

Annual Town Meeting Minutes Town of Mount Desert

May 7 & 8, 2018

**Somesville Fire House
1157 Main Street, Somesville, Maine**

And

**Kelley Auditorium, Mount Desert Elementary School
8 Joy Road, Northeast Harbor, Maine**

Town Clerk Claire Woolfolk called the meeting to order at fifty minutes past seven o'clock in the forenoon, May 7, 2018. Printed copies of the Warrant and Town Report were made available.

Article 1. To elect a Moderator by written ballot.

Town Clerk Woolfolk called for nominations of moderator. By motion and second William Ferm was nominated to serve as Moderator. A written vote was conducted, five votes were cast for Mr. Ferm and he was duly declared Moderator. Town Clerk Woolfolk swore in Mr. Ferm as Moderator. Moderator Ferm appointed and swore in Nin Ferm as Deputy Moderator.

Moderator Ferm declared the polls open at eight o'clock in the forenoon. Voting on Article 2 took place until eight o'clock in the evening, at which time Moderator Ferm declared the polls closed. Votes cast were counted, and Moderator Ferm announced the results at forty-five minutes after eleven o'clock in the evening.

At forty-five minutes after eleven o'clock in the evening it was moved and seconded to recess and reconvene the meeting at 6:00 p.m., Tuesday, May 8, 2018. A vote was called and the motion passed.

On Tuesday, May 8, 2018 following a simple but delicious community supper provided by Neighborhood House, Moderator Ferm reconvened the meeting at eight minutes after six o'clock in the evening. He began by stating it is his privilege to serve the Town as moderator.

Article 2. To elect one member to the Board of Selectmen for a term of three years, two members to the Mount Desert Elementary School Board for terms of three years, one trustee to the Mount Desert Island Regional School District for a term of one year, and one trustee to the Mount Desert Island Regional School District for a term of three years.

Moderator Ferm explained that the offices for trustee to the Mount Desert Island Regional School District for a one-year term and one of the seats for the Mount Desert Elementary School Board three-year term had no nominees, therefore those offices were subject to write-in votes. Moderator Ferm then announced the official results of Article 2:

For **Selectman**, one member for a term of three years each:
Martha T. Dudman # votes: 181 - ELECTED

For **School Board**, two members for a term of three years:
Heather D. Jones # votes: 230 - ELECTED
Katherine W. Chaplin # votes: 73 - ELECTED (write in)

For **School District Trustee**, one member for a term of three years:
Anthony P. Smith # votes: 222 - ELECTED

For **School District Trustee**, one member for a term of one year:
Katherine W. Chaplin # votes: 8 - ELECTED (write in)

The newly elected officials were present and Town Clerk Woolfolk administered the oaths to them.

Moderator Ferm described the use of the “yellow” cards for hand-count voting and the format the meeting would follow, including items to be raffled. (Two lobster trap composters, two earth machine composters, one rain barrel, and one kitchen scrap pail were raffled during the written ballot counts for Articles 25 and 72 later in the meeting.)

Article 3. To see if non-voters shall be allowed, when recognized, to speak during the 2018 Annual Town Meeting.

The Warrant Committee moved and seconded to pass Article 3.
A voice vote was called and Article 3 passed as moved.

Article 4. To see if the Inhabitants of the Town of Mount Desert will vote to approve an expenditure of \$500.00 from the Animal Welfare Reserve Account #4040700-24204 to Acadia Veterinary Hospital as a donation for the benefit of the Town of Mount Desert Feral Cat Program.

The Warrant Committee moved and seconded to pass Article 4.
A voice vote was called and Article 4 passed.

Article 5. Shall an ordinance dated May 8, 2018 and entitled “Town of Mount Desert Alewife Ordinance” be enacted? The ordinance reads, in its entirety, “Regulations for the taking of alewives and blue back herring shall be as follows: For the year July 1, 2018 through June 30, 2019 there shall be no taking of Alewives and Blue Back Herring in the Town of Mount Desert.”

The Warrant Committee moved and seconded to pass Article 5.
A voice vote was called and Article 5 passed.

Article 6. Shall an ordinance dated May 8, 2018 and entitled “Amendments to the Solid Waste Ordinance of the Town of Mount Desert” be enacted? **See Appendix A (pg. 39)**

The Warrant Committee moved and seconded to pass Article 6.
A voice vote was called and Article 6 passed.

Article 7. Shall an ordinance dated May 8, 2018 and entitled “Amendments to the Town of Mount Desert Public Road Acceptance Ordinance regarding street design and construction standards” be enacted as follows?

Explanatory Note: This amendment will correct the reference to where the required road standards can be found.

Public Road Acceptance Ordinance
As adopted May 5, 2009 Annual Town Meeting
Amended May 8, 2018 Annual Town Meeting

The Citizens of the Town of Mount Desert do ordain a Public Road Acceptance Ordinance be adopted as follows:

WHEREAS, the Town has identified several private roads where maintenance including: plowing, sanding, grading and bituminous repairs have been requested of the Town by the private owners, and

WHEREAS, the Board of Selectmen have requested that private/public roads be identified and listed along with an assessment of their condition, size, use, benefit to the public and future need, and

WHEREAS, it is the intention of this ordinance to identify those private roads which by the nature of their condition, use and location would be more appropriate with a “Public” designation.

NOW, THEREFORE BE IT RESOLVED, that to become “public”, a road or road section must meet the following conditions:

1. The road must meet the “~~Street/Road~~ Design and Construction Standards” of the Mount Desert ~~Land Use Zoning Ordinance (“LUZO”) Subdivision Ordinance~~, which standards are currently listed in ~~LUZO s. 6B.18~~Section 5.14.

2. The current private owner(s) are willing to sign over all title, rights and responsibilities without reservations to the 50' wide, right of way. Legal costs of the deed to the own shall be borne by the private owner(s).
1. The current private owner(s) shall ask the Public Works Director to certify in writing to the Board of Selectmen that the above-stated conditions have been met.
2. The current private owner(s) shall provide to the Town Manager evidence of good and marketable title in and to the proposed road in the form of an attorney's title opinion letter or a commitment for title insurance.
3. The Town Manager shall request from an attorney a letter certifying that said attorney's title opinion letter or said title insurance commitment sufficiently protects the Town's interests.
4. Upon receipt of the afore-mentioned two letters, the Selectmen will recommend the request for "Public" Designation as an article in the next succeeding regular Town Warrant. Following Town Meeting approval, the Town of Mount Desert will accept title and all future rights and responsibilities, including maintenance, repair and replacement as necessary and the road shall be deemed "Public". The Selectmen may, at their option, agree to placing potential acceptance of a road on the warrant, contingent on its reconditioning by the private owner(s) after approval by Town Meeting and before becoming "Public".
5. When a road is accepted by the Town Meeting as a "public" road, and after the deed for the land beneath said road has been duly recorded at the Hancock County Registry of Deeds, the road shall be placed on any "Road Inventory" regularly kept by the Town.

NOW THEREFORE BE IT FURTHER RESOLVED should the current owner(s) fail, or be unwilling, to meet the above-stated conditions, then:

1. The road shall remain private;
2. All repairs and maintenance of the road and its appurtenances shall be the responsibility of the owner(s) at the sole cost of the owner(s);

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

The effective date of this Ordinance is: May 5, 2009.

This Ordinance shall expire and be of no force or effect on May 7, 2024.

The Warrant Committee moved and seconded to pass Article 7.

Questions were asked and answered.

A voice vote was called and Article 7 passed.

Article 8. Shall an ordinance dated May 8, 2018 and entitled “Amendments to the Town of Mount Desert Land Use Ordinance regarding amendments to Conditional Use Permits” be enacted as follows?

Explanatory Note: This amendment allows the CEO to approve minor amendments to Conditional Use Permits and clarifies that the requirements for an application and approval for other amendments are the same as they are for the original application.

2.4 Conditional Uses. Conditional uses may be permitted only after review and approval by the Planning Board – except where the Code Enforcement Officer is authorized under the Standards of Section 5.6 to authorize minor changes in the placement and size of improvements for an approved conditional use permit – and only if specific provisions for such conditional uses are made in this Ordinance. The Standards of Section 6A and the applicable standards of Section 6B and 6C of this Ordinance shall apply at all times.

3.4 Permitted, Conditional, and Excluded Uses by District:

All land use activities, as indicated in the following table, shall conform with all of the applicable land use standards in Sections 6.A., 6.B., and 6.C. The district designation for a particular site shall be determined from the Official Land Use Zoning map.

P Use allowed without a permit (but the use must comply with all applicable land use standards)

C Use allowed with conditional use approval from the Planning Board, except where the code enforcement officer may authorize minor changes in the placement and size of improvements for an approved conditional use permit

X Use is prohibited

CEO Use allowed with a permit from the code enforcement officer

SECTION 5 CONDITIONAL USE APPROVAL

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5.6 Amendment

~~An amendment to a Conditional Use Approval may be issued by the Planning Board only:~~

- ~~1. in conformity with the procedural and substantive requirements set forth in Section 6A and the applicable standards of Section 6B and 6C.~~
- ~~2. on finding that there have been significant changes of conditions or circumstances; and~~
- ~~3. when justified by a statement of findings of fact and reasons.~~

No proposed or existing building, premise or land use authorized as a conditional use may be established, enlarged, modified, structurally altered, or otherwise changed from that approved in the conditional use permit, unless such amendment is authorized in accordance with the standards and procedures set forth in this Ordinance, and the conditional use permit and approved site plan are amended accordingly.

Minor changes. The Code Enforcement Officer may authorize minor changes in the placement and size of improvements for an approved conditional use permit if the Code Enforcement Officer determines that the changes are consistent with the findings made by the Planning Board in connection with the approval of the conditional use permit and the standards of Section 6 of the Land Use Ordinance. The Code Enforcement Officer must also make a separate determination whether the minor changes are consistent with the standards of Section 6 of the Land Use Ordinance.

Other Changes. Changes to an approved conditional use permit, other than minor changes in the placement and size of improvements, shall require amendment to the conditional use permit by the Planning Board. The requirements for application and approval of a conditional use permit amendment shall be the same as the requirements for original application and approval.

The Warrant Committee moved and seconded to pass Article 8.
A voice vote was called and Article 8 passed.

Article 9. Shall an ordinance dated May 8, 2018 and entitled "Amendments to the Town of Mount Desert Land Use Ordinance to allow the CEO to approve 1 and 2 family dwellings and accessory structures in the Village Commercial and Shoreland Commercial" be enacted as follows?

Explanatory Note: This amendment will allow the CEO to approve 1 and 2 family residential dwellings and accessory structures in the Village Commercial and Shoreland Commercial Zones.

3.4 Permitted, Conditional, and Excluded Uses by District:

All land use activities, as indicated in the following table, shall conform with all of the applicable land use standards in Sections 6.A., 6.B., and 6.C. The district designation for a particular site shall be determined from the Official Land Use Zoning map.

P Use allowed without a permit (but the use must comply with all applicable land use standards)
C Use allowed with conditional use approval from the Planning Board
X Use is prohibited
CEO Use allowed with a permit from the code enforcement officer

VR1 VILLAGE RESIDENTIAL ONE
VR2 VILLAGE RESIDENTIAL TWO
R1 RESIDENTIAL ONE
R2 RESIDENTIAL TWO
SR1 SHORELAND RESIDENTIAL ONE
SR2 SHORELAND RESIDENTIAL TWO
SR3 SHORELAND RESIDENTIAL THREE
SR5 SHORELAND RESIDENTIAL FIVE
RW2 RURAL OR WOODLAND TWO
RW3 RURAL OR WOODLAND THREE
VC VILLAGE COMMERCIAL
SC SHORELAND COMMERCIAL

RP RESOURCE PROTECTION
 C CONSERVATION
 SP STREAM PROTECTION

See table of uses on following pages

Section 3.4 Permitted, Conditional, and Excluded Uses by District

LAND USE:	Districts								
	VR 1 VR 2	R 1 R 2	SR 1 SR 2 SR 3 SR 5	RW 2 RW 3	VC	SC	C	RP	SP
RESIDENTIAL									
Dwelling 1 & 2 family	CEO	CEO	CEO ^(d)	CEO	CEO	CEO^(d)	C	C ⁸	C ⁴
Dwelling, Multiple	C	C	C	C	C	X	C	X	X
Accessory Residential Dwelling Unit	CEO	CEO	CEO	CEO	CEO	C	C	C ⁸	C ⁴
Accessory structures including structural additions and guest houses ^(c)	CEO	CEO	CEO	CEO	CEO	CEO	C	C ⁸	C ⁴
Cluster and Workforce Subdivisions	C	C	X	C	C	X	X	X	X
Mobile Home Park	C	X	X	X	X	X	X	X	X
^(c) A separate garage is an accessory structure. A separate garage with a dwelling unit shall be deemed a dwelling unit. ^(d) See Section 6B.10.3 (Lots)									

The Warrant Committee moved and seconded to pass Article 9.
 A voice vote was called and Article 9 passed.

Article 10. Shall an ordinance dated May 8, 2018 and entitled “Amendments to the Land Use Zoning Ordinance to Correct Errors in Consistency with State Mandated Shoreland Zoning” be enacted as follows? **See Appendix B (pg. 75)**

Explanatory Note: This Article amends the Land Use Zoning Ordinance in specific

matters to be consistent with mandatory State Shoreland Zoning Rules as required by the Maine Department of Environmental Protection as to those matters.

The Warrant Committee moved and seconded to pass Article 10.
A voice vote was called and Article 10 passed.

Article 11. Shall an ordinance dated May 8, 2018 and entitled “Amendments to the Town of Mount Desert Land Use Ordinance and Town of Mount Desert Subdivision Ordinance regarding Minimum Area Per Dwelling Unit in Village Commercial District” be enacted as follows?

Explanatory Note: This amendment will create a minimum area per dwelling unit in the Village Commercial District. For example, a legally established lot of 3500 square feet with public sewer could have up to 3 dwellings units.

Section 3.5 Dimensional Requirements for Districts: minimum area, width of lots, setbacks, etc.

