Grantee. Material in the file shall be retained for at least one (1) year after the later of the date of mailing or public announcement of the information contained in a notice.

2001.13.4 Interruptions of Service

A Grantee may intentionally interrupt service on the Cable System only for good cause and for the shortest time possible, and, except in emergency situations, only after a minimum of forty-eight (48) hours prior notice to Subscribers and the Town of the anticipated service interruption; provided, however, that planned maintenance that does not require more than two (2) hours' interruption of service and that occurs between the hours of 12:00am and 6:00am shall not require such notice to Subscribers, and notice to the Town may be given no less than twenty-four (24) hours prior to the anticipated service interruption.

2001.13.5 Billing

2001.13.5.1 Proration of First Billing Statement: A Grantee's first billing statement after a new installation or service change shall be prorated as appropriate and shall reflect any security deposit, made or given by the Subscriber to the Grantee.

2001.13.5.2 Itemization: A Grantee's billing statement must itemize each category of service and equipment provided to the Subscriber and states clearly the charge therefore.

2001.13.5.3 Payment Due Date: A Grantee's billing statement must show a specific payment due date not earlier than ten (10) days after the date statement is mailed. Any balance not received within thirty (30) days after the due date may be assessed a late fee not exceeding one and one-half (1.5) percent of the amount due or any higher amount allowed by State law. The late fee shall appear on the following month's billing statement.

2001.13.5.4 In Person Payments: A Grantee must notify the Subscriber that he or she can remit payment in person at the Grantee's office in the greater Bangor area and inform the Subscriber of the address of that office.

2001.13.5.5 No Late Fees for Failure by Grantee: Subscribers shall not be charged a late fee or be otherwise penalized for any failure by a Grantee, including a failure to timely or correctly bill the Subscriber, or failure to properly credit the Subscriber for a payment timely made.

2001.13.5.6 Credit for Lack or Impairment of Service: Upon request, the account of any Subscriber shall be credited a prorated share of the monthly charge for the service if said Subscriber is without service or if service is substantially impaired for any reasons for a period exceeding six (6) hours during any twenty-four (24) hour period, except where it can be documented that a Subscriber caused the service disruption, or in the case of a planned outage occurring between the hours of 12:00 midnight and 6:00am of which the Subscriber had prior notice.

2001.13.6 Disconnection/Downgrades

2001.13.6.1 Subscriber Termination: A Subscriber may terminate service at any time.

2001.13.6.2 Prompt Disconnection or Downgrade on Request; Charges: A Grantee shall promptly disconnect or downgrade any Subscriber who so requests from the Grantee's Cable System, unless the Subscriber unreasonably hinders access by the Grantee to equipment of the Grantee or the Subscriber's premises to which the Grantee must have access to complete the requested disconnection. No period of notice prior to voluntary termination or downgrade of service may be required of Subscribers by any Grantee. No charge may be imposed for any voluntary disconnection, and downgrade charges must comply with the necessary to receive a service within five (5) business days of the disconnection, no charge may be imposed by any Grantee for any Cable Services delivered after the date of the request to disconnect.

2001.13.6.3 **Subscriber Return of Equipment**: A Subscriber may be asked, but not required, to disconnect a Grantee's equipment and return it to the business office; provided that if a Subscriber requests that a Grantee pick up the equipment, the Subscriber shall provide reasonable access to the Subscriber's premises during Grantee's business hours to allow the Grantee to retrieve the equipment.

2001.13.6.4 **Refund of Security Deposit:** Any security deposit and/or other funds due to the Subscriber shall be refunded on disconnected accounts after the converter has been recovered by the Grantee. The refund process shall take a maximum of thirty (30) days or the next billing cycle from the date disconnection was completed as required herein to the date the customer receives the refund.

2001.13.6.5 **Disconnection for Failure to Pay Fee:** If a Subscriber fails to pay a monthly Subscriber or other fee or charge, a Grantee may disconnect the Subscriber's service outlet; however, such disconnection shall not be effected until at least forty-five (45) days after the due date of the monthly Subscriber fee or other charge and, after ten (10) days' advance written notice of intent to disconnect is given to the Subscriber in question. If the Subscriber pays all amounts due, including late charges before the date scheduled for disconnection, the grantee shall not disconnect service. Subject to Section 13.6.2, after disconnection, upon payment by the Subscriber in full of all proper fees or charges, including the payment of the reconnection charge, if any, Grantee shall promptly reinstate service.

2001.13.6.6 **Disconnection for Damage to System or Equipment:** A Grantee may immediately disconnect a Subscriber if the Subscriber is damaging or destroying the Grantee's Cable System or equipment. After disconnection, the Grantee shall restore service after the Subscriber provides adequate assurance that it has ceased the practices that led to disconnection, and paid all proper fees and charges, including reconnect fees, a reasonable security deposit, and amounts owed the Grantee for damage to its Cable System or equipment.

2001.13.6.7 **Disconnection for Signal Leakage:** A Grantee may also disconnect a Subscriber that in any way, intentionally or otherwise, causes signal leakage in excess of federal limits. It may do so in accordance with Federal rules and requirements or, if the Subscriber fails to take steps to correct the problem. It may also do so without notice in the event of a danger to the public safety, provided that the Grantee shall immediately notify the Subscriber of the problem and, once the problem is corrected, reconnect the Subscriber without charge.

2001.13.6.8 **Removal of Grantee Property:** Except as federal law may otherwise provide, if a Subscriber terminates service, a Grantee may offer the Subscriber the opportunity to acquire any wiring located on the premises that is the property of Grantee at replacement cost. If the Subscriber declines to purchase the wiring, the Grantee must remove its property from the Subscriber's premises within seven (7)

days, if requested by the Subscriber. If a Grantee fails to remove the wiring in that period, the Grantee shall make no further attempt to remove the wiring or restrict its use.

2001.13.7 Changes in Service

In addition to rights reserved by the Town, Subscribers shall have rights with respect to alterations in service. The Grantee may not alter the service being provided to a class of Subscribers (including by retiring, restructuring or otherwise) without the express permission of each Subscriber, unless it complies with this Article. At the time the Grantee alters the service it provides to a class of Subscribers, it must provide each Subscriber thirty (30) days' notice, explain the substance and full effect of the alteration, and provide the Subscriber the right within the thirty (30) day period following notice to opt to receive any combination of services offered by Grantee. Except as federal law otherwise provides, Subscribers may not be required to pay any charge (other than properly noticed rates), including an upgrade or downgrade charge, in order to receive the services selected. No charge may be made for any service or product for which there is a separate charge that a Subscriber has not affirmatively indicated it wishes to receive. Payment of the regular monthly bill does not in and of itself constitute such an affirmative indication.

2001.13.8 Deposits

A Grantee may require a reasonable, non-discriminatory deposit on equipment provided to Subscribers. Deposits shall be placed in an interest-bearing account, and the Grantee shall return the deposit, plus interest earned to the date repayment is made to the Subscriber. Interest will be calculated at the prevailing commercial savings rate on all late payments.

2001.13.9 Recording Subscriber Complaints

A Grantee shall maintain a record of subscribed complaints in accordance with 30-A MRSA § 3010(4):

a. Every franchisee shall keep a record or log of all written complaints received regarding quality of service, equipment malfunctions, billing procedure, employee attitude, and similar matters. These records shall be maintained for a period of two (2) years; and
b. The record shall contain the following information for each complaint received:
    1. Date, time, and nature of the complaint;
    2. Name, address, and telephone number of the person complaining;
    3. Investigation of the complaint;
    4. Manner and time of resolution of the complaint;
    5. If the complaint regards equipment malfunction or the quality of reception, a report indicating corrective steps taken, with the nature of the problem stated; and

6. Consistent with subscriber privacy provisions contained in the Cable Act and applicable FCC regulations, every Grantee shall make the logs or records of complaints available to any authorized agent of any franchising authority having a franchise with that Grantee or any authorized agent of a municipality considering a franchise with that Grantee upon request during normal business hours for on-site review.

2001.13.10 Remedies for Violators

In addition to the remedies set forth elsewhere in this Ordinance and in the Franchise Agreement, subscribers shall have available the remedies provided by 30-A MRSA § 3010(7).

2001.14 Rate Regulation

2001.14.1 Town May Regulate Rates

The Town may regulate all rates and charges except to the extent it is prohibited from doing so by law, and if the Town does exercise its rate regulatory authority, no rate or charge may be imposed or increased without the prior approval of the Town, except such rates and charges that the Town is prohibited from regulating. Subject to the foregoing, any change made without prior approval is an illegal change, and a Grantee is prohibited from requesting or requiring a Subscriber to pay an illegal rate as a condition of providing service. This section shall not be construed to mean that any Grantee has consented or will consent to subject itself to a rate regulation.

2001.14.2 Authority to Adopt Regulations

All rates that are subject to regulation by the Town must be reasonable. The Town may adopt such regulations, procedures, and standards as it deems necessary to implement rate regulation, and may regulate rates by amendment to this Ordinance, by a separate resolution or ordinance, by amendment to a Franchise Agreement, or in any other lawful manner. This section shall not be construed to mean that any Grantee has consented or will consent to subject itself to rate regulation.

2001.14.3 Rate Change

2001.14.3.1 Advance Notice of Rate Changes: At least thirty (30) days prior to implementing any increases in rates, or changes in channel positions, programming, or service terms or conditions, a Grantee shall provide the Town and each Subscriber with written notice describing any such changes it plans to make and the proposed effective dates for the changes. A Grantee shall not be required to provide thirty (30) days' notice of rate decreases or temporary promotional offers that result in lower rates for Subscribers, provided that it has given the Town notice of such decreases and offers prior to implementation.

2001.14.3.2 Explanation of Rate Changes: In addition to the required notice, before it alters services or service terms or conditions, a Grantee must provide a reasonably simple and clear written notice explaining the substance and full effect of the alteration, including the effect on rates and service options and the effect of the change on the use of other consumer electronic equipment. Such written notice shall be provided to the Town at least thirty (30) days and to the Subscribers at least thirty (30) days before the change.

2001.14.3.3 Changes Made Without Required Notice Invalid: Any change made without the required thirty (30) days' notice shall be of no force or effect, and a Grantee shall be obligated to refund any increased amount collected without the required thirty (30) days' notice, and to restore service to the prior existing status, at least until the required notice is provided. This subsection shall not limit the right of a Grantee to implement any rate decreases or temporary promotional offers that result in lower rates for Subscribers immediately upon providing written notice of these rate changes to the Town. This subsection shall not be interpreted to limit the Town's right to exercise its rate regulation authority under Article 14.1 of this ordinance, the availability of remedies under applicable laws or regulations, or rights under the customer service standards set forth in Article 13.0 of this Ordinance.

2001.15 Records and Reports

2001.15.1 Open Books and Records

The Town shall have the right to inspect and copy at any time after reasonable notice during normal business hours at a Grantee's local office, all materials and records of the Grantee relevant to the Town's management of the Public Rights-of-Way and regulation of customer service and consumer affairs including all maps, plans, service complaint logs, performance test results, records of requests for service, computer records, codes, programs, and discs or other storage media and other like material which the Town reasonable deems appropriate in order to monitor compliance with the terms of this Ordinance, a Franchise Agreement, or applicable law. A Grantee shall make available to the Town, to the best of its ability, the same types of materials which the Town deems relevant and which are held by an Affiliate, a cable operator of the Cable System, and any contractor, subcontractor or any person holding any form of management contract for the Cable System. The grantee is responsible for collecting, to the best of its ability, such requested information, and for producing it at its offices in the greater Bangor area, and, as part of its application, it must affirm that it can and will do so. The Town shall preserve the confidentiality on proprietary business information of a Grantee or another party provided to the Town by the Grantee, to the extent permissible under Maine law. To that end, the Grantee shall clearly identify any proprietary business information that it believes to be entitled to confidential treatment, so that the Town may establish appropriate safeguards against the improper disclosure. The Town shall also have the right to inspect at any time after reasonable notice during normal business hours at a Grantee's local

office all materials relevant to the financial condition of the Grantee, including all books, records, receipts, contracts, financial statements, computer records, codes, programs and disc or other storage media, and other like material which the Town reasonably deems appropriate in order to monitor compliance with the terms of this Ordinance, a Franchise Agreement, or applicable law. A Grantee shall make available for inspection by the Town, to the best of its ability, the same types of materials that the Town deems relevant and that are held by an Affiliate, a cable operator of the Cable System, and any contractor, subcontractor, or any person holding any form of management contract for the Cable System. The Grantee is responsible for collecting, to the best of its ability, such requested information and producing it at its offices in the greater Bangor area, and as part of its application it must affirm that it can and will do so. The Town shall preserve the confidentiality of proprietary business information of a Grantee provided for inspection by the Town by the Grantee, to the extent permissible under Maine law. To that end, the Grantee shall clearly identify any proprietary business information that it believes to be entitled to confidential treatment, so that the Town may establish appropriate safeguards against improper disclosure.

2001.15.2 Required Reports

A Grantee shall file the following with the Town in a form acceptable to the Town:

2001.15.2.1 Annual Construction Report: An annual report setting forth the physical miles of plant construction and plant in operation during the fiscal year shall be submitted to the Town. Such report also shall contain any revisions to the System "as built" maps filed with the Town. The annual report shall be provided at the time specified in the Franchise Agreement;

2001.15.2.2 Notices Instituting Civil or Criminal Proceedings: A Grantee shall provide the Town with copies of any notice of deficiency, forfeiture, or other document issued by any state or federal agency instituting any investigation or civil or criminal proceeding regarding the Cable System, the Grantee, or any Affiliate of the Grantee, to the extent the same may affect or bear on operations in the Town. A notice that an Affiliate that has a management contract for the Cable System was not in compliance with FCC EEO requirements within the work unit serving the Town would be submitted to the Town at the time it is filed or within five (5) days of the date it is received; and

2001.15.2.3 Bankruptcy Declarations: Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy, by the Grantee, by any partnership corporation that owns or controls the Grantee, or by any partnership corporation that owns or controls the Grantee directly or indirectly. This material shall be submitted to the Town at the time it is filed, or within five (5) days of the date it is received.

2001.15.3 Reports to be Provided on Request

2001.15.3.1 Reports Required by FCC: Upon the Town's written request, a Grantee shall deliver to the Town copies of all reports required by the FCC, including, but not limited to, any proof of performance tests and results, Equal Employment Opportunity reports, and all petitions, pleadings, notices, and applications regarding the Cable System, or a group of Cable Systems of which the Grantee's Cable System is a part, submitted or received by the Grantee, an Affiliate, or any other Person on the behalf of the Grantee, either to or from the FCC, or any other federal or state regulatory commission or agency having jurisdiction over any matter affecting operation of the Grantee's System, for the time period specified in the Town's request.

2001.15.3.2 Financial Reports: The Town may request the following financial reports for the Franchise Area once per calendar year:

a. An ownership report, indicating all Persons who at any time during the preceding year did control or benefit from an interest in the Franchise of five (5) percent or more;
b. An annual income statement showing Subscriber revenue from each category of service and every source of non-subscriber revenue;
c. A current annual statement of all capital expenditures, including the cost of construction and of equipment used or placed within the Town;
d. An annual list of officers and members of the Board of Directors of the Grantee and any Affiliates;
e. An organization chart showing what corporations or partnerships with more than five (5) percent interest own the Grantee, and the nature of that ownership interest (limited partner, general partner, preferred share holder, etc.); and showing the same information for each corporation or partnership so identified and so on until the ultimate corporate and partnership interests are identified; and
f. An annual report of each entity identified in Article 15.3.2.e which issues an annual report.

2001.15.3.3 System and Operational Reports: The following System and operational reports shall be submitted annually upon request of the Town:

a. An annual summary of the previous year's activities including, but not limited to, Subscriber totals for each category of service offered, including number of pay units sold, new services offered, and the amount collected annually from other Users of the System and the character and extent of the service rendered thereto; and
b. An annual projection of System and service plans for the future.

2001.15.4 Additional Reports

The Grantee shall prepare and furnish to the Town, at a time reasonably prescribed by the Town, such additional reports with respect to its operation, affairs, transactions, or property as the Town may reasonably deem necessary and

appropriate to the performance of any of the rights, functions, or duties of the Town in connection with this Ordinance or the Franchise Agreement.

2001.15.5 Records Required

2001.15.5.1 Records to be maintained: A Grantee shall at all times maintain and shall deliver to the Town upon request, the following records:

a. Records of all complaints maintained pursuant to Section 13.9;
b. A full and complete set of plans, records, and "as built" maps showing the exact location of all system equipment installed or in use in the Town exclusive of Subscriber service drops;
c. Records of outages, indicating date, duration, area and the estimated number of Subscribers affected, as well as type of outage and cause;
d. Records of service calls for repair and maintenance indicating the date and time service was required, the date of acknowledgement and date and time service was scheduled (if it was scheduled), the date and time service was provided, and (if different) the date and time the problem was solved; and
e. Records of installation/reconnection and requests for service extension, indicating date of request, date of acknowledgement, and the date and time service was extended.

2001.15.5.2 Additional Information: The Town may request, and a Grantee shall promptly provide, additional information, reports, records, and documents as may be reasonably required from time to time for the performance by the Town of any of its rights, functions, or duties in conversations with this Ordinance or a Franchise Agreement.

2001.15.6 Performance Evaluation

2001.15.6.1 Town Discretion to Hold Public Sessions: The Town may, at its discretion, hold scheduled performance evaluation sessions. All such evaluation sessions shall be open to the public.

2001.15.6.2 Announcement of Sessions: All evaluation sessions shall be open to the public and announced in a newspaper of general circulation.

2001.15.6.3 Discussion Topics: Topics that may be discussed at any scheduled or special evaluation session may include, but are not limited to, system performance and construction, Grantee compliance with this Ordinance and a Franchise Agreement, customer service and complaint response, Subscriber privacy, services provided, programming offered, service rate structures (if applicable), Franchise fees, penalties, free or discounted services, applications of new technologies, judicial and FCC filings, and line extensions.

2001.15.6.4 Grantee Cooperation: During the review and evaluation by the Town, a Grantee shall fully cooperate with the Town and shall provide such information and documents as the Town may need to reasonably perform its review.

2001.15.7 Voluminous Materials

If the books, records, maps or plans, or other requested documents are too voluminous, or for security reasons cannot be copied and moved, then a Grantee may request that the inspection take place at some other location provided that: (i) the Grantee must make necessary arrangements for copying documents selected by the Town after review; and (ii) the Grantee must pay reasonable travel and additional copying expenses incurred by the Town in inspecting those documents or having those documents inspected by its designee, if done outside the greater Bangor area.

2001.15.8 Retention of Records; Relation to Privacy Rights

Each Grantee shall take all steps required, if any, to ensure that it is able to provide the Town all information which must be provided or may be requested under this Ordinance or a Franchise Agreement, including by providing appropriate Subscriber privacy notice. Nothing in this Article shall be read to require a Grantee to violate 47 USC § 551. Each Grantee shall be responsible for blacking out any data that federal or state law prevents it from providing to the Town.

2001.16 Rights of Individuals Protected

2001.16.1 Discriminatory Practices Prohibited

2001.16.1.1 Discrimination Prohibited: A Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, programmers, or residents of the Town on the basis of race, color, religion, national origin, sex, age, physical handicap, or on any other basis prohibited by federal or state law. This provision is not intended to require a Grantee to provide any equipment or service free of charge to any Subscriber, unless such equipment or service is provided for in a manner that does not discriminate among Subscribers in a way that is prohibited by state or federal law, or unless the provision of free equipment or service is required by state or federal law.

2001.16.1.2 Discrimination for Exercise of Right Prohibited: A Grantee shall not discriminate among Persons or take any retaliatory action against a Person because of that Person's exercise of any right it may have under federal, state, or local law, nor may the Grantee require a Person to waive such rights as a condition of taking service.

2001.16.1.3 Differential Rates Based on Subscriber Income Prohibited: A Grantee shall not deny access or levy different rates and charges on the residents of any particular geographical area because of the income of the residents of that geographical area.