DISTRICTS	RW2	RW3	VC see Note (g)	SC see Note (e), (f) and (g)	C see Note (f) for those properties that are within the shoreland zone
DIMENSIONS (b) (h')					
MINIMUM LOT AREA:					
A. with public sewer	2 acres	3 acres	5,000 sq ft.**	1 acre	3 acres
B. without public sewer	2 acres	3 acres	1 acre	1 acre	3 acres
C. Cluster Subdivision w/sewer*	1 acre	1.5 acres	see note (g)	N/A	N/A
D. Cluster Subdivision w/o sewer*	1 acre	1.5 acres	see note (g)	N/A	N/A
E. Workforce Subdivision* * See Note (k)	State Minimum	State Minimum	see note (g) ** See Note (p)	N/A	N/A
MINIMUM WIDTH OF LOTS: Shore Frontage	NA	NA	N/A	100 ft.	250 ft.
SETBACKS FROM: normal high water line of a water body (stream), tributary stream or upland edge of a wetland	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.
Great Ponds (n)	N/A	N/A	N/A	N/A	100 ft. (n)
	60 ft.	60 ft.	10 ft. or -0-	25 ft.	50 ft.

public or private road*				ft. from edge of public sidewalk		
property lines** * see Note (c) ** see Note (d)		25 ft.	25 ft.	5 ft.(o)	5 ft.	25 ft.
MAXIMUM COVERAGE	LOT	15%	15%	75%	70%	15%
MINIMUM BETWEEN BUILDINGS	DISTANCE PRINCIPAL	30 ft.	30 ft.	N/A	10 ft.	30 ft.

NOTES:

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(p) For lots within the Village Commercial District that have public sewer, the minimum lot area required for each dwelling unit on a single lot is 1000 square feet.

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Town of Mount Desert Subdivision Ordinance

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5.7 Lots and Density

- 5.7.1** The lot size, width, depth, frontage, shape and orientation and the minimum setback lines shall be in accordance with the Land Use Zoning Ordinance.
- 5.7.2** Where individual, on-site sewage disposal systems are to be utilized, the size of each lot shall be based on soil characteristics, and shall, as a minimum, conform to M.R.S.A. Title 12, Section 4807- A as amended.
- 5.7.3** The Planning Board shall determine if a division of land will be reviewed as a Cluster, a Workforce or a Conventional subdivision.

In order to conform to Section V of the Comprehensive Plan, special consideration shall be given to the preservation of open space and the character of the community in which the development is proposed.

1. Land Subdivisions: Density requirements shall be in accordance with Land Use Zoning Ordinance, Section ~~3.53.6~~ Dimensional Requirements for Districts. Dimensional requirements remain as stated in the Land Use Zoning Ordinance, Section ~~3.53.6~~.
2. Non-land subdivisions (multiple units within a single structure): Overall net density shall be in accordance with Land Use Zoning Ordinance, Section 3.5 Dimensional Requirements for Districts ~~not exceed two dwelling units per minimum lot size in the~~

district.

- Overall net density shall be determined by the total number of proposed dwelling units and the total acreage (including open spaces and recreational areas) within the subdivision.

The Warrant Committee moved and seconded to pass Article 11.
A voice vote was called and Article 11 passed.

Article 12. Shall an ordinance dated May 8, 2018 and entitled “Amendments to the Town of Mount Desert Land Use Ordinance regarding standards for residential uses in the Shoreland Commercial District” be enacted as follows?

Explanatory Note: This amendment will change Footnote G so that the requirement that residential uses meet the adjacent residential district standards only applies in the Shoreland Commercial District.

Section 3.5 Dimensional Requirements for Districts: minimum area, width of lots, setbacks, etc.

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DISTRICTS	RW2	RW3	VC see Note (g)	SC see Note (e), (f) and (g)	C see Note (f) for those properties that are within the shoreland zone
DIMENSIONS (b) (h')					
MINIMUM LOT AREA:					
A. with public sewer	2 acres	3 acres	5,000 sq ft.	1 acre	3 acres
B. without public sewer	2 acres	3 acres	1 acre	1 acre	3 acres
C. Cluster Subdivision w/sewer*	1 acre	1.5 acres	5000 sq. ft.-see note (g)	N/A	N/A
D. Cluster Subdivision w/o sewer*	1 acre	1.5 acres	State Minimum	N/A	N/A
E. Workforce Subdivision*	State Minimum	State Minimum	see note (g)	N/A	N/A
* See Note (k)			5000 sq. ft.-see note (g)		
MINIMUM WIDTH OF LOTS:					
Shore Frontage	NA	NA	N/A	100 ft.	250 ft.
SETBACKS FROM:					
normal high water line of a water body (stream), tributary stream or upland edge of a wetland	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.
	N/A	N/A	N/A	N/A	100 ft. (n)
Great Ponds (n)	60 ft.	60 ft.	10 ft. or -0- ft.	25 ft.	50 ft.

public or private road*			from edge of public sidewalk		
property lines** * see Note (c) ** see Note (d)	25 ft.	25 ft.	5 ft.(o)	5 ft.	25 ft.
MAXIMUM LOT COVERAGE	15%	15%	75%	70%	15%
MINIMUM DISTANCE BETWEEN PRINCIPAL BUILDINGS	30 ft.	30 ft.	N/A	10 ft.	30 ft.

NOTES:

- (b) Refer to setback as defined in Section 8.
- (c) Measured from edge of road surface, or edge of legally established right of way if no road exists.
- (d) In all districts restrictions on setback of structures from property lines may be varied or nullified by written agreement with the abutting property owner. Said agreement or a copy of said agreement showing signatures shall be filed at the Municipal Office.
- (e) The minimum SC setback from shoreline is 75 feet except for functionally water-dependent structures.
- (f) Within the shoreland zone: No new lot shall be created except in conformity with all of the requirements of this Ordinance for the district in which it is located. In addition to shore frontage, refer to Section 6B.10.4.3 for the required minimum lot width. For the required measurements, refer to shore frontage and minimum lot width in Section 8.
- (g) Primary residential use in a Shoreland Commercial District must meet the dimensional requirements of the adjacent residential district. This requirement does not apply to projects that include covenants held by a qualified workforce housing entity.

The Warrant Committee moved and seconded to pass Article 12.
A voice vote was called and Article 12 passed.

Article 13. Shall an ordinance dated May 8, 2018 and entitled “Amendments to the Town of Mount Desert Land Use Ordinance to add lots in the Village Commercial District to Footnote O” be enacted as follows?

Explanatory Note: This amendment will add lots in the Village Commercial to Footnote O which will permit them to have a 0-foot side setback.

Section 3.5 Dimensional Requirements for Districts: minimum area, width of lots, setbacks, etc.

NOTES:

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(c) Setback from property lines in Village Commercial:

New or newly renovated structures on the following lots and any future subdivision of said lots may have a -0- foot side-setback if constructed in accordance with the current editions of the NFPA 101 Life Safety Codes & NFPA 5000 Building Construction and Safety Code, Maine State adopted codes, except on the side where affected lots abut structures whose primary use is residential. Rear setbacks are unaffected.



Tax Map 024: Lots 063-002, 073 through 081, 081-001, 082 through 086, 088 through 090, 102, 104, 106 through 108, & 109-003/109-004 Tax Map 026: Lots 004-001, 004-002, 008-002, & 057 through 063. (Added May 3, 2011)

Tax Map 024: Lots 64 through 072 (added May 8, 2018)

The Warrant Committee moved and seconded to pass Article 13. A voice vote was called and Article 13 passed.

Article 14. Shall an ordinance dated May 8, 2018 and entitled "Amendments to the Town of Mount Desert Land Use Ordinance regarding the normal high-waterline setback from Map 009, Lot 120-010-001" be enacted as follows?

Explanatory Note: Map 9, Lot 120-10-1 is a newly created lot. The lot was created from Map 9, Lot 120-10 which has a 100-foot setback from a great pond. This amendment

adds this standard to the new lot.

Section 3.5 Dimensional Requirements for Districts: minimum area, width of lots, setbacks, etc.

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NOTES:

(n) The setback from the normal high-water line of a great pond is 100 feet, except for these lots where the setback is 75 feet, indicated below.

Map-Lot IDs for 75 ft. setback

Map-Lot IDs for 100 ft. setback

Long Pond & Echo Lake:

All Lots

Little Round Pond:

012-018
012-019
012-019-001

Little Round Pond:

012-015-001
012-020

Round Pond:

011-120
011-122
011-123
011-124
012-013

Round Pond:

011-90
011-118
011-119

Little Echo Lake:

009-098
009-099
009-100
009-101
009-102

Little Echo Lake:

009-107
009-120-010
009-120-010-001
009-120-011
009-097
009-107-003

The Warrant Committee moved and seconded to pass Article 14.

A voice vote was called and Article 14 passed.

Article 15. "Amendments to the Town of Mount Desert Land Use Ordinance regarding Animal Husbandry and Animal Husbandry 2" be enacted as follows?

Explanatory Note: This amendment would make the animal husbandry standards below applicable to all districts.

6B SPECIFIC PERFORMANCE STANDARDS FOR ACTIVITIES AND LAND USES.

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6B.18. Animal Husbandry & Animal Husbandry 2 ~~in the Village Commercial and~~

Shoreland Commercial Districts

- 1. Permit Required.** A building permit is required for the construction of a henhouse and chicken pen.
- 2. Number and Type of Chickens Allowed.**
 1. The maximum number of chickens allowed is six (6) per lot regardless of how many dwelling units are on the lot. In the case of residential condominium complexes without individually owned back yards, the maximum number of chickens allowed is six (6) per complex.
 2. Only female chickens are allowed. There is no restriction on chicken species.
- 3. Non-Commercial Use Only.** Chickens shall be kept as pets and for personal use only; no person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes.
- 4. Enclosures.**
 1. Chickens must be kept in an enclosure or fenced area at all times. During daylight hours, chickens may be allowed outside of their chicken pens in a securely fenced yard. Chickens shall be secured within the henhouse during non-daylight hours.
 2. Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact.
- 5. Odor.** Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.
- 6. Predators, Rodents, Insects, and Parasites.** The property owner shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation shall be removed by the Animal Control Officer.
- 7. Waste Storage and Removal.** Provision must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three (3) cubic feet of manure shall be stored. All other manure not used for composting or fertilizing shall be removed. In addition, the henhouse, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

The Warrant Committee moved and seconded to pass Article 15.

After a lengthy discussion, a voice vote was called and it was the opinion of the Moderator that the nays prevailed, and Article 15 failed.

Moderator Ferm turned the meeting over to Chief Bender and members of the Mount Desert Fire Department in full dress uniform to pay tribute to Stuart Burr for his many years of service

and his recent retirement from the department. Chief Bender outlined Mr. Burr's tenure with the organization which began in 1965; over 50 years ago! Chief Bender presented Mr. Burr with a plaque commemorating his service.

Then, Town Manager, Durlin Lunt Jr. announced that the Town of Mount Desert is participating in The Spirit of America Foundation Tribute for the second year in a row. Mr. Lunt explained that this is an award presented in the name of Maine municipalities to local individuals, organizations and projects for commendable community service. This year's recipient for the Town of Mount Desert is Stuart Burr. A plaque for this honor was presented to Mr. Burr.

Article 16. To see if the Inhabitants of the Town of Mount Desert will vote to authorize the Board of Selectmen to accept Conditional Gifts (MRSA 30-A, §5654), Unconditional Gifts (MRSA 30-A §5655), equipment, proceeds from sale of fire equipment or funds on behalf of the Municipal Fire Department. It is understood that any funds received will be placed in the Fire Equipment Reserve Fund.

The Warrant Committee moved and seconded to pass Article 16.
A voice vote was called and Article 16 passed.

Article 17. To see if the Inhabitants of the Town of Mount Desert will vote to authorize the Board of Selectmen to lease a portion of the so-called Visitor Center at the Northeast Harbor Marina to the Ticket Booth operators for a term of one (1) year beginning July 1, 2018 under such terms and conditions as the Board of Selectmen, in its sole discretion, deems to be in the best interests of the Town.

The Warrant Committee moved and seconded to pass Article 17.
A voice vote was called and Article 17 passed.

Article 18. To see if the Inhabitants of the Town of Mount Desert will vote to authorize the Board of Selectmen, to lease a portion of the so-called Visitor Center at the Northeast Harbor Marina to the Mount Desert Chamber of Commerce for a term of one (1) year beginning July 1, 2018 under such terms and conditions as the Board of Selectmen, in its sole discretion, deems to be in the best interests of the Town.

The Warrant Committee moved and seconded to pass Article 18.
A voice vote was called and Article 18 passed.

Article 19. To see if the Inhabitants of the Town of Mount Desert will authorize the Board of Selectmen, to negotiate and enter into an agreement with the Neighborhood House Club, Inc. for management and maintenance of the municipal swimming pool, under such terms and conditions as the Board of Selectmen, in its sole discretion, deems to be in the best interests of the Town.

The Warrant Committee moved and seconded to pass Article 19.
A voice vote was called and Article 19 passed.

Article 20. Shall the residents of the Town of Mount Desert (the Town) vote to accept Farnham's Way and Sydney's Way, both being private roads located in the Village of Somesville off the Beech Hill Road, approximately 1,040 feet in length and 320 feet in length, respectively,

and presently owned by the Island Housing Trust, and as requested by same in their correspondence to the Town dated February 9, 2018, as Public Roads, in conformance with the Towns Public Road Acceptance Ordinance as amended at the May 5, 2009 annual Town meeting and further, to authorize the Municipal Officers to execute all things necessary or convenient to facilitate successful completion of the transfer of ownership of the roads from the Island Housing Trust to the Town.

The Warrant Committee moved and seconded to pass Article 20.
Questions were asked and answered.
A voice vote was called and Article 20 passed.

Article 21. Shall the residents of the Town of Mount Desert (the Town) vote to accept the existing private sanitary sewer mains located in Farnham's Way and Sydney's Way as public sanitary sewer mains, a total length of sewer mains being approximately 1,200 feet, and presently owned by the Island Housing Trust and as requested by same in their correspondence to the Town dated February 9, 2018, as public sewers, and not including any building sewers, with said acceptance based on written documentation dated January 7, 2009 provided to the Town from the professional engineer of record responsible for the design and construction monitoring of the installation of the sewer mains for conformance to Town standards, with said documentation stating that the sewer mains meet the requirements of the existing Sewer Ordinance as amended at the May 8, 2012 annual Town meeting and generally accepted engineering practice and further, to authorize the Municipal Officers to execute all things necessary or convenient to facilitate successful completion of the transfer of ownership of the sewer mains from the Island Housing Trust to the Town.

The Warrant Committee moved and seconded to pass Article 21.
A voice vote was called and Article 21 passed.