2001.16.1.4 Rate Preferences Prohibited: Except to the extent the Town may not enforce such a requirement, a Grantee is prohibited from discriminating in its rates or charges, or from granting undue preferences to any Subscriber, potential Subscriber, or group of Subscribers or potential Subscribers, provided, however, that a Grantee may offer temporary, bona fide promotional discounts in order to attract or maintain Subscribers, as long as such discounts are offered on a non-discriminatory basis to similar classes of Subscribers throughout the Town; a Grantee may offer discounts for the elderly, the handicapped, or the economically disadvantaged, and such other discounts as it is expressly entitled to provide under federal law, if such discounts are applied in a uniform and consistent manner, and a Grantee may enter into bulk service agreements with multiple dwelling unit owners, if the rates under such agreements are established and applied in a uniform and consistent manner. A Grantee shall comply at all times with all applicable federal, state, and Town laws, and all executive and administrative orders relating to non-discrimination.

2001.16.2 Equal Employment Opportunity

A Grantee shall not refuse to employ, discharge from employment, or discriminate against any Person in compensation or in terms, conditions, or privileges of employment because of race, color, religion, national origin, sex, age, or any other basis prohibited by federal or state law. A Grantee shall comply with all federal, state, and local laws and regulations governing equal employment opportunities.

2001.16.3 Subscriber Privacy

2001.16.3.1 Grantee Shall Protect Subscriber Privacy: A Grantee shall at all times protect the privacy of all Subscribers pursuant to the provisions of Section 631 of the Cable Act, 47 USC U 551, and 30-A MRSA §3010(6-A). A Grantee shall not condition Subscriber service on the Subscriber's grant of permission to disclose information which, pursuant to federal or state law, cannot be disclosed without the Subscriber's explicit consent.

2001.16.3.2 Selling Subscriber Information Prohibited: Neither a Grantee nor its agents or employees shall, without the prior and specific written authorization of the Subscriber involved, sell or otherwise make available for commercial purposes the names, addresses, or telephone numbers of any Subscriber or Subscribers, or any information that identifies the individual viewing habits of any Subscriber or Subscribers.

2001.17 Miscellaneous Provisions

2001.17.1 Compliance with Laws

A Grantee shall comply with all applicable federal, state and local laws and regulations as they become effective, unless otherwise stated.

2001.17.2 Force Majeure

A Grantee shall not be deemed in default with provisions of its Franchise where performance was rendered impossible by war or riots, civil disturbances, flood, or other natural catastrophes beyond the Grantee's control, and a Franchise shall not be revoked or a Grantee penalized for such noncompliance, provided that the Grantee takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with its Franchise without unduly endangering the health, safety, and integrity of the Grantee's employees or property, or the health, safety, and integrity of the public, Public Rights-of-Way, public property, or private property.

2001.17.3 Connections to System; Use of Antennae

2001.17.3.1 Subscriber Right to Attach Devices: Subscribers shall have the right to attach devices to a Grantee's System to allow them to transmit signals or services for which they have paid to VCR's receivers and other terminals, provided that such terminals are located within the Subscriber's premises, and provided that such transmissions do not result in interference with the operations of Grantee's System, or result in violations of signal leakage compliance standards. Subscribers also shall have the right to use their own legally acquired remote control devices and tuners, and other similar equipment, and a Grantee shall provide information to consumer which will allow them to adjust such devices so that they may be used with the Grantee's System.

2001.17.3.2 Requiring Disconnection of Antennae Prohibited: A Grantee shall not, as a condition of providing service, require a Subscriber or potential Subscriber to remove any existing antenna, or disconnect an antenna except at the express direction of the Subscriber or potential Subscriber, or prohibit or discourage a Subscriber from installing an antenna switch, provided that such equipment and installations are consistent with applicable codes.

2001.17.4 Calculation of Time

Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of duration time.

2001.17.5 Severability

If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects, and continue to be effective. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the Town, and shall thereafter be binding on the Grantee and the Town.

2001.17.6 Captions

The captions and headings of this Ordinance are for convenience and reference purposes only and shall not affect in any ways the meaning and interpretation of any provisions of this Ordinance.

2002. RESIDENCY ORDINANCE[15]

2002.1 Residency Requirements

Employees appointed after May 12, 1999 to the Police, Fire or Public Works Department, and not already having a domicile within fifteen (15) road miles of the Lincoln Public Safety Building on 1 Adams Street, shall, within twelve (12) months after being appointed, establish his or her permanent domicile and remain within fifteen (15) road miles of the Lincoln Public Safety Building during his or her employment with the Town. If residency requirements have been addressed in a collective bargaining agreement, the provisions of the agreement concerned, rather than this section, shall apply. Only the Town Council may grant a waiver of this requirement.

If, after the expiration of the twelve (12) month period, the employee has not established a permanent domicile within fifteen (15) road miles of the Lincoln Public Safety Building, nor has the employee been granted a waiver from this requirement by the Lincoln Town Council, then the employee shall be dismissed from their employment effective immediately upon expiration of the period provided herein and in accordance with the Town's Personnel Rules and Regulations, Section 10, "Expectations, Corrective Action, and Terminations."

This section is written in accordance with MRSA Title 30-A, § 2703 and Title 26 § 962.

[15] The Council waived this requirement temporarily on September 18, 2021 and it will be revisited in one-year.

2004. LINCOLN REGIONAL AIRPORT & SEAPLANE BASE RUNWAY USE ORDINANCE

2004.1 Purpose:

The Town of Lincoln recognizes that the primary use of the airport runway and seaplane base is for aircraft launching, landing, and takeoff. This ordinance will prohibit all unauthorized use of the runway, taxi way, and seaplane ramp.

2004.2 Definitions:

AIRPORT MANAGER:	The Town Manager or his designee.
FAA:	Federal Aviation Administration.
NOTAM:	FAA requirement that notifies the Bangor Flight Service that the runway is out of service or in service depending on work or conditions of nature.
RUNWAY:	All aircraft rights of way located at the Lincoln Regional Airport & Seaplane Base.

2004.3 Operation

The Lincoln Regional Airport runway and Seaplane Base will only be used for aircraft launching, landing, and takeoff. Unauthorized use of the runway is strictly prohibited by the FAA and by the Town of Lincoln.

Authorized uses of the runway (requiring NOTAM) include:

- Authorized personnel for snow removal;
- Organized sessions for hang gliders, ultra-lighters, parasails, and/or remote controllers;
- Emergency vehicles such as fire trucks and police cruisers for emergencies;
- Public Works Department or other contractual personnel for maintenance such as painting, repairing lights, crack sealing, etc.;
- Inspections by authorized personnel for periodic maintenance;
- Other uses as authorized by the Airport Manager; and
- Signs displaying the authorized entrances for egress and ingress to the runway area are posted.

2004.4 Violations

The Town of Lincoln will assess fines for any unauthorized uses of the runway, taxiway, and seaplane base. The fines are listed in the Code Appendix.

2006. CHILD SEX OFFENDER ORDINANCE

2006.1 **Title:** This ordinance shall be known as the Child Sex Offender Ordinance.

2006.2 **Statement of Purpose**

The purpose of this Ordinance is to provide for the safety of the Town's children from convicted child sex offenders on the State of Maine Sex Offender Registry by restricting where such offenders can live within the community.

2006.3 **Legislative Findings and Intent**

a. Sexual offenders who have committed such crimes against children and present a threat to public safety.
b. It is the intent of this chapter to serve the Town's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of Lincoln by prohibiting convicted child sexual offenders from residing in areas where children go to school, including private elementary, middle, and secondary schools.
c. Authority for this Ordinance is found in 30-A MRSA § 3001 and 3014.

2006.4 **Applicability**

Individuals covered by this Ordinance must be:

a. Convicted of a Class A, B, or C sex offense against persons who had not attained the age of fourteen (14) years of age at the time of the offense.

2006.5 **Applicability Exceptions**

At the time this Ordinance takes effect, any registered child sex offender otherwise included herein shall be grandfathered as to their place of temporary or permanent residence only and be exempt from the distance requirements detailed below in Section 2006.6, Paragraph A, except where the individual should choose to change his/her place of address following the effective date of the distance requirements of this Ordinance in their entirety. All other sections of this Ordinance shall apply. Also exempted from this Ordinance are minor perpetrators and victims if the minor perpetrator's conviction is for a non-violent crime(s).

2006.6 **Restrictions on Covered Offenders**

a. Location of Residence: A covered offender shall not reside in either a permanent or temporary residence that is:
    1. Within seven hundred fifty (750) feet of any public or private elementary, middle or secondary school;
    2. Within seven hundred fifty (750) feet of any town owned playground (including town swimming pool or beach) where children are the primary users.

2006.7 Measurement of Distances

For purposes of determining the minimum distance separation, the requirements shall be measured from the property boundaries of each covered location as listed in Section 2006.6. The applicable distance separation shall be drawn on a map of the community and made available to the public. Exact measurements will be determined by the Lincoln Police Department using geographic positioning system technology where possible or by other valid measurement techniques. The Lincoln Police Department will maintain the official map of the affected areas.

2006.8 Violations and Penalties for Covered Offenders

A covered offender who violates the restrictions contained in 2006.6 above shall commit a civil violation and be subject to a penalty of one hundred dollars ($100.00) and each day that a violation continues after being summonsed for the first offense shall be considered as a separate offense, up to a maximum accumulated penalty of one thousand dollars ($1,000.00). The Lincoln Police Department shall represent the Town before the Court pursuant to 30-A MRSA sec. 2671(3). Should the services of the Town Attorney be required, however, the Town shall also be eligible to receive reasonable legal fees in addition to any penalties imposed under this section. Covered offenders under this chapter shall be required to notify their landlord that they are registered sex offenders subject to this chapter.

2006.9 Defense

It shall be no defense to prosecution for a violation of this chapter that the covered offender was unaware of the restricted residency requirement within the prohibited areas. At the time of initial registration with the Lincoln Police Department, each covered offender shall be given a copy of this chapter *and a map of the community detailing the prohibited areas* to review and question. The covered offender shall then sign and date a copy of this chapter *and the map,* attesting to the fact that he/she has read and understood the chapter and agrees to abide by its terms and conditions. Ordinance amendments or changes to the map will be mailed through registered mail to those registered offenders within the community.

2006.10 Relocation Requirement

a. Should a covered offender who is required to register with the Lincoln Police Department take up residence prior to registering with the Police Department in a prohibited area, he/she shall be given a seven (7) day written notice to relocate from the prohibited area to a non-prohibited area. Provided no other violation has occurred, no summons will be issued for this violation unless the covered offender fails to vacate prior to the end of the seven (7) day period. The written notice shall be issued to the covered offender by the Lincoln Police Department.
b. Should a covered offender be found to be staying at a residence other than his/her registered address and such location is within a prohibited area, he/she shall be summonsed under the provisions of 2006.8 above.

2006.11 Definitions

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them hereunder, except where the context clearly indicates a different meaning:

Child/Children means any individual under the age of fourteen (14). A child may also be called a juvenile.

Covered Offender means an individual who is subject to this chapter as defined by the conditions contained in 2006.4.

Permanent Residence means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

Temporary Residence means a place where a person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month, and which is not the person's permanent address.

2006.12 Interpretation

This chapter is intended to be interpreted liberally by a court of competent jurisdiction in favor of protecting the safety of the children of the Town of Lincoln, consistent with the requirements of 309A MRSA3014. It is the intent of this Ordinance that cases brought as a result of this chapter be heard in the Maine District Court.

2006.13 Severability

Should any section, subsection, paragraph, or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part thereof, other than the part held to be invalid.

2006.14 Covered Offender Attestation

I, _____, being an officer of the Lincoln Police Department, hereby attest and affirm that I personally reviewed this Ordinance with _____, a person covered under this ordinance, on _____.

(date)

I, _____, being a Covered Offender under this Ordinance do hereby agree that I have had this Ordinance reviewed with me by

the police officer noted above and have had the change to ask questions about it. I have also received a copy of it for my records. I understand the purpose and restrictions contained in the Ordinance and agree to abide by them.

Signature:_____ Date:_____

Printed Name:_____

2008. PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, "An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "The Property Assessed Clean Energy Act" or "The PACE Act"; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy ("PACE") Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program;

NOW THEREFORE, the Municipality hereby enacts the following Ordinance

2008.1 PURPOSE AND ENABLING LEGISLATION

2008.1.1 Purpose

By and through this Chapter, the Town of Lincoln declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provision of this Chapter/Ordinance to be in conformity with Federal and State Laws.

2008.1.2 Enabling Legislation

The Town enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature – "An Act To Increase the Affordability of Clean Energy for homeowners and Businesses," also known as "The Property Assessed

Clean Energy Act" or "The PACE Act" (codified at 35-A M.R.S.A. § 10151, *et seq.*).

2008.2 TITLE AND DEFINITIONS

2008.2.1 Title

This Chapter/Ordinance shall be known and may be cited as "The Town of Lincoln Property Assessed Clean Energy (PACE) Ordinance" (the "Ordinance")."

2008.2.2 Definitions

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

2008.2.2.1 Energy Saving Improvement: "Energy Saving Improvement" means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial, or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.

2008.2.2.2 Municipality: "Municipality" shall mean the Town of Lincoln.

2008.2.2.3 PACE agreement: "PACE agreement" means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

2008.2.2.4 PACE Assessment: "PACE assessment" means an assessment made against qualifying property to repay a PACE loan.

2008.2.2.5 **PACE district:** "PACE district" means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality's boundaries.

2008.2.2.6 **PACE loan: "**Pace loan" means a loan, secured by a PACE mortgage, made to the owners(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

2008.2.2.7 **PACE mortgage:** "PACE mortgage" means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

2008.2.2.8 **PACE Program:** "PACE program" means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

2008.2.2.9 **Qualifying property: "**Qualifying property" means real property located in the PACE district of the Municipality.

2008.2.2.10 **Renewable energy installation:** " Renewable energy installation" means a fixture, product, system, device, or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable resources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems, and any other systems eligible for funding under Federal Qualified Energy Conservation Bonds or Federal Clean Renewable Energy Bonds.

2008.2.2.11. **Trust:** "Trust "means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

2008.3 PACE PROGRAM

2008.3.1 **Establishment; funding**. The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that: 1) adopt a PACE Ordinance; 2) adopt and implement a local public outreach and education plan; 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program; and 4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

2008.3.2 **Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it,

or appropriated by it, for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

2008.4 CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

2008.4.1 Standards adopted; Rules promulgated; model documents. If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to this Municipality's adoption of this Ordinance and those standards, rules or model documents substantially in conflict with this Ordinance, the Municipality shall take necessary steps to confirm this Ordinance and its PACE program to those standards, rules, or model documents**.**

2008.5 PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

2008.5.1 Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. § 10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;

ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;

iii the Trust, or its agent, will disburse the PACE loan to the property owner;

iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property opener;

v. the Trust, or its agent, will be responsible for the collection of the PACE assessments;

vi the Trust, or its agent, will record any lien, if needed due to nonpayment of the assessment; and

vi. the Trust, or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. Assistance and Cooperation. The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

D. Assessments Not a Tax. PACE assessments do not constitute a tax, but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2008.5.2 Liability of Municipal Officials; Liability of Municipality

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, § (A) above, the Municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

2010. WEST BROADWAY IMPACT FEE ORDINANCE

2010.1 Section I. Title

This ordinance shall be known and may be cited as the "West Broadway Impact Fee Ordinance" (hereinafter the "Ordinance").

2010.2 Section II. Authority

In accordance with 30-A M.R.S. § 4354 and the Town's statutory and constitutional home rule authority, the Town may require the payment of impact fees for the construction of off-site roadway infrastructure improvements within the West Broadway Capital Improvement District, as defined in this Ordinance. An impact fee may be imposed that results in an applicant paying the entire cost of off-site roadway infrastructure improvement(s). The Town may impose an impact fee either before or after completing the off-site roadway infrastructure improvement(s).

2010.3 Section III. Findings and Purpose

West Broadway is an important transit corridor in Lincoln that: (i) includes a large portion of the Town's commercial businesses; and (ii) is critical to the current and future mobility of local and regional motorists. West Broadway is part of Route 2, and provides important connections to State Routes 116 and 6. In addition, West Broadway is vital to the accommodation of future growth and development served by this corridor.

In order for West Broadway to adequately serve local and regional transportation needs, while also providing additional capacity to support future development and accompanying traffic generation and demands, roadway infrastructure improvements are warranted. These improvements are described in the referendum for one million two hundred thousand dollars ($1,200,000) for the widening of West Broadway joint capital project with the Department of Transportation approved at the November 4, 2014 Gubernatorial election, consistent with the Town's capital investment program of its Comprehensive Plan.

In this Program, the Town has identified roadway infrastructure improvements that will accommodate projected traffic growth, and will establish additional vehicular capacity and adequate levels of service necessary to serve, accommodate, and benefit new development. The purpose of this Ordinance is to reimburse the portion of the Town's cost of constructing these roadway infrastructure improvements that benefit new development.

2010.4 Section IV. West Broadway Capital Improvement District

The West Broadway Capital Improvement District area is depicted on a map on file at the Town Office and incorporated into this Ordinance [the "District"].

2010.5 Section V. Applicability

This Ordinance shall apply to any new development, activity, or use, whether located within or outside the District, when it generates additional traffic in the District.

The following shall be exempt from this Ordinance:

1. Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips;
2. Construction of accessory buildings or structures which do not generate additional vehicle trips;
3. The replacement of a building or structure destroyed or damaged by fire, flood, or natural disaster with a new building or structure of the same size or use which does not generate additional vehicle trips;

2010.6 Section VI. Impact Fee Required; Preliminary Impact Fee Procedure

Impact Fee Required. The municipal reviewing authority shall require an impact fee for off-site roadway infrastructure improvements in the District from any

person who seeks a permit or approval for any development, activity, or use in which this Ordinance is applicable. Impact fees shall be paid to the Town in the manner and amount set forth in this Ordinance.

Preliminary Impact Fee Procedure. The municipal reviewing authority shall make a preliminary determination on whether a proposed development, activity, or use will generate traffic within the District, and whether a traffic analysis or similar study is required to determine impact fees. The municipal reviewing authority may consult with the Town's Road Commissioner, a traffic engineer, or other qualified individual(s) to assist in this preliminary determination.

Reduction or Waiver of Impact Fee. Upon a finding of significant public purpose or benefit, the Town Council may reduce or waive payment of an impact fee associated with a specific project. Such a finding of significant public purpose or benefit by the Town Council shall be based on the needs of the Town at that time, along with a determination as to the positive effects that a specific development project will have on the community, including, but not limited to, job creation, environmental remediation, slum or blight removal, historic preservation, or tax base growth, and a finding that said effects justify such a reduction or waiver. An applicant wishing to obtain such an impact fee waiver for their project must submit an application to the Town Council no later than ten days after the municipal reviewing authority establishes the impact fee, identifying and quantifying the public purpose or benefit from the project as proposed. The Town Council will review the waiver application, and will make a determination on said application at the next Town Council meeting. The Town Council's determination shall be final and may not be appealed.

2010.7 Section VII. Impact Fee Calculations

Determination of Impact Fees. Impact fees applied to new developments, activities, and uses covered by this Ordinance shall be determined on a case-by-case basis and must be in proportion to their share of the roadway infrastructure costs necessitated by the development and consistent with 30-A M.R.S. § 4354.

Process to Calculate Impact Fees; Independent Consultants. The municipal reviewing authority may require the applicant to prepare a traffic analysis or similar study of the impact any new development, activity, or use may have on additional traffic in the District in order to provide the basis of any fee to be assessed. The municipal reviewing authority may also retain appropriate professionals or consultants for assistance in determining such impact on the District and the portion of any impacts that may be attributed to the proposed new development, activity, or use covered by this Ordinance as an impact fee. The applicant shall be responsible for all professional/consultant costs incurred by the Town. The professional(s)/consultant(s) retained by the Town shall estimate the cost of such review, and the applicant shall deposit, with the Town, the full estimated cost, which the Town shall place in an escrow account. The Town shall

pay the professional(s)/consultant(s) from the escrow account, and reimburse the applicant if funds remain after payment.

Standards. The assignment of costs of infrastructure facilities to new development, activities, or uses covered by this Ordinance shall use generally accepted standards, such as the Institute of Traffic Engineers traffic generation data for highway impacts and per capita or floor area comparisons for other facilities.

2010.8 Section VIII. Impact Fee Payment

Funds Segregated. Funds received from impact fees shall be segregated from the Town's general revenues in a separate account(s), used in a manner consistent with this Ordinance, and may only be expended for the purpose for which they were collected. Impact fee funds shall not be used for routine or periodic maintenance. Funds shall not be used to pay for any site-specific road improvements that are the responsibility of the applicant. Nothing in this section, however, shall limit the Town from providing economic development incentives for site specific improvements at the Town's sole discretion.