Article 22. Shall the Town of Mount Desert be authorized to enter into an agreement with the Maine Department of Transportation (the Agreement), a copy of which is included herein in Appendix C.1 (the Agreement), in conformance with their Municipal Partnership Initiative program, for technical and construction services related to improvements of State Route 198 beginning approximately 0.10 miles (528-feet) northerly of its intersection with Sargeant Drive then proceeding in a northerly direction approximately 1.10 miles plus or minus on State Route 198 ending at or near a point in State Route 198 at or southerly of its intersection with State Route 233, said beginning and ending points shown on the attached project site map included herein in Appendix C.2 (Site Map); with said improvements to be completed in 2018 - 2019 and in accordance with the Agreement including, but not necessarily being limited to, reclaiming (grinding and leaving in place) the existing pavement, grading and compacting these materials, construction of new base and surface pavement layers on the reclaimed materials, construction of four-foot (4') wide extended shoulders on each side of the road, drainage improvements and other typical roadway improvements associated with projects of this kind, and further shall the Board of Selectmen be authorized to execute any and all contracts and documents and do any and all things necessary or convenient to enter into this agreement with the Maine Department of Transportation? ***See Appendix C.1 The Agreement (warrant pg. 91) and Appendix C.2 Site Map (warrant pg. 95).***

Moderator Ferm asked and received permission from the citizens to forego the complete

reading of Article 22.

The Warrant Committee moved and seconded to pass Article 22 as written.
A voice vote was called and Article 22 passed as written.

Article 23. Shall the Town of Mount Desert be authorized to issue general obligation bonds or notes of the Town in a principal amount not to exceed \$500,000.00 (five hundred thousand dollars) to fund the Town's 50%-50% cost share for construction of roadway improvements to Route 198 in accordance with the agreement with the Maine Department of Transportation described in Article 22 above; and further shall the Board of Selectmen be authorized to execute any and all contracts and documents and do any and all things necessary or convenient to issue the bonds or notes of the Town, which may be callable, and to accomplish the project?

FINANCIAL STATEMENT - TOWN OF MOUNT DESERT

1. Total Town Indebtedness

A.	Bonds outstanding and unpaid:	\$15,533,751.63
B.	Bonds authorized and unissued:	\$ 0.00
C.	Bonds to be issued under this Town Meeting Article	<u>\$ 500,000.00</u>
	TOTAL	\$16,033,751.63

2. Costs

At an estimated interest rate of 4.69% for a term of 20 years, the estimated costs of this bond issue will be:

Principal	\$ 500,000.00
Interest	<u>\$ 231,480.78</u>
Total Debt Service	\$ 731,480.78

3. Validity

The validity of the bonds is not affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the voters is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

Kathryn A. Mahan

Treasurer, Town of Mount Desert, Maine

The Warrant Committee moved and seconded to pass Article 23.
A voice vote was called and Article 23 passed.

Article 24. Shall the Town of Mount Desert be authorized to allocate any unspent funds originally appropriated in connection with the 2017-2018 State Route 198 Maine Department of Transportation's Municipal Partnership Initiative approved at the May 2017 Town Meeting to the work described in Article 22 and Article 23, above?

The Warrant Committee moved and seconded to pass Article 24.
A voice vote was called and Article 24 passed.

Article 25. Shall the Town of Mount Desert be authorized to issue general obligation bonds or notes of the Town in a principal amount not to exceed \$3,963,485.00 to finance professional technical and construction services associated with improvements to Main Street located in the Village of Northeast Harbor (the Project) to improve the appearance, functionality and vitality of the Main Street area beginning at or near the intersection of Main Street with Summit Road then continuing in a southerly direction along Main Street ending at or near the intersection of Main Street with Neighborhood Road, with said improvements to be in general conformance with the report prepared by consultants to the town entitled "Northeast Harbor Village Center Plan - Final Report" dated December 19, 2016, further described in said report as Area 1A - Main Street and generally described and illustrated in the site plan located in Appendix D Site Plan and to include, but not necessarily be limited to improved sidewalks, grading, drainage, roadway, utilities, including burying the overhead utility wires, plantings, lighting and other amenities and appurtenances required to complete the improvements, and further shall the Board of Selectmen be authorized to execute all things necessary or convenient to issue the bonds or notes of the Town, which may be callable, and to accomplish the Project?
See Appendix D 1-4 (pg. 96)

FINANCIAL STATEMENT - TOWN OF MOUNT DESERT

1. Total Town Indebtedness

A.	Bonds outstanding and unpaid:	\$15,533,751.63
B.	Bonds authorized and unissued:	\$ 0.00
C.	Bonds to be issued under this Town Meeting Article	<u>\$ 3,963,485.00</u>
	TOTAL	<u>\$19,497,236.63</u>

2. Costs

At an estimated interest rate of 4.69% for a term of 20 years, the estimated costs of this bond issue will be:

Principal	\$3,963,485.00
Interest	<u>\$1,791,748.44</u>
Total Debt Service	<u>\$5,755,233.44</u>

3. Validity

The validity of the bonds is not affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the voters is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

Kathryn A. Mahan

 Treasurer, Town of Mount Desert, Maine

The Warrant Committee moved and seconded to pass Article 25.
 A lengthy debate ensued after which a motion was made and seconded to vote by written ballot.
 A voice vote was called and the motion to conduct a written ballot on Article 25 passed.
 A written vote was called; and Article 25 passed with 98 ayes and 71 nays.

Article 26. Shall the Town of Mount Desert be authorized to issue general obligation bonds or notes of the Town in a principal amount not to exceed \$645,000.00 to finance professional technical and construction services associated with improvements to Sylvan Road, Pine Road, Spruce Road and Tennis Club Road located in the Village of Northeast Harbor (the Project) and generally described and illustrated in the site plan located in Appendix E Site Plan to address surficial and subsurface drainage functionality in the general area to include, but not

necessarily being limited to, improved grading, drainage, catch basins, storm drain pipes, roadway surfaces and appurtenances required to complete the improvements, and further shall the Board of Selectmen be authorized to execute all things necessary or convenient to issue the bonds or notes of the Town, which may be callable, and to accomplish the Project? **See Appendix E 1-2 (pg. 100)**

FINANCIAL STATEMENT - TOWN OF MOUNT DESERT

1. Total Town Indebtedness

A.	Bonds outstanding and unpaid:	\$15,533,751.63
B.	Bonds authorized and unissued:	\$ 0.00
C.	Bonds to be issued under this Town Meeting Article	<u>\$ 645,000.00</u>
	TOTAL	\$16,178,751.63

2. Costs

At an estimated interest rate of 4.69% for a term of 20 years, the estimated costs of this bond issue will be:

Principal	\$ 645,000.00
Interest	<u>\$ 291,581.22</u>
Total Debt Service	\$ 936,581.22

3. Validity

The validity of the bonds is not affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the voters is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

Kathryn A. Mahas

Treasurer, Town of Mount Desert, Maine

The Warrant Committee moved and seconded to pass Article 26.

Questions asked and answered.

A voice vote was called; it was the opinion of the Moderator that the ayes carried, and Article 26 passed.

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**FINANCIAL STATEMENT - TOWN OF MOUNT DESERT**

**(If Articles 23, 25 and 26 are Approved in Total)**

**1. Total Town Indebtedness**

|    |                                                                |                        |
|----|----------------------------------------------------------------|------------------------|
| A. | Bonds outstanding and unpaid:                                  | \$15,533,751.63        |
| B. | Bonds authorized and unissued:                                 | \$ 0.00                |
| C. | Bonds to be issued under Town Meeting<br>Articles 23, 25, & 26 | <u>\$ 5,108,485.00</u> |
|    | TOTAL                                                          | <u>\$20,642,236.63</u> |

**2. Costs**

At an estimated interest rate of 4.69% for a term of 20 years, the estimated costs of this bond issue will be:

|                    |                       |
|--------------------|-----------------------|
| Principal          | \$5,108,485.00        |
| Interest           | <u>\$2,314,810.44</u> |
| Total Debt Service | <u>\$7,423,295.44</u> |

**3. Validity**

The validity of the bonds is not affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue (or Amortization) varies from the estimate, the ratification by the voters is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

*Kathryn A. Mahan*

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Treasurer, Town of Mount Desert, Maine

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Article 27. Shall the residents of the Town of Mount Desert vote to authorize the use of funds that remain from those borrowed from the Maine Municipal Bond Bank (MMBB) through the State of Maine Revolving Loan Fund (SRF) and administered by the Maine Department of Environmental Protection (MDEP) for the upgrade to the Northeast Harbor wastewater treatment plant in 2013-2014, with a remaining balance of approximately \$53,000 (fifty-three thousand dollars) and for the upgrade of the Bracy Cove wastewater pumping station in 2016- 2017, with a remaining balance of approximately \$400,000 (four hundred thousand dollars) for a total amount of remaining funds of approximately \$453,000 (four hundred and fifty-three thousand dollars) to finance professional technical and construction services associated with improvements to the Town’s wastewater collection and conveyance system, with said improvements being subject to review and authorization by the Maine Department of Environmental Protection (MDEP), said improvements to include but not be limited to, and in no particular order of priority, and on a funds available basis, replacement of an existing wastewater pumping station metal wet well circa 1970’s located off Manchester Road in the Village of Northeast Harbor with a new precast concrete wet well in the same general area as the existing one; replacement of the existing vitrified clay circa 1970’s sanitary sewer pipe that conveys sewage from Sinclair Road to Manchester Road enroute to the wastewater treatment facility; and upgrading the electronics control system at the Gilpatrick Cove wastewater pumping station

and associated appurtenances and incidentals to complete the improvements and, based on recommendations to them by Public Works staff, to authorize the Municipal Officers to execute all things necessary or convenient to facilitate successful completion of the improvements.

The Warrant Committee moved and seconded to pass Article 27.
A voice vote was called and Article 27 passed.

Article 28. To see if the Inhabitants of the Town of Mount Desert will vote to authorize the Board of Selectmen to accept and expend on behalf of the Town additional state, federal and other funds (including unconditional gifts of money) received during the fiscal year 2018-2019 for Town purposes, provided that such additional funds do not require expenditure of local funds not previously appropriated.

The Warrant Committee moved and seconded to pass Article 28.
A voice vote was called and Article 28 passed.

Article 29. To see if the Inhabitants of the Town of Mount Desert will vote to approve July 1, each year, as the date on which all taxes shall be due and payable providing that all unpaid taxes on September 1, of each year, shall be charged interest at an annual rate of 8% (percent) per year. (*Tax Club members are exempt within the terms and conditions of the Town's Tax Club Agreement.*)

The Warrant Committee moved and seconded to pass Article 29.
A comment was made in reference to the date the taxes are due and when the bills go out.
A voice vote was called and Article 29 passed.

Article 30. To see if the Inhabitants of the Town of Mount Desert will vote to authorize the Tax Collector to enter into a standard "tax club" agreement with taxpayers whereby: (1) the taxpayer agrees to pay specified monthly payments to the Town based on the taxpayer's estimated and actual tax obligation for current year property taxes (real estate and/or personal); (2) the Town agrees to waive interest on timely payments; (3) the Town authorizes the Tax Collector to accept payment of taxes prior to commitment of taxes; (4) the agreement automatically terminates if two consecutive payments are missed and the taxpayer thereupon becomes subject to the same due date and interest rate as other, nonparticipating taxpayers; (5) only taxpayers who are current on their property tax obligations may participate; and (6) interested taxpayers shall apply annually for participation by the date shown on the application, date and application format to be determined by the Tax Collector.

Moderator Fern referenced this as the "Tax Club" article and did not read the article in full with the permission of the citizens.

The Warrant Committee moved and seconded to pass Article 30.
A voice vote was called and Article 30 passed as written.

Article 31. To see if the Inhabitants of the Town of Mount Desert will vote to authorize the Tax Collector to accept pre-payment of property taxes, with no interest to be paid on same.

The Warrant Committee moved and seconded to pass Article 31.
Questions asked and answered.
A voice vote was called and Article 31 passed.

Article 32. To see if the Inhabitants of the Town of Mount Desert will vote to set the interest rate to be paid by the Town for abated taxes that have been paid, at the rate of 4% (percent) per year.

The Warrant Committee moved and seconded to pass Article 32.
A voice vote was called and Article 32 passed.

Article 33. To see if the inhabitants of the Town of Mount Desert will vote to authorize expenditures to pay any tax abatements granted by the Assessor, Board of Assessment Review, or Board of Selectmen together with any interest due thereon from the Town, during the fiscal year beginning July 1, 2018, in an aggregate amount not to exceed the property tax commitment overlay.

The Warrant Committee moved and seconded to pass Article 33.
A voice vote was called and Article 33 passed.

Article 34. To see if the Inhabitants of the Town of Mount Desert will vote to authorize the Board of Selectmen to dispose by public bid of Town-owned property, other than real property, with a value of ten thousand dollars (\$10,000.00) or less under such terms and conditions as it deems advisable.

The Warrant Committee moved and seconded to pass Article 34.
A voice vote was called and Article 34 passed.

Article 35. To see if the Inhabitants of the Town of Mount Desert will vote to authorize the Board of Selectmen to sell at public auction or by advertised sealed bid, and to convey titles obtained under tax deeds and under deeds of conveyance to the Inhabitants of the Town any land and/or buildings, including trailers, in lieu of payment of taxes except that the Selectmen have the power to authorize redemption.

The Warrant Committee moved and seconded to pass Article 35.
A voice vote was called and Article 35 passed.

Article 36. To see if the Inhabitants of the Town of Mount Desert will vote to authorize the Board of Selectmen to contract for services, in amounts not to exceed appropriation for same, under such terms and conditions as it deems advisable.

The Warrant Committee moved and seconded to pass Article 36.
A voice vote was called and Article 36 passed.

Article 37. To see if the Inhabitants of the Town of Mount Desert will vote to transfer Five hundred thousand dollars (\$500,000. 00) from the **Undesignated Fund Balance Account #100-38300** to reduce the 2018 – 2019 tax commitment.

The Warrant Committee moved and seconded pass Article 37.
A voice vote was called and Article 37 passed.

Warrant Committee Chair, Jerry Miller, suggested that Moderator Fern not read Article 38 in its entirety. There was no opposition to his suggestion.

Article 38. Shall the Town of Mount Desert (the Town) be authorized to appropriate an amount not to exceed \$100,000.00 (one hundred thousand dollars) from the **Capital Gains Reserve Account, #400-24202**, in order to retain professional services for planning, technical study/studies and design (the Project) related to roadway improvements, including but not limited to, bicycle access and safety improvements, to State Route 3 (Peabody Drive), between the intersection of State Routes 198 and 3 (Pedder's Corner) in the Village of Northeast Harbor and the intersection of the Stanley Brook Road and State Route 3 in the Village of Seal Harbor; subject to the Town's Bicycling Committee (the Committee) investigating alternative funding sources including but not limited to Private, State and Federal (Others) funding in an effort to reduce the Town's commitment of the aforementioned \$100,000.00 (one hundred thousand dollars) for the Project with the understanding that the Committee shall demonstrate good faith efforts to raise funds from Others and to have received written commitments from Others to provide funds by the date certain of December 31, 2018, with said written commitments being documented by the Public Works Director as the Committee's liaison to the Board of Selectmen and presented in writing by the Public Works Director to the Board of Selectmen, such that the Town's share of the cost of the Project shall be the aforementioned \$100,000.00 (one hundred thousand dollars) reduced by the amount of funding the Committee has raised and obtained written commitments for as described above but in no case shall it exceed the aforementioned \$100,000.00 (one hundred thousand dollars), and further, shall the Board of Selectmen of the Town be authorized to execute any and all contracts and documents and do any and all things necessary or convenient to the accomplishment of the Project, including to accept any gifts, grants or contributions to the Town, including conditional gifts to the Town the sole condition of which is that the contributed funds be dedicated to the Project?