Timing of Impact Fee Payments. Unless other arrangements are mutually agreed upon between the Town and applicant, payment of impact fee funds shall be made prior to issuance of any municipal permit or other municipal approval(s) required by the proposed development project.

Debt Service. Because bonds or loans may be issued to finance the implementation of the roadway infrastructure improvements in the District, impact fee funds may be used to pay debt service on such bonds or loans.

Pre-Funding. There shall be no prohibition against any applicant pre-funding off-site roadway infrastructure contemplated in the District if provisions are made to reimburse the costs attributable to other projects in a manner acceptable to such an applicant.

2010.9 Section IX. Refund of Impact Fees

Expiration of Municipal Approval. If the municipal permit or other approval(s) expires such that no activity that will generate infrastructure needs in the District, the developer may apply for a refund. The applicant must submit a written request for such a refund to the Town Council within thirty (30) days of the expiration of the permit.

Impact Fee Funds Not Expended. Impact fee funds shall be expended or obligated by contract within ten (10) years from the date the fee was paid in a manner consistent with this Ordinance. Any impact fee funds not expended or obligated by contract ten (10) years from the date the fee was paid shall, upon

application for a refund by the developer to the Town Council within one hundred eighty (180) days, be returned to the developer without interest.

2012. FIREWORKS USE ORDINANCE

2012.1 Section I: Purpose

The purpose of this ordinance is to regulate the use of consumer fireworks to ensure the safety of the residents and the property owners of the Town of Lincoln and of the general public. This Ordinance does not regulate State permitted fireworks shows.

2012.2 Section II: Authority

This ordinance is adopted and hereafter amended pursuant to and consistent with Title 8 M.R.S.A. § 223 A.2.

2012.3 Section III: Definitions

2012.3.1 Consumer Fireworks:

As used in the Ordinance, "Consumer Fireworks" means any fireworks that are authorized by the State of Maine for sale to the general public.

2012.3.2 Weekend:

As used in the Ordinance, the "Weekend" is the period from 5:00 PM Friday through 10:00 PM Sunday.

2012.4 Section IV: Use of Consumer Fireworks

2012.4.1 Limits on Hours and Dates

During the months of September-May consumer fireworks may only be utilized Friday 1 PM –Sunday 7 PM, except the following date (s) they may be used 9:00 AM - 12:00:30 AM the following day:

a. December 31st; and
b. The weekends immediately before and after December 31st.

During the months of June-August consumer fireworks may be utilized between 10:00 AM and 10:00 PM each day, except the following dates(s) they may be used 10:00 AM – 12:00 PM.

a. July 4th; and
b. The weekends immediately before and after July 4th.

2012.4.2 Limits on Location

A person may use, display, fire, or cause to be exploded consumer fireworks only on that person's property, or on the property of a person who has consented to the use of consumer fireworks on that property either by written or verbal consent. Fireworks are prohibited from being used, displayed, fired, or caused to be exploded within one thousand (1000) feet of any housing or care facility for senior citizens or disabled persons (s).

2012.4.3 Limits on Conditions

A person may use, display, fire, or cause to be exploded consumer fireworks only when fire danger levels are determined to be low or moderate by the Town of Lincoln Fire Department.

2012.4.4 Debris

A person may not use, display, fire, or cause to be exploded consumer fireworks in a manner that does not contain all falling debris from the fireworks to the user's property.

2012.4.5 Visible Intoxication or Impairment

A person may not use, display, fire, or cause to be exploded consumer fireworks while intoxicated or impaired due to use of alcohol or drugs

2012.4.6 Red Flag Warning

A person may not use, display, fire, or cause to be exploded consumer fireworks on days that are designated by the Maine Forest Service and or NOAA as Red Flag Warning days. It is the sole responsibility of persons using consumer fireworks to ascertain the fire danger rating for the day that the consumer fireworks are used.

2012.4.7 Safety

A person who chooses to use, display, fire, or cause to be exploded consumer fireworks must have a water hose available or fire extinguisher available to put out any spark or fire caused by said consumer fireworks.

2012.4.8 Cessation after Single Complaint

Upon complaint from a single household to Lincoln's Public Safety Department, the Police Chief or Public Safety Director or designee shall have the authority to require that the person(s) complained about cease the use, display, firing, or explosion of consumer fireworks if in the judgment of the official the complainant has special aggravating circumstances such as a sick family member, or the presence of animals in the area and the propensity of such animals to suffer adverse health effects from exposure to the noise accompanying fireworks, or, as a result of fear resulting from exposure to such noise, may endanger others. The length of the cessation required will be at the discretion of the Police Chief or Public Safety Director or designee. In instances where the required cessation extends beyond the twelve (12) hour period from the time of notification to cease,

the person(s) complained about will be provided with the cessation order in writing.

2012.4.9 Cessation after multiple Complaints

Upon complaints from multiple households to Lincoln's Public Safety Department, the Police Chief or Public Safety Director or designee shall have the authority to require that the person(s) complained about immediately cease the use, display, firing, or explosion of consumer fireworks for a twelve (12) hour period from the time of notification to cease if the official determines that any such activity disturbs the quiet, comfort, or repose of any reasonable person located within or upon any residential premises. In instances where the required cessation extends beyond the twelve (12) hour period from the time of notification to cease, the person(s) complained about will be provided with the cessation order in writing.

2012.5 Enforcement and Penalty

2012.5.1 Penalty for Violation

Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than one hundred dollars ($100.00) and not more than five hundred dollars ($500.00), plus attorney's fees and costs, to be recovered by the Town of Lincoln for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.

2012.5.2 Enforcement

This Ordinance shall be enforced by the Town of Lincoln Public Safety department.

2012.6 Exceptions

2012.6.1 Exceptions – permitted use

This Ordinance does not apply to any person(s) who has obtained a permit under 8 M.R.S.A. § 227 A to conduct a display of fireworks.

2013. PROPERTY AND GROUNDS MAINTENANCE ORDINANCE

2013.1 General Provisions

2013.1.3 Purpose

The purpose of this ordinance is to ensure that residential and commercial properties within the Town of Lincoln are kept free and clear of household trash, refuse and debris that is unsightly and/or vegetation that creates unsafe traffic safety conditions any of which and may act as a breeding place for vermin and/or a source for neighborhood litter. Further, the purpose is to protect public health, public safety, property values and to prevent nuisance conditions.

2013.1.4 Scope

The grounds of any property, whether occupied or vacant shall be kept in good repair and free of unsafe or unsanitary conditions. Such conditions may include accumulations of trash, garbage, refuse, junk scrap metals, scrap lumber, inoperable machinery or vehicles. Materials intended for the private use of the property owner may be stored on the property as long as such material is screened from the public and abutting properties with a minimum 7-foot-high fence and is not in violation with state laws. Private use does not include resale. Property owners and tenants are jointly responsible for ensuring that such conditions do not exist.

Properties that appear to be junkyards, but do not qualify in magnitude to be regulated as a junkyard need to have items removed. The definition from section of the code 1311.7 is as follows:

> JUNKYARD: A yard, field or other area used as a place of storage for discarded, worn-out or junked plumbing, heating supplies, household appliances, furniture, discarded scrap and junked lumber, old or scrap copper, brass, rope rags, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous and non-ferrous material, including garage solvent dumps, waste dumps and sanitary landfills.

2013.1.5 Enforcement

The Code Enforcement Officer (CEO) or his designee shall notify the violator with written notice of said violation. The notice shall explain the nature of the violation and require corrective action within thirty (30) days from the date of the notice. Failure to correct the violation within the date specified on the notice, will be subject the owner/tenant to a $25 fine per day thereafter until the violation is corrected. CEO will invoke State Rule 80K as appropriate.

2014 INDUSTRIAL LOCAL LIMITS ORDINANCE

2014.1 - LOCAL LIMIT STATUTORY AUTHORITY

A component of the National Pollutant Discharge Elimination System (NPDES) Program, the National Pretreatment Program was developed by EPA to control the discharge of pollutants from Publicly Owned Treatment Works (POTW's). The statutory authority for the Pretreatment Program lies in the Federal Water Pollution Control Act of 1972, which was amended by Congress in 1977 and renamed the Clean Water Act (CWA). Under Section 307(b), EPA must develop Pretreatment Standards that prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with POTWs. The 1977 amendments to the CWA required POTW's to ensure compliance with the pretreatment standards by each significant local source introducing pollutants subject to pretreatment standards into a POTW.

These requirements require that POTW's conduct the following:

- Develop and enforce specific limits on prohibited discharges or demonstrate that they are not necessary.

- POTW's that do not have approved pretreatment programs must develop specific local limits if pollutants from non-domestic sources result in interference or pass through and such occurrence is likely to recur.

- POTW's that have approved programs must continue to develop and revise limits as necessary.

2014.2 – ORDINANCE PURPOSE

The purpose of this Ordinance is to protect the Town Owned Industrial Treatment Facility or POTW from potential harm by establishing clear standards and requirements for non-domestic waste that will be discharged from industrial or commercial facilities to be located at Lincoln Technology Park. The harm to be prevented includes causing interference or otherwise harming the collection system, causing pass through, or otherwise harming the receiving environment or causing the treatment facility to respond to a discharge based on a real threat or promote the health and general welfare of the citizens of the Town of Lincoln within the confines of the service area (Lincoln Technology Park).

This ordinance is intended to also protect the Town's Industrial Treatment Facility staff who may be affected by wastewater and sludge in the course of their employment and to protect the public as applicable.

The Ordinance is also intended to provide a basis for fees for the equitable distribution of the cost for operation, maintenance, and improvement of the Town's Industrial Treatment Facility.

The Ordinance is drafted to enable the Town to comply with its Maine Pollutant Discharge Elimination System permit conditions, sludge disposal requirements and any other Federal or State laws to which the Town's Industrial Treatment Facility is subject.

This Ordinance shall apply to all Lincoln Technology Park dischargers that are connected to the Town's Industrial Treatment Facility. The Ordinance compels the production of information; authorizes the issuance the wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires reporting and provides for the setting fees for the equitable distribution of costs resulting from the program established herein.

Hereafter, any person leasing any building or structure within Innovation Park, which is the source of industrial and/or commercial wastes, or who proposes to erect such building or structure, shall conform to the requirements of this Ordinance.

The provisions of this Ordinance shall be revised or amended from time to time, to conform to changes in the State and Federal water quality laws and regulations, operational issues, as well as

necessary changes based on actual operations and changes to industrial or commercial dischargers.

2014.3 - DEFINITIONS

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

1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) day at 20 degrees C, expressed in milligrams per liter, as determined by test methods defined in Standard Methods.

2. "Categorical User" shall mean any user of the Town's wastewater treatment system whose discharges are regulated under 40 CFR Part 403 and 40 CFR Parts 405-471, or who is otherwise subject to U.S. EPA pretreatment requirements.

3. "Chlorine Demand" shall mean the amount of chlorine required to destroy all pathogenic organisms present, and oxidize all organic, inorganic, and ammonia-based compounds in, a sewage stream.

4. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

5. "Contractor" shall mean any person, firm or corporation approved by the Governing Body to do work in the Town.

6. "Cooling Water" is the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
7. "DEP" shall mean the Maine Department of Environmental Protection.

8. "Easement" shall mean an acquired legal right for the specific use of land owned by others.

9. "Engineer" shall mean a Professional Engineer licensed in the State of Maine.

10. "EPA" shall mean the United States Environmental Protection Agency.

11. "Excessive" shall mean masses or concentrations of a constituent in a sanitary or commercial wastewater which, in the judgment of the Town: (a) will cause damage to any facility, (b) will be harmful to any wastewater treatment process, (c) cannot be properly removed in the Town's treatment facilities, (d) may inhibit the final disposal or reuse of the treatment plant's sludge residuals, (e) can otherwise endanger life or property, or (f) can constitute a nuisance.

12. "Governing Body" shall mean the duly elected Town Council of the Town of Lincoln or their authorized deputy or representative.

13. "Industrial or Commercial Wastes" shall mean the liquid or solid wastes from industrial or commercial processes, trades, or businesses as distinct from sanitary wastewater. Industrial or commercial wastes may or may not be discharged separately from sanitary wastewaters. For a combined discharge, the Town shall determine if the discharge meets the definition of "industrial or commercial wastes". An industry is considered to be a major contributing industry

14. "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

15. "Owner" shall mean both the person who is the vested holder of title for any real estate and all tenants, lessees, or others in control or use of the property in question. Excluded from this definition is a mortgagor of the property in question unless the mortgagee exercises his mortgage rights and becomes an owner.

16. "Person" shall mean any individual, firm, company, association, society, corporation, or group.

17. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter (concentration) of solution and is a term used to express the relative acidity or alkalinity of a substance or solution.

18. "Plumbing Inspector" shall mean the person or persons appointed Local Plumbing Inspector by the Town under the provisions of the State Plumbing Code.

19. “Pollutant shall mean to include but is not limited to dredged spoil, solid waste, junk, sewage sludge, chemicals, biological or radiological materials, oil, petroleum products, or byproducts, heat, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

20. “Plumbing Code” shall mean the State of Maine Plumbing Code, as it may be amended from time to time.

21. "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the sewers, with no particle greater than one-half (1/2) inch in any dimension.

22. “Property Line” shall mean the edge of a road right-of-way in those instances where the building sewers connect to the public sewer in a right-of-way.

23. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by the Town of Lincoln.

24. "Sanitary Wastewater" shall mean the liquid waste discharged from a building's or structure's sanitary fixtures, such as toilets, washrooms, urinals, sinks, showers, small laundries, and from kitchens and cafeterias essentially free of industrial wastes or toxic materials.

25. "Septage" shall mean the mixture of liquids and solid matters removed from septic tanks during normal cleaning.

26. "Sewage" (sometimes termed "wastewater" or "waste") shall mean a combination of the water-carried wastes from business buildings, and industrial or commercial establishments.

27. "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

28. "Sewer" shall mean a pipe or conduit for carrying sewage.

29. "Shall" is mandatory; “May" is permissive.

30. "Significant Industrial User" shall mean a user subject to categorical pretreatment standards; or a user that (a) discharges an average of 10,000 gpd or more of process wastewater to the POTW, excluding sanitary, noncontact cooling, and boiler blowdown wastewater; or (b) contributing a process waste stream which makes up two percent (2%) or more of the average dry weather hydraulic or organic capacity of the POTW; or (c) is designated as such by the Town on the basis that it has a reasonable potential for adversely affecting the sewage work's operation or for violating any pretreatment or effluent standard or requirement.
31. "Slug" shall mean any discharge of water or wastewater in which the rate of discharge, or the mass or concentration of any given constituent exceeds, in the opinion of the Town, the ability of the POTW to function efficiently or properly.

32. "Standard Methods" shall mean the latest edition of the publication Standard Methods for the Examination of Water and Wastewater, published by APHA, AWWA, and WPCF.

33. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than non-contaminated cooling water.

34. "Superintendent" shall mean the person retained or designated by the Town Council to supervise and oversee the operation and maintenance of the Town’s sewer system and Industrial Treatment Facility. This term also applies to the authorized deputy, agent or representative of the Superintendent.

35. "Suspended Solids" (also called "Total Suspended Solids") shall mean solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids, and which are removable by laboratory filtering determined in accordance with Standard Methods.

36. “Town” shall mean the Town of Lincoln.

37. “User” shall mean an owner or lease of real estate which is connected to the Town’s sewer system.

38. “Wastewater” shall mean the spent water of a business, industrial establishment, together with such ground, surface and storm waters as may be present. Also termed sewage.

39. “Wastewater Treatment Facility or Publicly Owned Treatment Works" shall mean any arrangement of devices and structures used for treating sewage, more specifically the Town’s Industrial Wastewater Treatment Facility.

40. "Watercourse" shall mean a channel in which the flow of water occurs, either continuously or intermittently.

2014.4 USE OF TOWN’S INDUSTRIAL TREATMENT FACILITY

2014.4.1

General Prohibitions. No User shall introduce or cause to be introduced into the Town’s Industrial Treatment Facility any pollutant or wastewater which causes Pass Through or Interference.

2014.4.2

Specific Prohibitions. Except as hereinafter provided, no user shall discharge or cause to be discharged, any of the following described waters or wastes to the Town’s Industrial Treatment Facility:

a. Wastewater having a temperature which will interfere with the biological activity in the POTW has determinantal effects on the collection system, or prevents entry into the sanitary sewer. In no case shall any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).

b. Any water or wastes containing fats, grease or oil, or other substances in excess of 100 mg/l, whether emulsified or not, that will solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit or that, in the opinion of the Superintendent may adversely affect the Town’s industrial wastewater collection or treatment facilities.

d. Any gasoline, benzene, naphtha, fuel oil, mineral oil, or other flammable or explosive liquid, solid or gas directly discharged. Natural process formation of certain chemicals is accepted based in the limitations in the ordinance.

e. Any noxious or malodorous gas such as hydrogen sulfide, sulfur dioxide or nitrous oxide or other substance, which either singly or by interaction with other

wastes, are capable of creating a public nuisance or hazard to life or cause acute health and safety issues.

f. Any garbage that has not been properly shredded.

g. Any bulk solids, or any other solid or viscous substance capable of causing obstruction to the flow of the industrial sewers, or other interference with proper operation of the Town's treatment facilities. In no case shall solids greater than ¼ inch in any dimension be discharged.

h. Any waters or wastes, acid or alkaline in reaction, having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the Town's industrial treatment facility. Free acids and alkalies must be neutralized at all times, within a permissible pH range of 6.0 to 9.0 units at the entrance into the Town's treatment plant headworks.

i. Radioactive wastes or isotopes of half-life or concentrations as may exceed limits established by the Town in compliance with applicable State or Federal regulations.

j. Quantities of flow, or concentrations of any wastewater constituent, or both, which would constitute a "slug" as defined in 2014.3(32).

k. Any stormwater, roof drains, spring water, cistern or tank overflow, footing drains, discharge from any vehicle wash rack or water motor, or the discharge of effluent from any air conditioning machine or refrigeration unit.

l. No person shall discharge or cause to be discharged any waters or wastes containing a toxic or poisonous substance, a high chlorine or oxygen demand, or suspended solids in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard or violation in the receiving waters or effluent of the wastewater treatment plant, or contaminate or restrict the final end use of the treatment plant's sludge residuals.

Such toxic substances shall be limited to the average concentrations listed hereinafter in the wastewater as it leaves the facility and/or pretreatment system and at no time shall the hourly concentration at the sewage treatment facility headworks exceed three times the average concentration. If concentrations listed are exceeded, individual establishments will be subject to pretreatment requirements by the Superintendent for the volume and concentration of wastes discharged.

Table 1.0 - Limits of Pollutants of Concern in Industrial or Commercial Wastewater

Pollutant of Concern	Average Concentration, mg/l
Arsenic	*1.0*
Cadmium	*1.0*
Chromium, Total	*5.0*
Copper	*1.0*
Cyanide	*5.0*
Lead	*5.0*
Mercury	*1.0*
Molybdenum	*1.0*
Nickel	*5.0*
Selenium	*1.0*
Silver	*3.0*
Zinc	*5.0*
Ammonia	*50*
Phosphorus	*10*
Nitrates	*10*
Benzene	*50*
Phenol	*50*
Toluene	*50*
Biochemical Oxygen Demand	*300 mg/l**
Total Suspended Solids	*300 mg/l**

**The limitations for BOD and TSS will be addressed specifically with each user of the industrial treatment facility. As provided under paragraph "m" below, a surcharge for strength will be assessed for levels exceeding the amounts in Table 1. The total headworks loading for BOD and TSS that the Town's Industrial Treatment facility can receive is 5,000 pounds/day based on current understanding of the DEP's instream assimilative capacity available for the Town's Industrial Treatment Facility. The specific limitations will be included in the Wastewater Discharge Permit for each discharger.*

The Town may periodically modify the above list of regulated listed pollutants of concern or toxic substances with their allowable concentrations in accordance with EPA/DEP protocol for the development of technically based local limits. The Town will provide advance written notice of new local limits or control limits prior to initiating enforcement actions.