The Warrant Committee moved and seconded to pass Article 38.
A voice vote was called; it was the opinion of the Moderator that the ayes carried, and Article 38 passed as written.

Further consent was granted to forego the reading of the full article for Article 39.

Article 39. Shall the Town of Mount Desert be authorized to appropriate an amount not to exceed \$90,000 from the **Capital Gains Reserve Account, #400-24202**, to finance professional technical and construction services associated with improvements to up to seven (7) pedestrian crosswalks located in the Villages of Northeast Harbor, Pretty Marsh and Somesville and as shown on the site plan located in Appendix F Site Map to include, bringing the crosswalks into general compliance with the appropriate regulatory agencies and requirements of same, including but not necessarily being limited to, the Maine Department of Transportation's publication "Maine DOT Guidelines on Crosswalks" and the Americans with Disabilities Act requirements for crosswalks with said improvements to address, but not necessarily being limited to, improved access, safety, effectiveness and appurtenances required to complete the improvements, and further, shall the Board of Selectmen be authorized to execute any and all contracts and documents and do all things necessary or convenient to accomplish the Project? **See Appendix F 1-2 (pg. 102)**

The Warrant Committee moved and seconded to pass Article 39.
Questions were asked and answered.
A voice vote was called and Article 39 passed as written.

Consent given to forego the reading of Article 40.

Article 40. Shall the Town of Mount Desert be authorized to appropriate an amount not to exceed \$38,000.00 from the **Capital Gains Reserve Account, #400-24202**, to finance the professional evaluation of the Town's remaining crosswalks not described in Article 39 above, those being approximately 40 (forty) in number, located throughout the Town, to assess them relative to factors including, but not necessarily limited to, accessibility, safety, location and effectiveness, and to make recommendations for improvements to the crosswalks, and further to prepare designs of the recommended improvements to the crosswalks, to prepare construction documents and to solicit competitive bids for the improvements to address and to include bringing the crosswalks into general compliance with the appropriate regulatory agencies and requirements of same, including but not necessarily being limited to the Maine Department of Transportation's publication "Maine DOT Guidelines on Crosswalks" and the Americans with Disabilities Act requirements for crosswalks and further, shall the Board of Selectmen be authorized to execute any and all contracts and documents and do all things necessary or convenient to accomplish the Project?

The Warrant Committee moved and seconded to pass Article 40.
Discussion with questions asked and answered.
A voice vote was called and Article 40 passed.

Article 41. Shall the Town of Mount Desert be authorized to appropriate an amount not to exceed \$40,000.00 from the **Capital Gains Reserve Account, #400-24202**, to finance the evaluation and design of improvements to the Town's infrastructure within the bounds of a portion of Summit Road located in the Village of Northeast Harbor beginning at or near its intersection with Main Street then proceeding westerly along Summit Road ending at or near its intersection with Church Road with said improvements including, but not necessarily limited to, the traveled way, sanitary sewer lines, storm water management and sidewalks, and further shall the Board of Selectmen be authorized to execute any and all contracts and documents and do any and all things necessary or convenient to accomplish the project?

The Warrant Committee moved and seconded to pass Article 41.
A voice vote was called; it was the opinion of the Moderator that the ayes outweighed the nays, and Article 41 passed.

Article 42. Shall the Town of Mount Desert be authorized to appropriate an amount not to exceed \$50,000.00 from the **Capital Gains Reserve Account, #400-24202** to fund the design and construction, including all materials, equipment and labor, of a subsurface irrigation system, for the so-called Village Green and the lawn area adjacent to the Yachtsman Facility, both being located in the Village of Northeast Harbor; and further, shall the Board of Selectmen be authorized to execute any and all contracts and documents and do any and all things necessary or convenient to accomplish the project?

The Warrant Committee moved and seconded to pass Article 42.
A motion was made and seconded for a hand count.
A voice vote was called the motion for a hand count was passed.
A hand count vote was made and Article 42 passed with 55 ayes and 25 nays.

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APPROPRIATION FROM CAPITAL GAINS RESERVE ACCOUNTSUMMARY

(If Article 38 through Article 42 are Approved in Total)

Article 38 Bicycle Access & Safety	\$100,000.00
Article 39 Crosswalk Construction	\$ 90,000.00
Article 40 Crosswalk Evaluation	\$ 38,000.00
Article 41 Summit Rd Evaluation & Design	\$ 40,000.00
<u>Article 42 Village Green Irrigation</u>	<u>\$ 50,000.00</u>
Total Appropriation Requested	\$318,000.00

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**Article 43.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and/or appropriate as Revenue through Excise Taxes, Service Fees and miscellaneous sources for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 42 at \$1,129,462.00.  
A voice vote was called and Article 42 passed at \$1,129,462.00.

**Article 44.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 200 through 221 General Government – Governing Body (Board of Selectmen), Town Management, Town Clerk, Registrar, Elections, Planning Board, Finance, Treasurer, Tax Collector, Assessment, Code Enforcement, Unallocated Funds, Human Resources, and Technology for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 44 at \$1,412,510.00.  
A voice vote was called and Article 44 passed at \$1,412,510.00.

**Article 45.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 300 General Assistance Support for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 45 at \$5,000.00  
A voice vote was called and Article 45 passed at \$5,000.00

**Article 46.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 350 Rural Wastewater Support for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 46 at \$187,900.00.  
A voice vote was called and Article 46 passed at \$187,900.00.

**Article 47.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 406 Street Lights for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 47 at \$30,850.00.  
A voice vote was called and Article 47 passed at \$30,850.00.

**Article 48.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 401 and 408 Public Safety – Police and Communications (Dispatch), 405 Shellfish and 407 Animal Control for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 48 at \$1,199,951.00.  
A voice vote was called and Article 48 passed at \$1,199,951.00.

**Article 49.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 403, 404 and 409 Public Safety – Fire Department, Hydrants, and Emergency Management for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 49 at \$870,396.00.  
A voice vote was called and Article 49 passed at \$870,396.00.

**Article 50.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 501, 515, 520 and 525 Public Works - Roads, Waste Management, Buildings & Grounds, Parks & Cemeteries, and 530 Environmental Sustainability for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 50 at \$2,584,529.00.  
A voice vote was called and Article 50 passed at \$2,584,529.00.

**Article 51.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 505 and 506 Sewer Operations and Wastewater Treatment for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 51 at \$960,163.00.  
A voice vote was called and Article 51 passed at \$960,163.00.

**Article 52.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 605 Recreation (Public Pool ~Utilities & Maintenance) for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 52 at \$5,900.00.  
A voice vote was called and Article 52 passed at \$5,900.00.

**Article 53.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 701 Economic/Community Development for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 53 at \$44,000.00

Questions asked and answered.

A voice vote was called; it was the opinion of the Moderator that the ayes have the vote, and Article 53 passed at \$44,000.00.

**Article 54.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 801 Debt Service for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 54 at \$1,444,014.00.  
A voice vote was called and Article 54 passed at \$1,444,014.00.

**Article 55.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 851 Libraries, Village Improvement Societies, Recreation, and Public/Social Service Agencies for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 55 at \$333,961.00.  
A voice vote was called and Article 55 passed at \$333,961.00.

**Article 56.** To see what sum the Inhabitants of the Town of Mount Desert will vote to raise and appropriate for Department 991 Capital Improvement Plan transfers for the 2018 – 2019 Town Budget.

The Warrant Committee moved and seconded to pass Article 56 at \$560,621.00.  
A voice vote was called and Article 55 passed at \$560,621.00.

**Article 57.** To see if the Inhabitants of the Town of Mount Desert will vote to increase the property tax levy limit by \$0.00.

A brief explanation was made that there was not an increase to the tax levy and therefore no vote was needed. Article 57 was passed over.

**Article 58.** To see if the Inhabitants of the Town of Mount Desert will vote to ratify the Board of Selectmen's approval of the Marina Proprietary Fund budget.

The Warrant Committee moved and seconded to pass Article 58.  
Question asked as to why the Warrant Committee had no recommendation and it was explained that the Marina Proprietary Fund is a separate entity from the Town Budget and therefore a recommendation is not necessary.  
A voice vote was called and Article 58 passed.

Nancy Thurlow, of the Superintendent's office, explained that the revised school budget and school article figures are due a reduction in the actual healthcare premiums for the school staff.

Before voting on the articles there was a debate about whether to amend the budget figures or to pass as is and allow for a "cushion" against future costs.

**Article 59.** To see what sum the School Board will be authorized to expend for Regular Instruction for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

The Warrant Committee moved and seconded to pass Article 59 at \$1,608,542.00.  
It was moved and seconded by the Warrant Committee to amend Article 59 to \$ 1,602,556.00 to reflect the revised budget as presented by the school board.

A voice vote was called on the motion to amend; the amendment passed.  
Questions asked and answered.

A voice vote was called; it was the opinion of the Moderator that the ayes carried, and Article 59 passed at \$ 1,602,556.00 as amended.

**Article 60.** To see what sum the School Board will be authorized to expend for Special Education for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

The Warrant Committee moved and seconded to pass Article 60 at \$867,896.00.  
It was moved and seconded by the Warrant Committee to amend Article 60 to \$844,293.00 to reflect the revised budget as presented by the school board.

A voice vote was called on the motion to amend; it was the opinion of the moderator that the ayes outweighed the nays and the amendment passed.

Questions were asked and answered.

A voice vote was called and Article 60 passed at \$844,293.00 as amended.

**Article 61.** To see what sum the School Board will be authorized to expend for Career and Technical Education for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

The Warrant Committee moved and seconded to pass Article 61 at \$0.00.  
Superintendent Marc Gousse commented that support for technical education is funded in the high school budget.

A voice vote was called and Article 61 passed at \$0.00.

**Article 62.** To see what sum the School Board will be authorized to expend for Other Instruction for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

The Warrant Committee moved and seconded to pass Article 62 at \$63,267.00.  
Questions asked and answered.

A voice vote was called and Article 62 passed at \$63,267.00.

**Article 63.** To see what sum the School Board will be authorized to expend for Student & Staff Support for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

The Warrant Committee moved and seconded to pass Article 63 at \$413,855.00.  
It was moved and seconded by the Warrant Committee to amend Article 63 to \$407,602.00 to reflect the revised budget as presented by the school board.

A voice vote was called on the motion to amend; the amendment passed.

A voice vote was called and Article 63 passed at \$407,602.00 as amended.

**Article 64.** To see what sum the School Board will be authorized to expend for System Administration for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

The Warrant Committee moved and seconded to pass Article 64 at \$87,393.00.

A voice vote was called and Article 64 passed at \$87,393.00.

**Article 65.** To see what sum the School Board will be authorized to expend for School Administration for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

The Warrant Committee moved and seconded to pass Article 65 at \$236,783.00.

It was moved and seconded by the Warrant Committee to amend Article 65 to \$231,782.00 to reflect the revised budget as presented by the school board.  
A voice vote was called on the motion to amend; the amendment passed.  
A voice vote was called on the main motion and Article 65 passed at \$231,782.00 as amended.

**Article 66.** To see what sum the School Board will be authorized to expend for Transportation & Buses for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

The Warrant Committee moved and seconded to pass Article 66 at \$181,224.00.00.  
It was moved and seconded by the Warrant Committee to amend Article 66 to \$178,634.00 to reflect the revised budget as presented by the school board.  
A voice vote was called on the motion to amend; the amendment passed.  
A voice vote was called and Article 66 passed at \$178,634.00 as amended.

**Article 67.** To see what sum the School Board will be authorized to expend for Facilities Maintenance for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

The Warrant Committee moved and seconded to pass Article 67 at \$513,574.00.  
It was moved and seconded by the Warrant Committee to amend Article 67 to \$507,007.00 to reflect the revised budget as presented by the school board.  
A voice vote was called on the motion to amend; the amendment passed.  
Questions asked and answered.  
A voice vote was called and Article 67 passed at \$507,007.00 as amended.

**Article 68.** To see what sum the School Board will be authorized to expend for Debt Service and Other Commitments for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

The Warrant Committee moved and seconded to pass Article 68 at \$348,430.00.  
A voice vote was called and Article 68 passed at \$348,430.00.

**Article 69.** To see what sum the School Board will be authorized to expend for All Other Expenditures for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

The Warrant Committee moved and seconded to pass Article 69 at \$68,000.00.  
A voice vote was called and Article 69 passed at \$68,000.00.

**Article 70.** To see what sum the voters of the Town of Mount Desert will appropriate for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act (Recommend \$1,999,403.00) and to see what sum the voters of the Town of Mount Desert will raise as the Town's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688 for the period July 1, 2018 and ending June 30, 2019.

Warrant Committee moved and seconded to pass Article 70 at \$1,758,558.00.  
A hand count vote was conducted and Article 70 passed at \$1,758,558.00 with 81 Ayes and 0 Nays.

**Article 71.** To see what sum the voters of the Town of Mount Desert will raise and

appropriate for the annual payments on debt service previously approved by the legislative body for non-state-funded school construction projects, non-state funded portions of school construction projects and minor capital projects in addition to the funds appropriated as the local share of the Town of Mount Desert's contribution to the total cost of funding public education from kindergarten to grade 12 for the period July 1, 2018 and ending June 30, 2019.

Warrant Committee moved and seconded to pass Article 72 at \$348,430.00.  
A hand count vote was conducted and Article 72 passed at \$348,430.00 with 82 Ayes and 0 Nays.

**Article 72.** To see what sum the voters of the Town of Mount Desert will raise and appropriate in additional local funds for school purposes (Recommend: \$1,901,507.00) for the period July 1, 2018 and ending June 30, 2019, which exceeds the State's Essential Programs and Services allocation model by (Recommend: \$1,901,507.00) as required to fund the budget recommended by the school Board.

The Warrant Committee moved and seconded to pass Article 72 at \$1,901,507.00 for additional local funds and gives the following reasons for exceeding the State's Essential Programs and Services funding model by \$1,901,507.00: The State funding model underestimates the actual costs to fully fund the 2018-2019 budget.

It was moved and seconded by the Warrant Committee to amend Article 72 to \$1,851,507.00 for additional local funds and gives the following reasons for exceeding the State's Essential Programs and Services funding model by \$1,851,507.00: The State funding model underestimates the actual costs to fully fund the 2018-2019 budget.

A voice vote was called on the motion to amend; the amendment passed.

A written ballot vote was conducted and Article 72 passed with 82 Ayes and 3 Nays.

**Article 73.** To see what sum the voters of the Town of Mount Desert will authorize the School Board to expend for the fiscal year beginning July 1, 2018 and ending June 30, 2019 from the Town's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools.

Warrant Committee moved and seconded to pass Article 73 at \$4,388,964.00.

It was moved and seconded by the Warrant Committee to amend Article 66 to \$4,338,964.00 to reflect the revised budget as presented by the school board.

A voice vote was called on the motion to amend; the amendment passed.

A hand count vote was conducted and Article 73 passed at \$4,338,964.00 with 83 Ayes and 0 Nays.

**Article 74.** In addition to the amount in Articles 59 – 73, shall the School Board be authorized to expend such other sums as may be received from state or federal grants or programs or other sources during the fiscal year 2018-2019 for school purposes provided that such grants, programs or other sources do not require the expenditure of other funds not previously appropriated?

The Warrant Committee moved and seconded to pass Article 74.

A voice vote was called and Article 74 passed.

Moderator Ferm read the letter dated May 7, 2018 from Eaton Peabody's Attorney, Andrew Hamilton (see attached – last page), which explained that a new Maine law is in place with regards to the adult use of marijuana effective May 2, 2018. This law states that unless a municipality "opts in" to allow recreational marijuana establishments, those activities are not allowed in the municipality. The law further establishes that marijuana social clubs are no longer permitted anywhere in Maine.

Therefore Article 75 is now moot and unnecessary.

It was moved and seconded by the Warrant Committee to pass over Article 75.

A voice vote was called the motion to pass over Article 75 passed without opposition.

**Article 75.** Shall an ordinance dated May 8, 2018 and entitled "Town of Mount Desert Marijuana Moratorium" be enacted as follows?

**TOWN OF MOUNT DESERT MORATORIUM ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS, RETAIL MARIJUANA STORES, AND RETAIL MARIJUANA SOCIAL CLUBS**

WHEREAS, the "Marijuana Legalization Act" has become law in Maine, codified in the Maine Revised Statutes in Title 7, chapter 417; and

WHEREAS, the Marijuana Legalization Act (the "Act") authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, as those terms are defined in the Act, as well as providing the option to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities, and testing facilities, within their jurisdiction; and

WHEREAS, the proposed Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications; and

WHEREAS, the current ordinances of the Town of Mount Desert (the "Town") do not include any regulations related to retail marijuana stores, retail marijuana establishments, or retail marijuana social clubs under the proposed new Act; and

WHEREAS, the unregulated location and operation of retail marijuana establishments, retail marijuana stores, and retail marijuana social clubs within the Town of Mount Desert raises legitimate and substantial questions about the impact of such establishments, stores, and social clubs on the Town, including questions about the compatibility of retail marijuana establishments, retail marijuana stores, and retail marijuana social clubs with existing uses and development in residential, commercial, and industrial zoning districts; the potential adverse health and safety effects of retail marijuana establishments, retail marijuana stores, and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale

and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the Act; potential criminal activity associated with the cultivation, manufacturing, sale, and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the Town's police and fire departments; and the adequacy of the Town's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments, retail marijuana stores, or retail marijuana social clubs; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments and/or retail marijuana stores and/or retail marijuana social clubs within the Town has potentially serious implications for the health, safety, and welfare of the Town and its residents; and

WHEREAS, the Town needs time to review the Act and to review its own ordinances and regulations to determine the implications of future proposed retail marijuana establishments and/or retail marijuana stores and/or retail marijuana social clubs to develop reasonable ordinances and regulations governing the location and operations of such establishments and stores and social clubs to address the concerns cited above; and

WHEREAS, the Town's current ordinances are insufficient to prevent serious public harm that could be caused by the unregulated development of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and other uses authorized by the Act, thereby necessitating a moratorium; and

WHEREAS, the Town, under its home rule authority, its police power generally, and under 30-A M.R.S.A., chapter 187, subchapter 3 ("land use regulation"), as provided by the Marijuana Legalization Act, or as otherwise provided by current law, has the authority to impose reasonable restrictions, conditions, and limitations on such retail marijuana establishments and retail marijuana stores and retail marijuana social clubs; and

WHEREAS, the Selectboard, the Town Staff, the Ordinance Review Committee, and the Planning Board, with the professional advice and assistance of the Chief of the Police Department, shall study the Town's current ordinances to determine the land use and other regulatory implications of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and other uses authorized by the Act, being located in the Town; and

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Town enacts this Moratorium Ordinance on retail marijuana establishments and retail marijuana stores and retail marijuana social clubs;

NOW, THEREFORE, be it ordained by the Town Meeting of the Town of Mount Desert, that the following Moratorium Ordinance on retail marijuana establishments and retail marijuana stores and retail marijuana social clubs be, and hereby is, enacted, and, in furtherance thereof, the Town Meeting does hereby declare a moratorium on the location, operation, or licensing of



any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, within the Town.

This Moratorium Ordinance shall take effect on the date of its enactment by the Town Meeting, and shall be applicable as of that date. The moratorium shall remain in effect for one hundred and eighty (180) days from the effective date of this Ordinance, unless extended, repealed, or modified, for the express purpose of drafting an amendment or amendments to the Town's current ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments, retail marijuana stores, and retail marijuana social clubs with existing and permitted uses in residential, commercial, and industrial zoning districts; the correlation of retail marijuana establishments, retail marijuana stores, and retail marijuana social clubs with medical marijuana cultivation facilities and dispensaries, all as defined in the Act; the potential adverse health and safety effects of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale, and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Town in responding to the same; and the adequacy of the Town's infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or retail marijuana stores or retail marijuana social clubs in the Town.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to retail marijuana stores and retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, as those terms are defined by the Act, codified at 7 M.R.S.A. §§ 2442 (36), (38), (39), (40), and (41), that may be proposed to be located within the Town on or after the effective date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed retail marijuana establishments or retail marijuana stores or retail marijuana social clubs for which an application for a building permit, Certificate of Occupancy, site plan, or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board, or other Town official or board prior to the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a retail marijuana establishment or retail marijuana store or retail marijuana social club within the Town on or after the effective date of this Ordinance without complying with whatever ordinance amendment or amendments the legislative body may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, or board of the Town shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, or any other type of land use approval or permit and/or any other permits or licenses related to a retail marijuana establishment or retail marijuana stores or retail marijuana social club; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no person or organization shall develop or operate a business that engages in retail or wholesale sales of products or merchandise for which a substantial portion of its business is to prepare, cultivate, distribute, or ingest marijuana or retail or wholesale sales of such products or merchandise of the kind that are commonly offered for sale or used at so-called head shops, retail marijuana social clubs, or retail marijuana establishments, including, without limitation, water pipes, hashish pipes, glass pipes, pipe screens, bongs, vaporizers, scales, rolling papers, hydroponic equipment, and grow lights and general tobacco products in so-called smoke shops; and

BE IT FURTHER ORDAINED, that those provisions of the Town's ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if retail marijuana establishments or retail marijuana stores or retail marijuana social clubs are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Town shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

## **Adjournment**

Moderator Ferm thanked Warrant Committee members Jerry Miller and Phil Lichtenstein for their motions; the Town officials and staff for their diligence and hard work; and the Town's people for their respectful debates, discussions and votes.

At 9:46 p.m. Moderator Ferm made his favorite motion – to adjourn the meeting, there was a second, and the motion passed with resounding ayes.

## Appendices

An underline indicates an addition and a ~~strikethrough~~ indicates a deletion.

### Appendix A (Article 6; Pg.4)

#### SOLID WASTE ORDINANCE of the TOWN OF MOUNT DESERT

ENACTED MAY 6, 2014  
Revised and Enacted May 8, 2018

#### SECTION 1: AUTHORITY

This Ordinance is created under the authority granted to the Town of Mount Desert (hereinafter the "Town") by Title 38 M.R.S.A., §1301 et seq. (the Maine Hazardous Waste, Septage and Solid Waste Management Act) and the Town's home rule authority pursuant to the Maine Constitution and 30-A M.R.S. § 3001 et seq.

#### SECTION 2: PURPOSE

2.1. To protect the health, safety and general well-being of the citizens of the Town.

2.2. To enhance and maintain the quality of the environment, conserve natural resources and prevent water and air pollution by providing a comprehensive, rational and effective means of regulating the disposal of solid waste.

2.3 To recognize that the use of single use plastic bags typically provided by vendors is not an environmentally sound use of resources and residents of and visitors of and to the Town shall strive are striving to use alternate means such as reusable cloth bags and other reusable items to collect and transport their goods.

~~2.3. To control solid waste in the Town by establishing limitations, prohibiting certain acts causing solid waste problems and to enforce the provisions of this Ordinance.~~

2.4. To encourage and expand solid waste recycling and waste reduction.

2.5. To control solid waste in the Town by establishing limitations, prohibiting certain acts ~~causing~~ generating solid waste ~~problems~~ and to enforce the provisions of this Ordinance.

2.6. To control the costs of solid waste management to the taxpayers of the Town.

#### SECTION 3: DEFINITIONS

3.1. Terms used in this Ordinance that are defined in 38 M.R.S.A. §1303-C as may be amended from time to time, shall have the meaning prescribed in §1303-C and that meaning shall be controlling, notwithstanding any contrary definition in the Ordinance or in any dictionary. The §1303-C definitions are set forth in Appendix A to this Ordinance; Appendix A shall be updated

regularly (at least annually). Any word not otherwise defined shall have its customary dictionary meaning.

This Ordinance provides the following definitions:

Acceptable Waste - solid waste (as defined herein) that is capable of processing at the Town's designated processing facility and/or otherwise handled by the Town's solid waste collection service.

Authorized Individual - means any person, partnership, corporation or other entity that either owns, rents, leases (on a permanent or temporary basis) a dwelling or operates a commercial establishment in Town.

Agricultural Solid Wastes - wastes produced from the raising of plants and animals for food, including manure, plant stalks, hulls and leaves.

Ash - residue, including cinders and fly ash from the burning of solid fuels for cooking and heating, and from on-site incineration of refuse materials.

Bulky Objects - abandoned vehicles, stoves and refrigerators, large furniture, tree trunks, stumps and brush.

Commercial Solid Wastes - wastes that originate in wholesale, retail, or service establishments, such as office buildings, stores, markets, theaters, hotels and warehouses.

Construction and Demolition Debris (CDD) - solid waste resulting from construction, remodeling, repair, and demolition of structures, and as specifically defined in 38 MRS § 1303-C (see Appendix A attached).

EMR - Eastern Maine Recycling located in Southwest Harbor, Maine, is a licensed solid waste transfer station that also provides solid waste recycling services.

Fiberight dba Coastal Resources of Maine, LLC - Fiberight is a licensed facility located in Hampden, Maine, licensed by the Maine DEP for solid waste processing.

Garbage - every accumulation of waste (animal, vegetable, and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including but not by way of limitation, used food containers and all putrescible or easily decomposable waste animal or vegetable matter that is likely to attract flies or rodents), except (in all cases) any matter included in the definition of bulky waste, construction and demolition debris, dead animals, hazardous waste, rubbish or stable matter.

Green Wood - land clearing debris that is reasonably free of soil material and rock and bark, shavings, slash, and plant and vegetable matter from gardens and landscapes.

Hazardous Waste/ Universal Waste – shall be as defined by 38 M.R.S. §1303-C (Appendix A attached).

Industrial Waste - wastes generally discarded from industrial operations or derived from manufacturing processes but not including a) hazardous waste or b) special waste which by

reason of its composition, characteristics or other properties is not ordinarily acceptable for disposal at sites licensed for disposal of municipal solid waste. Excluded special waste shall include, but not be limited to friable asbestos and oil-contaminated soil.

Municipal Wastes - the combined residential and commercial wastes generated within the Town.

Non-Resident - a person who does not reside in or pay property taxes to the Town.

~~PERC – Penobscot Energy Recovery Company is a licensed waste-to-energy facility located in Orrington, Maine that provides solid waste disposal services.~~

Refuse – a broad term and is synonymous with “solid waste” and shall be defined as any of a wide variety of solid materials as well as some liquids in containers, which are discarded or rejected as being spent, useless, worthless, or in excess.

Resident - a person who resides in or occupies a residential property and/or pays property taxes to the Town.

Residential Waste - waste generated in houses, apartments and other dwelling units, including paper, cardboard, beverage and food cans, plastics, food wastes, and glass containers.

Sewerage Treatment Wastes - screenings, grease, scum and grit from the Town of Mount Desert Publicly Owned Treatment Works.

Solid Waste—waste as defined in 38 MRS § 1303-C (see Appendix A attached).

Special Wastes- waste as defined in 38 MRSA 1303-C (see Appendix A attached)

Tipping Fee - the fee charged to the Town by a facility such as EMR, ~~PERC, etc.~~ or Fiberight, etc. for transport or disposal of solid waste.

Unacceptable Waste - solid waste of a type that municipalities are authorized to regulate under 38 MRS § 1305, as amended, and that are prohibited at EMR (for transport to the Town’s designated acceptable waste processing facility) or at that designated waste processing facility.

Wood Waste - means brush, lumber, bark, wood chips, shavings, slabs, edgings, slash, sawdust, and wood from production rejects that are not mixed with other solid or liquid waste. For the purpose of this definition, “lumber” is entirely made of wood and is free from metal, plastics, and coatings. Wood Waste does not include painted wood or pressure treated wood. These would be included with Construction and Demolition Debris, as defined. Wood Waste also does not include Green Wood, as defined.

#### **SECTION 4: REGULATED ACTIVITY**

4.1. The accumulation, collection, transportation and disposal of acceptable wastes and unacceptable wastes generated within the Town shall be regulated in the following manner:

4.1.1 All acceptable waste generated within the Town shall be deposited roadside at locations designated by the Town in appropriate containers and collected by the Town or appropriate licensed commercial hauler.

4.1.2 All unacceptable waste, including hazardous waste, special waste, ~~hazardous~~ universal waste, CDD waste, hot loads, and certain wood wastes, shall be subject to the Materials Disposal Restrictions set forth in Section 4.3 below and shall be handled by licensed firms and deposited at licensed facilities out of Town consistent with Section 4.2 below. Violations of this Section 4 shall be subject to enforcement under Section 8 and related provisions of this Ordinance.

#### 4.2. General Requirements

4.2.1. All solid waste shall be handled and disposed in accordance with this Ordinance.

4.2.2. The Board of Selectmen shall have the authority to restrict or modify the disposal of all types and volumes of solid waste, if deemed in the best interests of the Town.