Table 2.0 – Physical Limitations

Parameter of Concern	Limitation
Flashpoint	*Not < or = to 60.5 Deg. C*
Lower Explosive Limit (LEL) in headspace	*10% of the LEL*
pH	*6.0-9.0 s.u.*

a. Any discharge of waters or wastes having greater than a five (5) day Biochemical Oxygen Demand (BOD) of 300 parts per million; or b) containing more than 300 parts per million of suspended solids, shall pay a surcharge fee for the strength of the wastewater and the discharge shall be approved and reviewed by the Town prior to agreement to connect. The maximum amount of BOD that can be treated by the Town's industrial treatment facility is contained on Table 1. The specific BOD and TSS permitted to be discharged shall be determined on a case-by-case basis by the Town.

b. Waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions, whether neutralized or not.

c. Waters or wastes containing excessive phenols, or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Town as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

d. Waters or wastes containing substances which are not amenable to treatment or reduction by the waste treatment processes employed, which may inhibit treatment plant processes or sludge quality or disposal, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over the discharge to the receiving waters.

e. Any sanitary wastewater, septage or septic process discharges. Sanitary wastewater is prohibited to be discharged to the Town's Industrial Treatment Facility and shall be discharged through a separate sewer system to the Lincoln Sanitary District.

2014.4.4

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the Town and any commercial or industrial concern whereby a commercial or industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment thereof by the commercial or industrial concern.

2014.4.5

All of the preceding standards are to apply at the point where the commercial or industrial wastes are discharged into the Town's Industrial sewer system and any pretreatment required must be accomplished to practical completion before the wastes reach that point. The laboratory methods used in the examination of all industrial wastes shall be those set forth in the latest edition of "Standard Methods for the Examination of Wastewater". However, alternate methods for the analysis of

commercial or industrial wastes may be used subject to mutual agreement between the Town and the producer of such wastes. The frequency and duration of the sampling of any waste shall depend on the type of discharge and will be designated at the discretion of the Town. Samples taken at a designate control manhole. In the event that no specific sample location has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer from the point at which the building sewer is connected.

2014.4.6

If any waters or wastes are discharged, or are proposed to be discharged, to the Town's Industrial Treatment Facility, which waters contain the substances or possess the characteristics enumerated in this Ordinance and which, in the judgment of the Town, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Town may:

a. Reject the wastes and require separate treatment,

b. Require pretreatment to an acceptable condition before discharge to the public sewers,

c. Require control over the quantities and rates of discharge and/or,

d. Require payment under the provisions of this Ordinance to cover the added cost of handling and treating such wastes.

If the Town permits the pretreatment or equalization of waste flows, the design, specifications, plans and installation of plants and equipment shall be subject to the review and approval of the Town, and subject to the requirements of all applicable codes, ordinances, and laws, including State DEP and Federal EPA pretreatment standards.

2014.5 - PRETREATMENT AND PERMITTING OF INDUSTRIAL OR COMMERCIAL AND UNUSUAL WASTES

2014.5.1

Industrial users shall be permitted to utilize the POTW (after permitted) provided that it can be demonstrated that acceptance of the waste will result in:

a. No violation of applicable Federal or State regulations, including DEP/EPA pretreatment requirements.

b. No damage to the treatment plant's processes or equipment or generation of nuisance conditions, operational problems, or discharge license non-compliance.

c. No pass through of any waste material not treatable in the Town's Industrial Treatment Facility.

d. No contamination of the Town's sludge with toxic or undesirable waste constituents such that it cannot be landfilled.

e. No creation of hazardous or unsafe conditions in the sewer system or treatment facility which might jeopardize the health and welfare of the general public or the Town's staff.

f. An Equitable allocation of sewer user fees such that the true cost of treating the industrial or unusual waste is fully borne by the sewer user that generated the wastes.

Prior to accepting the waste, the Town will require that appropriate industrial or unusual wastes undergo pretreatment or flow equalization prior to its discharge into the Town's Industrial sewer system. Pretreatment requirements will need to result in the Local Limits being met.

2014.5.2

Where pretreatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the Owner, at the Owners expense.

2014.5.3

The owner or lessor of any property served by a sewer carrying industrial wastes shall install a suitable control manhole or other acceptable sampling location in the industrial sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, or sample location when required, shall be accessible and safely located and shall be constructed in accordance with plans provided to in advance and approved by the Town. The manhole shall be installed by the owner at their expense, and shall be maintained to be safe and accessible at all times.

2014.5.4

No discharger or user shall increase the use of potable or process water, in any way, for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this Ordinance. Pollutants, substances or wastewater prohibited by this Ordinance shall not be

processed or stored in a manner that would allow them to be discharged to the Town's Industrial Treatment Plant.

2014.5.5

Grease, oil, and sand interceptors shall be provided when the Ordinance limits for those substances are exceeded or when, in the opinion of the Town, they are necessary for the proper handling of wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients. All interceptors shall be of a type and capacity approved by the Town, and shall be located as to be readily and easily accessible for cleaning and inspection.

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in-place, shall be gastight and watertight.

Where installed, all grease, oil and sand interceptors shall be maintained by the Owner, at his expense, in continuously efficient operation at all times and shall be readily accessible and open to inspection by the Town at any time.

2014.5.6

The Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 403-471 are incorporated herein by reference. These standards must be adhered to by dischargers to, or users of, the Town's Industrial treatment and collection system.

2014.5.7

Local limits for certain pollutants shall be established by the Town to protect against pass through, interference, process inhibition and damage, safety concerns, and sludge residual contamination. No person shall discharge wastewater containing in excess of the instantaneous maximum allowable discharge limits as identified in this Ordinance or on the user's wastewater discharge permit.

2014.5.8

When requested by the Town, users must complete a wastewater survey form, on a form supplied by the Town, which contains information on the nature and characteristics of their wastes. This form must be submitted to the Town prior to the discharge of the user's wastewater into the Town's sewage works. Failure to complete this wastewater survey form shall be reasonable grounds for terminating service to the user and shall be considered a violation of this Ordinance. Existing industrial dischargers or any other commercial establishment shall file wastewater survey forms within thirty (30) days after being notified by the Town, and proposed new dischargers shall file such forms at least

ninety (90) days prior to connecting to the sewage works. The form shall include, but not be limited to, the following information:

a. The name, address, and location of the user and the number of employees.

b. The Standard Industrial Classification (SIC) Code of the user if applicable.

c. The known, or suspected to be present, wastewater constituents and characteristics, including, but not limited to, those listed in this Ordinance. Any sampling and analysis that is required by the Town shall be performed in accordance with Standard Methods. The costs of all such sampling, analysis, and reporting shall be fully borne by the user.

d. The time and duration of discharges.

e. The average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be as actually measured unless other verifiable measurement techniques are approved by the Town.

f. The site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location, and elevation adjacent to, or at, the user's premises.

g. The activities, facilities, and plant processes on the premises, including all materials which are, or may be, discharged to the industrial treatment facility.

h. The nature and concentration of any known or suspected pollutants or materials prohibited by this Ordinance from being included in the discharge, together with a statement regarding whether or not compliance is being, or will be, achieved with this Ordinance on a consistent basis and if not, whether additional operations and maintenance activities and/or additional pretreatment is required for the user to comply with this Ordinance.

i. The identification of each product produced by the user by type, amount, process or processes, and rate of production.

j. The type and amount of raw materials utilized, average and maximum per day, by the user.

2014.5.9

All disclosure forms and any periodic reports submitted by a user shall be signed by the principal executive officer of the user and shall contain the following certification: “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering

the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations".

2014.5.10

The Town will evaluate the completed wastewater survey forms and safety data sheets furnished by the user and may require the user to furnish additional information within fifteen (15) days after receiving notification from the Town that additional information is required. After full evaluation and acceptance of all submitted data, the Town shall make the determination as to whether the user is subject to pretreatment requirements. If the Town determines that the user is subject to pretreatment requirements, the Town shall require the user to apply for a Wastewater Discharge Permit from the Town. The user shall make application for a Wastewater Discharge Permit, on a form provided by the Town, within thirty (30) days after having received notification from the Town to do so. The user shall provide with the permit application, at the user's own expense, the results of all sampling and analysis of the user's wastewater effluent as the Town may require to accompany the permit application. If requested by the Town, the user shall collect all required samples in the presence of the Superintendent.

2014.5.11

Every new or existing user of the Town's sewage works who is determined to be a "Categorical User or "Significant Industrial User" as defined in 2014.4(30) of this Ordinance is required to obtain a wastewater discharge permit from the Superintendent.

2014.5.12

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Superintendent to prevent waste pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the Town's Industrial Treatment Facility. Wastewater discharge permits may impose effluent restrictions or limits on the user if the Superintendent determines that such limits are necessary to protect the quality of the treatment plant influent, effluent, or sludge, or to maintain compliance with any applicable Federal or State law, including requirements under the Town's DEP or NPDES permit and national categorical pretreatment standards for new and existing sources set forth in 40 CFR Chapter I, Subchapter N Parts 401-471.

2014.5.13

Wastewater discharge permits shall be issued for a specified time period not to exceed five (5) years. A wastewater discharge permit may be issued for a period of less than five (5) years. Each wastewater discharge permit shall indicate a specific date upon which it will expire.

2014.5.14

Wastewater discharge permits shall be issued to a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner or a new user, different premises, or a new or changed operation. To facilitate the issuance of new, separate permits, the Town may allow new owners or individuals to operate under an existing wastewater discharge permit for a period not to exceed ninety (90) days.

2014.5.15

Wastewater discharge permits may contain requirements and compliance schedules for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, any of which would be designed to reduce, eliminate, or prevent the introduction of pollutants into the Town's Industrial Treatment Facility.

2014.5.16

Wastewater discharge permits may contain requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges to the Town's Industrial Treatment Facility.

2014.5.17

Wastewater discharge permits may contain requirements for the installation and maintenance of inspection and sampling facilities, flow monitoring facilities and necessary equipment and for the reporting of all results to the Town.

2014.5.18

The Town may modify, at any time, the wastewater discharge permit with good cause.

2.014.5.19

Any user who violates any condition of its permit, or of this Ordinance, or of applicable State and Federal statutes and regulations, may have its permit revoked by the Town.

2014.5.20

The Town may require any user to develop and implement an accidental discharge/slug control plan. At least once every five (5) years or more often if necessary, the Town shall evaluate whether each significant industrial user needs such a plan. Any user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

a. Description of discharge practices, including nonroutine batch discharges;

b. Description of stored chemicals;

c. Procedures for immediately notifying the Town of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in this Ordinance; and

d. Procedures to prevent adverse impacts from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

2014.5.21

Where additional pretreatment and/or operations or maintenance activities will be required to comply with this Ordinance, the user shall provide a declaration of the shortest schedule by which the user will provide such additional pretreatment and/or implementation of additional operations and maintenance activities. The Town reserves the right to determine the reasonableness of the proposed schedule, to modify the proposed schedule, or to reject the schedule. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional treatment required for the user to comply with the requirements of this Ordinance, including, but not limited to, dates relating to hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this Ordinance. No later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the user shall submit a progress report to the Town including, at a minimum, a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return to the approved schedule.