4.2.3. No person, partnership or corporation, shall dispose of any refuse on any public property or roads except as allowed by this ordinance.

#### 4.3. Materials Disposal Restrictions

The following waste materials or containers of waste materials as described below shall not be handled or disposed within the boundaries of the Town:

4.3.1. Materials classified as hazardous waste in 38 MRS § 1303-C (see Appendix A attached) unless:

- Within a Town sanctioned public collection event or effort, if handled by a person or firm licensed to handle and transport hazardous waste and if disposed at a facility licensed for hazardous waste disposal outside the Town; or
- Handled and transported by a commercial entity licensed to handle and transport hazardous waste if taken to a licensed facility outside the Town.

4.3.2. Materials classified as universal waste by 38 MRS § 1303-C (see Appendix A attached) unless:

- Within a Town sanctioned public collection event or effort, if handled by a person or firm licensed to handle and transport universal waste and if disposed at a facility licensed for universal waste disposal outside the Town; or
- Handled and transported by a commercial entity licensed to handle and transport universal waste if taken to a licensed facility outside the Town.

4.3.3. Ash at a combustible temperature or other hot loads.

4.3.4. Trees, limbs of trees, or tree trunks more than 4 inches in diameter and/or 3 feet in length or stumps except by a commercial entity licensed to handle and transport woody waste and disposed at a licensed wood waste facility outside the Town

4.3.5. All Commercial Demolition Debris as defined herein, except by a commercial entity licensed to handle such CDD waste if disposed at a licensed facility outside the Town.

4.3.6. All Special Waste as defined herein, except by a commercial entity licensed to handle Special Waste if disposed at a licensed facility for disposal of Special Waste outside the Town

4.3.7. All Green Wood and Wood Waste as defined herein, except by a commercial entity licensed to handle such Wood Waste if disposed at a licensed facility outside the Town.

## **SECTION 5: HANDLING AND DISPOSAL OF SOLID WASTE**

Authorized Individuals (including Residents) shall handle and dispose of acceptable solid waste by only one of the following methods:

### 5.1. Town-provided collection service:

Materials disposed at curbside are limited to solid waste acceptable to the Town's contracted transfer station or solid waste processing facility. Materials must be placed in secured bags, secured containers and/or secured receptacles adequate to prevent loss of control of the solid waste. Those disposing of the solid waste are responsible for picking up and cleaning up of unsecured solid waste regardless of the cause.

Curbside solid waste collection occurs by summer and winter schedules promulgated by the Town. Solid waste must be at curbside by 7 AM on the scheduled day to ensure pick up.

### 5.2. Authorized Individuals at the Town of Mount Desert area designated at EMR.

### 5.3. Hire a Private Hauler.

Authorized Individuals may contract at their cost with a private hauler for disposal of acceptable solid waste. All waste collected by private haulers shall be delivered to EMR and credited to the Town's guaranteed annual tonnage. ~~Authorized Individuals shall be responsible for all costs associated with a private hauler, including disposal costs.~~

### 5.4 Town Sponsored Solid Waste Disposal at EMR

Authorized ~~individuals~~ Individuals have a Town sponsored solid waste disposal account at EMR allowing up to two thousand (2,000) pounds of solid waste annually per Town physical address delivered by the authorized individual or their private licensed hauler. Authorized Individuals shall be responsible for all costs associated with a private hauler. This allowance provides for the disposal of all solid waste; particularly green wood, bulky objects allowed by EMR and CDD (construction and demolition debris) except special, hazardous and universal waste. This allowance may expire ~~in 2018~~ at such time the inhabitants of the Town choose to eliminate the practice.

## **SECTION 6: FEES**

Authority: The Town Meeting may establish fees for solid waste disposal to promote recycling and improve the efficiency of the management of solid waste and to support the cost of solid waste collection and disposal.

## **SECTION 7: LICENSES**

7.1 No person, firm or corporation shall transport on a commercial basis any acceptable waste

for disposal outside the Town without obtaining a license to transport such waste within the Town from the Town Manager. The license shall be in effect for ~~12~~ 24 (~~twelve~~ twenty-four) months from date of issue and must be renewed on or before its expiration date.

7.2. Any person, firm or corporation required by this Ordinance to obtain an annual license shall make application to the Town Manager. A nonrefundable license application fee as determined by the Board of Selectmen shall accompany each application. The fee structure shall be reviewed every two (2) years by the Town Manager or designee with a recommendation being made by the Town Manager or designee to the Board of Selectmen as to its appropriateness or if it should be changed. The existing fee or any changes to it shall go into effect July 1 of each new fiscal year. A copy of the application form is available from the Town Office.

7.3. The application shall contain all information required by it, including, but not limited to, a description of the activity/activities engaged in, e.g., collection and transport of acceptable, recyclable/storable and/or unacceptable waste; types and estimated amount(s) of waste handled in each service area and; a description of the facility/facilities operated and used. The applicant's signature on the application verifies the applicant's intended compliance with this Ordinance. Incomplete applications will not be processed.

7.4. Licenses shall not be transferable.

7.5. All licenses shall expire ~~one~~ two (2) years (~~1~~) year from the date of issue unless revoked or suspended sooner in accordance with the provisions of this Ordinance.

7.6. In the event that the Town Manager denies a license application, the applicant shall be notified of the reasons for the denial of the license. The applicant may appeal the Town Manager's decisions to the Board of Selectmen.

7.7. Suspension and Revocation

Any license issued may be suspended or revoked by the Town Manager for cause, including the following reasons:

- a. Violation of this Ordinance;
- b. Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this Ordinance;
- c. Violation of any license condition(s); and
- d. Falsehoods, misrepresentations or omissions in the license application.

Suspension or revocation of a license may be appealed to the Board of Selectmen.

## **SECTION 8: VIOLATIONS & PENALTIES**

8.1. Disposal generally prohibited; disposal of rubbish, garbage, solid waste and debris on public or private property:

No person shall throw or place or cause to be thrown or placed upon any premises located within the limits of the Town any rubbish, garbage, solid waste or debris of any kind, except in full conformance with this Ordinance, nor shall any owner or occupant of any such premises suffer any such rubbish, garbage, solid waste or debris to remain on said premises after receiving notice from the Chief of Police or, Code Enforcement Officer ~~Public Works Director~~ or



their designees. Any person or persons so failing to remove any such rubbish, garbage, solid waste or debris for a period of seven days after receipt of said notice shall be subject to enforcement.

#### 8.2 Limited Exemption:

Disposal of rubbish, garbage, solid waste and debris during the Spring Clean-up Week shall not constitute a violation of this Ordinance and shall not be subject to enforcement.

8.3. Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the provisions of this ordinance shall be subject to enforcement and liable to the remedies, fines, and civil penalties as stated below in Sections 8.4, 8.5 and 8.6.

8.4. Monetary penalties may be assessed on a per-day basis and are civil penalties. The minimum penalty for a specific violation is \$100, and the maximum penalty is \$2,500.

8.5. Municipal Costs of Enforcement: In addition to the foregoing penalty provisions, any person violating any provision of this ordinance shall be liable to reimburse the Town for costs of enforcement including reasonable attorney fees and court costs. ~~This~~ The Town is also authorized to seek and obtain equitable relief.

8.6. Violations of this ordinance shall also be enforced under the provisions of the Maine anti-littering statute at 17 M.R.S. §§ 2264-A, 2264-B, and 2264-C, as may be amended from time to time. A copy of those laws is attached as Appendix B and shall be updated as those laws are amended.

### **SECTION 9: SPECIAL COLLECTION EFFORTS**

9.1. The Board of Selectmen or designee may authorize seasonal or other solid waste collection efforts in addition to those described in this ordinance. Such events shall be advertised by the Town so as to inform as many residents as practical.

### **SECTION 10: SEVERABILITY**

If any section, sentence, clause, or phrase of this Ordinance shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

### **SECTION 11: EFFECTIVE DATE; SUNSET**

This Ordinance shall become effective ~~on May 6, 2014, and shall continue in effect for a period of four (4) years unless extended or reauthorized by Town Meeting prior to the expiration of the period of four (4) years from the effective date.~~ upon the date of enactment for a period not to exceed 15 years, unless amended or repealed prior to the expiration of this 15 year period.

### **SECTION 12: AMENDMENT**

This Ordinance may be amended in the same manner as any other Ordinance of the Town.

ADOPTED by Annual Town Meeting this ~~6<sup>th</sup>~~ 8<sup>th</sup> day of May ~~2018.~~ 2014.

**Appendix A**

38 M.R.S.A. § 1303-C

§ 1303-C. Definitions

Effective: July 1, 2012

As used in this chapter or in chapter 24, 1 unless the context otherwise indicates, the following terms have the following meanings.

**1. Repealed.** Laws 1995, c. 656, § A-19.

**1-A. Biomedical waste.** “Biomedical waste” means waste that may contain human pathogens of sufficient virulence and in sufficient concentrations that exposure to it by a susceptible human host could result in disease or that may contain cytotoxic chemicals used in medical treatment.

**1-B. Repealed.** L. 2005, c. 612, § A-21, eff. Jan. 1, 2007.

**1-C. Bypass.** “Bypass” means any solid waste that is destined for disposal, processing or beneficial use at a solid waste facility but that cannot be disposed of, processed or beneficially used at that facility because of the facility’s malfunction, insufficient capacity, inability to process or burn, downtime or any other comparable reason.

**2. Repealed.** Laws 1989, c. 890, § B-225.

**2-A. Class I liquid.** “Class I liquid” means any liquid having a flash point below 100° Fahrenheit.

**2-B. Class II liquid.** “Class II liquid” means any liquid having a flash point at or above 100° Fahrenheit and below 140° Fahrenheit.

**3. Closing reserve fund.** “Closing reserve fund” means a fund created for the purpose of financing the closing and maintenance after closing of a waste facility.

**4. Commercial hazardous waste facility.** “Commercial hazardous waste facility” means:

**A.** A waste facility that handles hazardous wastes generated off the site of the facility; or

**B.** A facility that, in the handling of a waste generated off the site, generates hazardous waste.

**5. Commercial landfill facility.** “Commercial landfill facility” means a commercial solid waste facility that is used for the burial of solid waste.

**6. Commercial solid waste disposal facility.** “Commercial solid waste disposal facility” means a solid waste disposal facility except as follows:

**A. Deleted.** Laws 2007, c. 338, § 2.

**A-1. Repealed.** Laws 2005, c. 612, § 2, eff. Jan. 1, 2007.

**A-2.** A solid waste facility that is owned by a public waste disposal corporation under section 1304-B, subsection 5:

(1) As long as the public waste disposal corporation controls the decisions regarding the type and source of waste that is accepted, handled, treated and disposed of at the facility; and

(2) If the facility is a solid waste landfill, the facility accepts only waste that is generated within the State unless the commissioner finds that the acceptance of waste that is not generated within the State provides a substantial public benefit pursuant to section 1310-AA, subsection 1-A;

**B. Deleted.** Laws 2007, c. 338, § 2.

**B-1. Repealed.** Laws 2005, c. 612, § 2, eff. Jan. 1, 2007.

**B-2.** A solid waste facility that is owned by a municipality under section 1305:

(1) As long as the municipality controls the decisions regarding the type and source of waste that is accepted, handled, treated and disposed of at the facility; and

(2) If the facility is a solid waste landfill, the facility accepts only waste that is generated within the State unless:

(a) The commissioner finds that the acceptance of waste that is not generated within the State provides a substantial public benefit pursuant to section 1310-AA, subsection 1-A; and

(b) Acceptance of waste that is not generated within the State is approved by a majority of the voters of the municipality by referendum election;

**C. Deleted.** Laws 2007, c. 338, § 2.

**C-1. Repealed.** Laws 2005, c. 612, § 2, eff. Jan. 1, 2007.

**C-2.** A solid waste facility that is owned by a refuse disposal district under chapter 17:

(1) As long as the refuse disposal district controls the decisions regarding the type and source of waste that is accepted, handled, treated and disposed of at the facility; and

(2) If the facility is a solid waste landfill, the facility accepts only waste that is generated within the State unless the commissioner finds that the acceptance of waste that is not generated within the State provides a substantial public benefit pursuant to section 1310-AA, subsection 1-A;

**D.** Beginning January 1, 2007, a solid waste facility owned and controlled by the Department of Administrative and Financial Services, Bureau of General Services under chapter 24;

**D-1. Repealed.** Laws 2005, c. 612, § 2, eff. Jan. 1, 2007.

**E.** A solid waste facility owned and controlled by a single entity that:

(1) Generates at least 85% of the solid waste disposed of at a facility, except that the facility may accept from other sources, on a nonprofit basis, an amount of solid waste that is no more than 15% of all solid waste accepted on an annual basis; or

**(2)** Is an owner of a manufacturing facility that has, since January 1, 2006, generated at least 85% of the solid waste disposed of at the solid waste facility, except that one or more integrated industrial processes of the manufacturing facility are no longer in common ownership, and those integrated industrial processes will continue to generate waste that will continue to be disposed of at the solid waste facility. This exemption only applies if the source and type of waste disposed of at the solid waste facility remains the same as that previously disposed of by the single entity.

For the purposes of this paragraph, “single entity” means an individual, partnership, corporation or limited liability corporation that is not engaged primarily in the business of treating or disposing of solid waste or special waste. This paragraph does not apply if an individual partner, shareholder, member or other ownership interest in the single entity disposes of waste in the solid waste facility. A waste facility receiving ash resulting from the combustion of municipal solid waste or refuse-derived fuel is not exempt from this subsection solely by operation of this paragraph.

For purposes of this paragraph, “integrated industrial processes” means manufacturing processes, equipment or components, including, but not limited to, energy generating facilities, that when used in combination produce one or more manufactured products for sale; or

**F.** A private corporation that accepts material-separated, refuse-derived fuel as a supplemental fuel and does not burn waste other than its own.

For purposes of this subsection, “waste that is generated within the State” includes residue and bypass generated by incineration, processing and recycling facilities within the State or waste whether generated within the State or outside of the State if it is used for daily cover, frost protection or stability or is generated within 30 miles of the solid waste disposal facility.

**7. Repealed.** Laws 1999, c. 525, § 2, eff. June 17, 1999.

**A. to F. Repealed.** Laws 1999, c. 525, § 2, eff. June 17, 1999.

**8. Construction and demolition debris.** “Construction and demolition debris” means debris resulting from construction, remodeling, repair, and demolition of structures. It excludes asbestos and other special wastes.

**9. Contingency reserve fund.** “Contingency reserve fund” means a fund maintained for the purpose of meeting unexpected contingencies in the operation of a waste facility.

**10. Conveyance.** “Conveyance” means any aircraft, watercraft, vehicle or other machine used for transportation on land, water or in the air.

**11. Repealed.** Laws 1989, c. 890, § B-225.

**12. Disposal.** “Disposal” means the discharge, deposit, dumping, spilling, leaking or placing of hazardous, biomedical or solid waste, waste oil, refuse-derived fuel, sludge or septage into or on land, air or water and the incineration of solid waste, refuse-derived fuel, sludge or septage so that the hazardous, biomedical or solid waste, waste oil, refuse-derived fuel, sludge or septage or a constituent of the hazardous, biomedical or solid waste, waste oil, refuse-derived fuel, sludge or septage may enter the environment or be emitted into the air, or discharged into waters, including ground waters.

**13. Generation.** “Generation” means the act or process of producing hazardous, biomedical or solid waste, waste oil, sludge or septage.

**13-A. Repealed.** Laws 1991, c. 520, § 4.

**14. Handle.** “Handle” means to store, transfer, collect, separate, salvage, process, recycle, reduce, recover, incinerate, dispose of or treat.

**15. Hazardous waste.** “Hazardous waste” means a waste substance or material, in any physical state, designated as hazardous by the board under section 1319-O. It does not include waste resulting from normal household or agricultural activities. The fact that a hazardous waste or part or constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

**15-A. Hazardous waste incinerator.** “Hazardous waste incinerator” means an enclosed device using controlled flame combustion to thermally break down hazardous waste.

**15-B. Host community.** “Host community” means any town, township or city that is the geographic site of a solid waste disposal facility or any immediately contiguous town, township or city if such town, township or city can demonstrate to the department that it incurs a direct financial impact related to any necessary development or maintenance of infrastructure or to any necessary provision of services as a result of the location or operation of that solid waste disposal facility.

**16. Incineration facility.** “Incineration facility” means a facility where municipal solid waste or refuse-derived fuel is disposed of through combustion, including combustion for the generation of heat, steam or electricity.

**17. Inert fill.** “Inert fill” means clean soil material, rocks, bricks, and cured concrete, which are not mixed with other waste, and which are not derived from an ore mining activity.

**18. Land clearing debris.** “Land clearing debris” means solid wastes resulting from the clearing of land and consisting solely of brush, stumps, soil material and rocks.

**19. Manifest.** “Manifest” means the form used for identifying the quantity, composition and the origin, routing and destination of hazardous waste during its transport.

**19-A. Material-separated, refuse-derived fuel.** “Material-separated, refuse-derived fuel” means a binder-enhanced, pelletized, solid fuel product made from the combustible fraction of a municipal solid waste stream that has been processed to remove the recyclable material before combustion. The product may not contain more than 6% by weight of plastic, metal, glass or food waste. In addition, the production of material-separated, refuse-derived fuel may not exceed 40% by weight of the total municipal solid waste stream from which it was derived.

**19-B. Primary sand and gravel recharge area.** “Primary sand and gravel recharge area” has the same meaning as in section 562-A, subsection 16-B.

**19-C. Repealed.** Laws 2011, c. 655, § GG-8, eff. July 1, 2012.

**20. Recyclable.** “Recyclable” means possessing physical and economic characteristics that

allow a material to be recycled.

**21. Recycle.** “Recycle” means to recover, separate, collect and reprocess waste materials for sale or reuse other than use as a fuel for the generation of heat, steam or electricity.

**22. Recycling.** “Recycling” means the collection, separation, recovery and sale or reuse of materials that would otherwise be disposed of or processed as waste or the mechanized separation and treatment of waste, other than through combustion, and the creation and recovery of reusable materials other than as a fuel for the generation of electricity.

**23. Refuse-derived fuel.** “Refuse-derived fuel” means municipal solid waste which has been processed prior to combustion to increase the heat input value of the waste.

**24. Regional association.** “Regional association” means 2 or more municipalities that have formed a relationship to manage the solid waste generated within the participating municipalities and for which those municipalities are responsible. The relationship must be formed by one or more of the following methods:

**A.** Creation of a refuse disposal district under chapter 17;2

**B.** Creation of a nonprofit corporation that consists exclusively of municipalities and is organized under Title 13, chapter 813 or Title 13-B, for the purpose, among other permissible purposes, of owning, constructing or operating a solid waste disposal facility, including a public waste disposal corporation under section 1304-B, or whose members contract for the disposal of solid waste with a solid waste disposal facility, including, but not limited to, a qualifying facility as defined in Title 35-A, section 3303;

**C.** Creation of a joint exercise of powers agreement under Title 30-A, chapter 115;4 or

**D.** Contractual commitment.

For the purposes of this chapter, a regional association and the entities described in paragraphs B and C may include counties and quasi-municipal corporations as members provided the counties or quasi-municipal corporations, when acting by themselves within their own jurisdictions, are capable of exercising all of the powers of the regional association.

**25. Residue.** “Residue” means waste remaining after the handling, processing, incineration or recycling of solid waste including, without limitation, front end waste and ash from incineration facilities.

**25-A. Responsible party.** For the purposes of subchapter II-A5 only, “responsible party” means any or all of the following persons:

**A.** The owner or operator of an uncontrolled tire stockpile; and

**B.** Any person who owned or operated an uncontrolled tire stockpile from the time any tire arrived at that stockpile.

**26. Resource recovery.** For the purposes of section 1304-B only, “resource recovery” means the recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes.

**27. Septage.** “Septage” means waste, refuse, effluent, sludge and any other materials from septic tanks, cesspools or any other similar facilities.

**27-A. Significant ground water aquifer.** “Significant ground water aquifer” has the same meaning as in section 562-A, subsection 19-A.

**28. Site.** “Site” means the same or geographically contiguous property which may be divided by a public or private right-of-way, provided that the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered site property.

**28-A. Sludge.** “Sludge” means nonhazardous solid, semisolid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or wet process air pollution control facility or any other waste having similar characteristics and effect. The term does not include industrial discharges that are point sources subject to permits under the federal Clean Water Act, 33 United States Code, Section 1342 (1999).

**29. Solid waste.** “Solid waste” means useless, unwanted or discarded solid material with insufficient liquid content to be free-flowing, including, but not limited to, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse, but does not include hazardous waste, biomedical waste, septage or agricultural wastes. The fact that a solid waste or constituent of the waste may have value or other use or may be sold or exchanged does not exclude it from this definition.

**30. Solid waste disposal facility.** “Solid waste disposal facility” means a solid waste facility for the incineration or landfilling of solid waste or refuse-derived fuel. Facilities that burn material-separated, refuse-derived fuel, either alone or in combination with fuels other than municipal solid waste or refuse-derived fuels, are not solid waste disposal facilities.

**31. Solid waste facility.** “Solid waste facility” means a waste facility used for the handling of solid waste, except that the following facilities are not included:

- A.** A waste facility that employs controlled combustion to dispose of waste generated exclusively by an institutional, commercial or industrial establishment that owns the facility;
- B.** Lime kilns; wood chip, bark and hogged fuel boilers; kraft recovery boilers and sulfite process recovery boilers, which combust solid waste generated exclusively at the facility; and
- C.** An industrial boiler that combusts mixed paper, corrugated cardboard or office paper to generate heat, steam or electricity if:

**(1)** The mixed paper, corrugated cardboard or office paper would otherwise be placed in a landfill;

**(2)** The market value of the mixed paper, corrugated cardboard or office paper as a raw material for the manufacture of a product with recycled content is less than its value to the facility owner as a fuel supplement;

**(3)** The mixed paper, corrugated cardboard or office paper is combusted as a substitute for, or

supplement to, fossil or biomass fuels that constitute the primary fuels combusted in the industrial boiler; and

**(4)** The boiler combusts no other forms of solid waste except as provided in this subsection.

**32. Solid waste landfill.** “Solid waste landfill” means a waste disposal facility for the disposal of solid waste on or in land. This term does not include landspreading sites used in programs approved by the department.

**32-A. Solid waste processing facility.** “Solid waste processing facility” means a land area, structure, equipment, machine, device, system or combination thereof, other than an incineration facility, that is operated to reduce the volume or change the chemical or physical characteristics of solid waste. “Solid waste processing facility” includes but is not limited to a facility that employs shredding, baling, mechanical and magnetic separation or composting or other stabilization technique to reduce or otherwise change the nature of solid waste.

**33. Source separation.** “Source separation” means the preparation of materials for recycling by separation from wastes at the point of generation.

**34. Special waste.** “Special waste” means any solid waste generated by sources other than domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, that may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures. Special waste includes, but is not limited to:

**A.** Oil, coal, wood and multifuel boiler and incinerator ash;

**B.** Industrial and industrial process waste;

**C.** Waste water treatment plant sludge, paper mill sludge and other sludge waste;

**D.** Debris and residuals from nonhazardous chemical spills and cleanup of those spills;

**E.** Contaminated soils and dredge spoils;

**F.** Asbestos and asbestos-containing waste;

**G.** Sand blast grit and nonliquid paint waste;

**H. Deleted.** Laws 1989, c. 869, § A-5.

**I.** High and low pH waste;

**J.** Spent filter media and residue; and

**K.** Other waste designated by the board, by rule.

**35. State waste management and recycling plan.** “State waste management and recycling plan” means the plan adopted by the former Maine Waste Management Agency pursuant to chapter 24, subchapter 2, [6](#) subsequent plans developed by the former State Planning Office



pursuant to Title 5, former section 3305, subsection 1, paragraph N and the department pursuant to section 2122 and may also be referred to as “state plan.”

**36. Storage.** “Storage” means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of the hazardous wastes.

**37. Substantially expand.** “Substantially expand” means the expansion of an existing licensed hazardous waste facility by more than 25%, as measured by volume of waste or affected land area, from the date of its initial licensed operation.

**38. Transport.** “Transport” means the movement of hazardous or solid waste, waste oil, sludge or septage from the point of generation to any intermediate points and finally to the point of ultimate disposition. Movement of hazardous waste on the site where it is generated or on the site of a licensed waste facility for hazardous waste is not “transport.” Movement of waste oil on the site where it is generated or on the site of a licensed waste oil dealer’s facility is not “transport.”

**39. Treatment.** “Treatment” means any process, including but not limited to incineration, designed to change the character or composition of any hazardous waste, waste oil or biomedical waste so as to render the waste less hazardous or infectious.

**39-A. Uncontrolled tire stockpile.** “Uncontrolled tire stockpile” means an area or location, whether or not licensed, where used motor vehicle tires are or were handled, stored or disposed of in such a manner as to present a significant fire hazard or a threat to public health or to the quality of a classified body of surface water or a significant sand and gravel aquifer or fractured bedrock aquifer as defined in section 1310-N, subsection 2-A.

**39-B. Used oil.** “Used oil” means waste oil, as defined in subsection 42.

**39-C. Used oil collection center.** “Used oil collection center” means a site or facility where used oil is accepted from the public and collected or stored in an aboveground tank for recycling.

**40. Waste facility.** “Waste facility” means any land area, structure, location, equipment or combination of them, including dumps, used for handling hazardous, biomedical or solid waste, waste oil, sludge or septage. A land area or structure does not become a waste facility solely because:

- A.** It is used by its owner for disposing of septage from the owner’s residence;
- B.** It is used to store for 90 days or less hazardous wastes generated on the same premises;
- C.** It is used by individual homeowners or lessees to open burn leaves, brush, deadwood and tree cuttings accrued from normal maintenance of their residential property, when such burning is permitted under section 599, subsection 3; or
- D.** It is used by its residential owner to burn highly combustible domestic, household trash such as paper, cardboard cartons or wood boxes, when such burning is permitted under section 599, subsection 3.

**41. Waste management.** “Waste management” means purposeful, systematic and unified control of the handling and transportation of hazardous, biomedical or solid waste, waste oil, sludge or septage.

**42. Waste oil.** “Waste oil” means a petroleum-based or synthetic oil that, through use or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties. Waste oil that exhibits hazardous wastes characteristics, or has been contaminated with hazardous wastes in excess of quantities normally occurring in waste oil, is subject to the provisions of this chapter dealing with hazardous wastes.

**43. Waste oil dealer.** “Waste oil dealer” means any person in the business of transporting or handling more than 1,000 gallons of waste oil for the purpose of resale in a calendar month. A person who collects or stores waste oil on the site of generation, whether or not for the purpose of resale, is not a waste oil dealer.

**44. Waste reduction.** “Waste reduction” means an action that reduces waste at the point of generation and may also be referred to as “source reduction.”

**45. Waste resulting from agricultural activities.** “Waste resulting from agricultural activities” means wastes which result from agricultural activities defined in section 361-A, subsection 1-B, which are returned to the soils as fertilizers and includes waste pesticides when generated by a farmer in his own use, provided that he triple rinses each emptied pesticide container in accordance with departmental rules and disposes of the pesticide residues in a manner consistent with the disposal instructions on the pesticide label.

**46. Wood wastes.** “Wood wastes” means brush, stumps, lumber, bark, woodchips, shavings, slabs, edgings, slash and sawdust, which are not mixed with other waste.

**47. Yard wastes.** “Yard wastes” means grass clippings, leaves and other vegetal matter other than wood wastes and land clearing debris.

#### **Credits**

1989, c. 585, § E, 4; 1989, c. 794, § 2; 1989, c. 869, §§ A-3 to A-5; 1989, c. 878, § H-7, eff. April 20, 1990; 1989, c. 890, § B-225; 1989, c. 929, § 5; 1991, c. 72, §§ 1, 2, eff. May 6, 1991; 1991, c. 220, §§ 6-10, eff. May 31, 1991; 1991, c. 321; 1991, c. 492, §§ 1, 2; 1991, c. 517, § A-1, eff. June 28, 1991; 1991, c. 520, § 4; 1993, c. 355, §§ 46, 47, eff. June 16, 1993; 1993, c. 378, § 4, eff. June 16, 1993; 1993, c. 383, §§ 33, 34; 1993, c. 424, §§ 1, 2; R.R.1993, c. 1, § 131; 1993, c. 732, §§ A-7, A-8, eff. April 20, 1994; 1995, c. 462, §§ A-76, A-90, eff. July 3, 1995; 1995, c. 465, § A-12, eff. July 3, 1995; 1995, c. 573, §§ 1, 2; 1995, c. 625, § C-5, eff. April 8, 1996; 1995, c. 656, §§ A-19 to A-21; R.R.1995, c. 2, § 111; 1997, c. 393, § B-9, eff. June 5, 1997; 1997, c. 602, § 1, eff. March 17, 1998; 1999, c. 334, § 10; 1999, c. 393, § 1; 1999, c. 525, §§ 1, 2, eff. June 17, 1999; 2001, c. 247, § 1; 2005, c. 612, §§ 1, 2; 2007, c. 338, §§ 1, 2; 2007, c. 406, § 1; 2007, c. 414, § 1; 2007, c. 583, § 1; 2011, c. 206, § 20, eff. June 3, 2011; 2011, c. 655, §§ GG-7 to GG-9, eff. July 1, 2012.