2014.5.22

All significant industrial user(s) shall, at a frequency stated in their wastewater permit or as determined by the Superintendent, but in no case less than once per year, submit a report to the Town indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment permit criteria or Ordinance standards and the measured or estimated average and maximum daily flows and loadings for the reporting period. All periodic compliance reports must be signed and certified in accordance with this Ordinance. All wastewater samples collected must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly

operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge. If a user subject to the reporting requirement in this Ordinance or its permit monitors any pollutant more frequently than required, the results of this additional monitoring shall be included in the report.

2014.5.23

Each user must notify the Town in writing of any planned significant changes to its operations or process systems which might alter the nature, quality or volume of its wastewater at least sixty (60) days before the change. No user shall implement the planned changed condition(s) until and unless the Superintendent has responded in writing to the user's notice. Significant changes include, but are not limited to, flow or pollutant load increases of ten percent (10%) or greater, and the discharge of any previously unreported pollutants.

2014.5.24

If sampling performed by a user indicates a violation of their permit or this Ordinance, the user must notify the Superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within thirty (30) days after becoming aware of the violation.

2014.5.25

In the case of any discharge, including, but not limited to, hazardous waste discharges, accidental discharges, discharges of a nonroutine or episodic nature, a noncustomary batch discharge, or a slug load that may cause potential problems for the Town’s Industrial Treatment Facility, the user shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user. Within five (5) days following such a discharge, the user shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the sewage works, natural resources or other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this Ordinance. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

2014.6 - ORDINANCE COMPLIANCE MONITORING

2014.6.1

Representatives of the Town bearing proper credentials and identifications shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this Ordinance.

2014.6.2

The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of, but not limited to, repair and maintenance of any portion of the sewage works sewer system owned by the Town.

2014.6.3

The Superintendent shall have the authority to set up, on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's waste discharges. The user shall bear the costs of such setup or installation.

2014.6.4

The Superintendent shall require the user to install monitoring equipment as the Town deems necessary. The user's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure Industrial or Commercial wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.

2.014.6.5

Users subject to the reporting requirements of this Ordinance shall retain, and make available for inspection and copying, all records or information obtained pursuant to any monitoring activities required by this Ordinance and any additional records or information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include, but not be limited to, the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall be retained by the user for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town, or where the user has been specifically notified of a longer retention period by the Superintendent.

2014.6.6

Information and data on a user obtained from reports, surveys, wastewater discharge permits and monitoring programs, and from the Town's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Town, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information on the user under applicable State law. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose such confidential information shall not be made available for inspection by the public, but shall be made available immediately, upon request, to State and Federal governmental agencies for uses related to the MEPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR Part 2.302 will not be recognized as confidential information and will be available to the public without restriction.

2014.7 - PROTECTION FROM DAMAGE

2014.7.1

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenances or equipment which is a part of the Industrial Treatment Facility or its sewer system. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

2014.7.2

A contractor must present a certificate of insurance showing minimum liability coverage of $1,000,000/$2,000,000 for bodily injury and a $1,000,000 limit for property damage including collapse and underground coverage before a permit will be issued for any construction activities pertaining to the Town’s Industrial Treatment Facility.

2014.8 - POWER AND AUTHORITY OF INSPECTORS

2014.8.1

The Superintendent and other duly authorized employees of the Town bearing proper credentials and identifications shall be permitted to enter upon all properties for the purposes of inspection, observation, and measurement sampling and testing in accordance with the provisions of this ordinance.

2014.8.2

If the Superintendent or any other authorized employee has been refused access to any building, structure or property, or any part thereof, for the purpose of inspecting, sampling or otherwise monitoring compliance with this Ordinance, the Town shall seek to secure an Administrative Inspection Warrant from the District Court pursuant to the Maine Rules or Civil Procedure Rule 80E. The warrant if issued by the District Court, shall be executed pursuant to Rule 80E and the Superintendent shall be accompanied by the Uniformed Police Officer during said execution.

2014.9 - ENFORCEMENT AND PENALTIES

2014.9.1

Any person found to be violating any provision of this Ordinance shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2014.9.2

Any person, individual, firm, corporation or partnership who fails to comply with the provisions of this Ordinance, other than those provisions pertaining to the payment of charges for services established herein, shall be guilty of disorderly conduct and shall be subject to a fine not exceeding one hundred dollars ($1,000.00) for each offense. The continued violation of any provision of any section of this Ordinance, other than those pertaining to the payment of charges for services established herein, shall constitute a separate offense for each and every day in which such violation of any provision hereof shall continue.

2014.9.3

The proper authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings including an injunction to prevent such unlawful use, and to correct or abate such violation and to prevent the occupancy of any building structure or land where said violations of this Ordinance are found.

2014.9.4

Any entity violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss, or damage occasioned the Town by reason of such violation. In addition, the Town shall be entitled to all relief, including its costs and legal fees as allowed by law. The Town shall be entitled to judgment against any violator for its costs, expert witness fees, code enforcement expenses and attorney's fees incurred in enforcing this Ordinance.

2014.9.5

The Town may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, causes interference to the publicly owned treatment works, or causes the town to violate any condition of its National Pollution Discharge Elimination System permit.

2014.9.6

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. If the person fails to comply voluntarily with the suspension order, the town shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Town shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the town within 15 days of the date of occurrence.

2014.9.7

Any user who violates the following conditions of this section, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this section:

a. Failure of a user to factually report the wastewater constituents and characteristics of the discharge;

b. Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

c. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

d. Violation of conditions of the permit.

2014.10 - SEWER SYSTEM TREATMENT CHARGES

2014.10.1

The source of a portion of the revenues for retiring debt services, for capital expenditures, operations, and maintenance of the Town's Industrial Treatment Facility shall be a Sewer Service Charge assigned to the Industrial or Commercial Users within limits of the Lincoln Technology Park.

2014.10.2

Sewer Service Charge rates shall be determined by the Town Council on a year-to-year basis, and in general, such charges will be determined on a rate structure established by the Council as may be amended from time to time. The Sewer Service Charge will be computed and billed at regular intervals throughout each calendar year.

2014.10.3

A Special Service Charge shall be established for any industrial or commercial entity or organization who, by virtue of the volume, strength or unusual characteristic of their waste alone (See Section 2014.5), would overload or upset the capacity or efficiency of the Town's Industrial Treatment Facility or any part thereof if such waste entered the Industrial sewer. The Town Council, after appropriate study, shall establish a Special Sewer Service Charge to the industrial firm by separate agreement within the Waste Discharge Permit (See 2014.5.11) with said user.

2014.10.4

The Town Council reserves the right, from time to time, to change sewer service charges originally or previously assigned to any user.

2014.10.5

The Town may charge interest on delinquent accounts at the same rate that is established for the uncollected taxes on all bills not paid within thirty (30) days after the due date.

2014.10.6

Each sewer charge levied pursuant to the ordinance is hereby made a lien on the premises and if the same is not paid within 30 days after it shall be due and payable, it shall be certified to the Treasurer of the Town who shall place the same on the real property tax bill for that year with interest and penalties allowed by law, and be collected as other Town taxes are collected. There shall be a lien placed on real estate served or benefited by the Industrial Treatment Facility sewer to secure the payment of sewer service charges duly established hereunder which shall take precedence over all other claims on such real estate excepting only claims for taxes. The Town shall have the same authority and power to collect such sewer service charges as are granted in 38 MRSA § 1208 as amended. In addition to the lien established hereby, the Town may bring a civil action against the party so charged for the amount of said sewer service charges in any court competent to try the same, and in such action may recover the

amount of such charges with legal interest on the same from the date of said charge plus costs.

2014.11 - VALIDITY

2014.11.1

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

2014.11.2

The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

2014.12 - EFFECTIVE[16]

This Ordinance shall be in full force and effective upon its adoption by Town Council

2015. STREET CLEANING ORDINANCE

Where any land owner, construction contractor, public utility, railway, or any other person or entity conducts work that causes trucks or other machines to track, drop, or spill dirt, sand, mud, or other materials and debris onto any public streets, sidewalks, or other public ways, be they Town or State owned streets, sidewalks, or other public ways, then the person or entity conducting or causing the work must clean the materials and debris from the street, sidewalk, or public way. Such cleaning must be done within eight (8) hours or sooner after the dropping, tracking, or spilling of materials or debris.

In cases where the cleaning is not done completely and timely, as determined by the Lincoln Code Enforcement Officer or Public Works Director, then the Town will undertake the necessary cleaning and shall charge the person or entity liable for such work the cost of all work performed. Violators of this Ordinance may also be prosecuted pursuant to 30-A M.R.S. § 4452, as amended, and are subject to the civil penalties set out in section 4452, including daily penalties per violation ranging from $100 to $5000 per violation and reasonable attorneys' fees and costs incurred by the Town.

[16] Adopted by the Town Council December 11, 2023

APPENDIX TO TOWN OF LINCOLN CODE

OPERATING HOURS

Operating hours of the various Town departments and Town facilities will be set by the department manager responsible for that department or facility in consultation with the Town Manager.

Town Parks, Beaches, Basketball Courts, Boat Landings, and all associated Parking Lot Hours[17]

5:30am to 9:00pm

PUBLIC PROPERTIES SUBJECT TO WATERFOWL ORDINANCE

Prince Thomas Park

MacEachern Park/Lee Rush Park

TOWN OFFICE SCHEDULE OF FEES

A Schedule of Fees is developed by the various Town Department Managers and is adopted from time to time by the Town Council. The current Schedule of Fees is posted at the Town Office and on the Town Website.

GENERAL ASSISTANCE ORDINANCE

The General Assistance Ordinance is a State Ordinance that the Town Council adopts. The State provides the Appendix sections annually each fall and those are sent forth to the Council to adopt for the new year. This section is part of the ordinance of the Town of Lincoln but is attached as a separate document and is posted on our website and a public copy is available for review in the Town Office during normal business hours.

[17] Council Approved May 2019