Notes of Decisions (4)

Footnotes

- [1](#) 38 M.R.S.A. § 2101 et seq.
- [2](#) 38 M.R.S.A. § 1701 et seq.
- [3](#) 13 M.R.S.A. § 901 et seq.
- [4](#) 30-A M.R.S.A. § 2201 et seq.
- [5](#) 38 M.R.S.A. § 1316 et seq.
- [6](#) 38 M.R.S.A. § 2121 et seq.

38 M. R. S. A. § 1303-C, ME ST T. 38 § 1303-C  
Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of  
the 126th Legislature

## **Appendix B**

17 M.R.S.A. Ch. 80, Refs & Annos  
Chapter 80, Litter Control, was enacted by Laws 1971, c. 405, § 1.

17 M.R.S.A. § 2261

§ 2261. Title

Currentness

This chapter shall be known and may be cited as the “Maine Litter Control Act.”

### **Credits**

1971, c. 405, § 1.

Notes of Decisions (2)

17 M. R. S. A. § 2261, ME ST T. 17 § 2261

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2262

§ 2262. Purposes

Currentness

It is declared and recognized that the proliferation and accumulation of litter discarded throughout this State endangers the free utilization and enjoyment of a clean and healthful environment by the people and constitutes a public health hazard; and recognizing that there has been a collective failure on the part of government, business and the public to accept, plan for and accomplish effective litter control, there is enacted the “Maine Litter Control Act.”

### **Credits**

1971, c. 405, § 1.

17 M. R. S. A. § 2262, ME ST T. 17 § 2262

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2263

§ 2263. Definitions

Currentness

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1.** “Disposable package” or “container” means any and all packages or containers used for the purpose of containing a product sold or held out for sale for human or animal consumption.

**1-A. Repealed.** Laws 1989, c. 878, § B-12, eff. April 20, 1990.

**1-B. Department.** “Department” means the Department of Agriculture, Conservation and Forestry.

**1-C. Commercial purpose.** “Commercial purpose” means for the purpose of economic gain.

**1-D. Abandoned ice-fishing shack.** “Abandoned ice-fishing shack” means a temporary structure used for ice fishing and left on property not owned by the person owning the structure without permission of the landowner for more than 15 days after the inland waters on which the shack or structure was located are closed to ice fishing.

**2. Litter.** “Litter” means all waste materials including, but not limited to, bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, rubbish, offal, except waste parts or remains resulting from the normal field dressing of lawfully harvested wild game or the lawful use of waste parts or remains of wild game as bait, feathers, except feathers from live birds while being transported, abandoned ice-fishing shacks, old automobiles or parts of automobiles or similar refuse, or disposable packages or containers thrown or deposited as prohibited in this chapter, but not including the wastes of the primary processes of mining, logging, sawmilling, farming or manufacturing.

**3.** “Litter receptacle” means a container of suitable size which is clearly identified with a sign, symbol or other device as a place where the public may dispose of litter.

**4. Vehicle.** “Vehicle” means every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons, except motorcycles, farm implements and snowmobiles.

**4-A. Commercial vehicle.** “Commercial vehicle” means a vehicle owned or used by a business, corporation, association, partnership, or the sole proprietorship of any entity conducting business for a commercial purpose.

5. “Person” means any person, firm, partnership, association, corporation or organization of any kind whatsoever.

6. “Public place” means any area that is used or held out for use by the public whether or not owned or operated by public or private interests.

7. “Trailer” means any vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle.

8. “Watercraft” means any type of vessel, boat or craft used or capable of being used as a means of transportation on water.

#### **Credits**

1971, c. 405, § 1; 1973, c. 194; 1973, c. 235, § 1; 1975, c. 739, §§ 3 to 6; 1989, c. 820, §§ 2, 3, eff. April 10, 1990; 1989, c. 878, § B-12, eff. April 20, 1990; 1993, c. 144, §§ 3, 4; 1995, c. 667, § A-37, eff. April 11, 1996; 2001, c. 667, § A-33, eff. April 11, 2002.

Notes of Decisions (1)

17 M. R. S. A. § 2263, ME ST T. 17 § 2263

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2263-A

§ 2263-A. Littering

Currentness

**1. Prohibited acts.** A person may not throw, drop, deposit, discard, dump or otherwise dispose of litter in any manner or amount:

**A.** In or on public highway, road, street, alley, public right-of-way or other public lands, except in a container or receptacle or on property that is designated for disposal of garbage and refuse by the State or its agencies or political subdivisions;

**B.** In freshwater lake, river, stream, tidal or coastal water or on ice over the water. When any litter is thrown or discarded from a watercraft, a person is in violation of this section if that person is:

(1) The operator of the watercraft, unless it is a watercraft being used for the carriage of passengers for hire; or

(2) The person actually disposing of the litter.

This paragraph does not prohibit persons who fish, lobster or otherwise harvest from the water from returning to the water harvested products, bait and similar materials that naturally originate in the water;

**C.** In or on any private property, unless:

(1) Prior consent of the owner has been given; and

(2) The litter is not a public nuisance or in violation of any state law or local rule;

**D.** From a trailer or vehicle that is constructed, loaded or uncovered in such a way that the load may drop, sift, leak or otherwise escape. This paragraph applies to vehicles or trailers carrying trash, rubbish or other materials that may be construed as "litter"; or

**E.** From a vehicle. When any litter is thrown or discarded from a vehicle, a person is in violation of this section if that person is:

(1) The operator of the vehicle, unless it is a vehicle being used for the carriage of passengers for hire; or

(2) The person actually disposing of the litter.

In addition to any penalty under section 2264-A, violation of this subsection is a traffic infraction under Title 29-A, chapter 23, subchapter VI.<sup>1</sup>

A record of a violation of this subsection must be forwarded to the Secretary of State who, in accordance with Title 29-A, section 2607, shall add the violation to the department's point system. The violation is counted in determining an individual's total points under the point system of the Department of the Secretary of State, Bureau of Motor Vehicles.

**2. Commercial purpose presumed.** For the purposes of this chapter, if a person dumps litter from a commercial vehicle, that person is presumed to have dumped the litter for a commercial purpose.

#### **Credits**

2003, c. 452, § I-32, eff. July 1, 2004.

#### Footnotes

<sup>1</sup>

29-A M.R.S.A. § 2601, et seq.

17 M. R. S. A. § 2263-A, ME ST T. 17 § 2263-A

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2264

§ 2264. Repealed. Laws 2003, c. 452, § I-33, eff. July 1, 2004

Currentness

17 M. R. S. A. § 2264, ME ST T. 17 § 2264

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature



Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2264-A

§ 2264-A. Penalties  
Effective: September 28, 2011  
Currentness

Unless otherwise indicated, a person who disposes of litter in violation of this chapter commits a civil violation for which the following fines apply.

**1. Disposal of 15 pounds or less or 27 cubic feet or less of litter.** A person who disposes of 15 pounds or less or 27 cubic feet or less of litter commits a civil violation for which a fine of not less than \$100 and not more than \$500 may be adjudged.

**1-A. Disposal of 15 pounds or less or 27 cubic feet or less of litter; subsequent offenses.** A person who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not less than \$500 and not more than \$1,000 may be adjudged.

**2. Disposal of more than 15 pounds or more than 27 cubic feet of litter.** A person who disposes of more than 15 pounds or more than 27 cubic feet of litter commits a civil violation for which the court:

**A.** Shall impose a fine of not less than \$500;

**B.** Shall require the person to pay a party sustaining damages arising out of a violation of this subsection treble the actual damages or \$200, whichever amount is greater, plus the injured party's court costs and attorney's fees if action results in a civil proceeding;

**C.** Shall require the person to perform not less than 100 hours of public service relating to the removal of litter or to the restoration of an area polluted by litter disposed of in violation of this section. The court shall consult with the Commissioner of Inland Fisheries and Wildlife to determine if there is an opportunity for public service that may improve landowner and sportsman relations;

**D.** When practical, shall require the person to remove the litter dumped in violation of this subsection;

**E.** May suspend the person's motor vehicle operator's license for a period of not less than 30 days or more than one year, except as provided in paragraph F. Notwithstanding paragraph F, the court shall suspend all licenses and permits issued under Title 12, Part 13, subpart 4 and recreational vehicle registrations and certificates issued to that person under

Title 12, Part 13, subpart 6 for a period of not less than 30 days or more than one year; and

**F.** May suspend any license, permit, registration or certification issued by a state agency or municipality to the person. A professional license, permit, registration or certification required for that person to operate or establish a business or necessary for the person's primary source of employment may not be suspended unless the items dumped were related to the person's profession or occupation.

**2-A. Disposal of more than 15 pounds or more than 27 cubic feet of litter; subsequent offenses.** A person who violates subsection 2 after having previously violated subsection 2 commits a civil violation for which the penalty provisions under subsection 2 apply except for subsection 2, paragraph A, and a fine of not less than \$2,000 must be adjudged.

**3. Disposal of more than 500 pounds or more than 100 cubic feet of litter for a commercial purpose.** A person who disposes of more than 500 pounds or more than 100 cubic feet of litter for a commercial purpose is subject to the penalties under Title 38, section 349.

#### **Credits**

1989, c. 820, § 5, eff. April 10, 1990; 1993, c. 140, § 1; 2003, c. 452, §§ 1-34 to 1-37, eff. July 1, 2004; 2011, c. 208, § 4.

17 M. R. S. A. § 2264-A, ME ST T. 17 § 2264-A

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2264-B

§ 2264-B. Penalty options  
Effective: September 28, 2011  
Currentness

In addition to the fines imposed in section 2264-A, subsections 1 and 1-A, the court may order a person adjudicated to have violated section 2264-A, subsection 1 or subsection 1-A to:

- 1. Removal of litter.** Remove the litter dumped in violation of section 2264-A;
- 2. Cost of cleanup.** Pay the owner of the property treble the owner's cost of clean up or removal of the litter;
- 3. Damages.** Pay the person sustaining damages arising out of a violation of this subsection treble the actual damages or \$200, whichever amount is greater, plus the injured party's court costs and attorney's fees if action results in a civil proceeding;
- 4. Public service.** Perform public service relating to the removal of litter, or to the restoration of an area polluted by litter, dumped in violation of section 2264-A; and
- 5. License suspension.** Surrender the person's motor vehicle operator's license, a license or permit issued to that person under Title 12, Part 13, subpart 4 or a recreational vehicle registration or certificate issued to that person under Title 12, Part 13, subpart 6 for a period not exceeding 30 days. The court may suspend an operator's license for any violation of section 2264-A, subsection 1 or subsection 1-A that involves the use of a motor vehicle.

**Credits**

1989, c. 820, § 5, eff. April 10, 1990; 2003, c. 452, §§ 1-38, 1-39, eff. July 1, 2004; 2007, c. 651, § 21, eff. April 18, 2008; 2009, c. 424, § 1; 2011, c. 208, §§ 5, 6.

17 M. R. S. A. § 2264-B, ME ST T. 17 § 2264-B  
Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2264-C

§ 2264-C. Forfeiture

Currentness

All conveyances, including aircraft, watercraft, vehicles, vessels, containers or cranes that are used, or attempted to be used, to dump more than 1,000 pounds or more than 100 cubic feet of litter in violation of section 2264-A are subject to forfeiture as provided in Title 15, chapter 517.<sup>1</sup>

**Credits**

1989, c. 820, § 5, eff. April 10, 1990; 2003, c. 452, § 1-40, eff. July 1, 2004.

**Footnotes**

1

15 M.R.S.A. § 5821 et seq.

17 M. R. S. A. § 2264-C, ME ST T. 17 § 2264-C

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2265

§ 2265. Repealed. Laws 1989, c. 820, § 6, eff. April 10, 1990

Currentness

17 M. R. S. A. § 2265, ME ST T. 17 § 2265

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2266

§ 2266. Repealed. Laws 1989, c. 820, § 7, eff. April 10, 1990

Currentness

17 M. R. S. A. § 2266, ME ST T. 17 § 2266

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2267

§ 2267. Repealed. Laws 1989, c. 820, § 8, eff. April 10, 1990

Currentness

17 M. R. S. A. § 2267, ME ST T. 17 § 2267

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2267-A

§ 2267-A. Submerged motor vehicles, snowmobile and watercraft in waters of the State  
Effective: September 12, 2009  
Currentness

The following provisions apply when a motor vehicle is submerged or partially submerged in waters of the State or when a snowmobile or watercraft is submerged in the inland waters of the State.

**1. Definition.** When used in this section the term “motor vehicle” means any self-propelled vehicle designed to carry persons or property or used to transport persons, except snowmobiles and watercraft. The term “watercraft,” when used in this section, means any type of craft placed on the inland waters of the State, whether used as a means of transportation or for other purposes.

**2. Notice of submerged vehicle, snowmobile or watercraft to be given to department.** The owner of any motor vehicle that becomes submerged or partially submerged in the waters of the State shall immediately, by the fastest means of communication, notify the Commissioner of Inland Fisheries and Wildlife of the event and the location of the vehicle. The owner of a snowmobile or watercraft that becomes submerged in the inland waters of the State for more than 24 hours shall notify the commissioner as provided in this subsection.

The commissioner shall, upon receiving notice of a submerged or partially submerged vehicle in the waters of the State or a submerged snowmobile or watercraft in the inland waters of the State, notify the Chief of the State Police, the Commissioner of Environmental Protection and any municipality or public utility that regulates the uses of the waters as a source of public water supply pursuant to Title 22, sections 2641 to 2648.

**3. Owner legally liable to remove vehicle, snowmobile or watercraft.** The owner of the vehicle is legally liable to remove any motor vehicle submerged or partially submerged in the waters of the State and pay any damages resulting from the submersion or removal. The vehicle must be removed within 30 days of the submersion or partial submersion or within 30 days of “ice out” in the body of water unless the commissioner determines that the vehicle creates a health or safety hazard. If the commissioner determines that the vehicle creates a health or safety hazard the commissioner shall order the owner to remove the vehicle immediately. If the owner fails to remove the vehicle upon order of the commissioner, the commissioner shall, in writing, request the court to direct the owner to remove the vehicle immediately. The owner of a snowmobile or watercraft that is submerged in the inland waters of this State for longer than 24 hours shall remove the snowmobile or watercraft in accordance with this subsection.

**4. Financial responsibility.** A conviction or adjudication of any person for a violation of this

section constitutes a violation of state law relative to motor vehicles to which Title 29-A, chapter 13<sup>1</sup> applies.

**5. Penalties.** A violation of this section is a civil violation for which a forfeiture of \$200 may be adjudged. In addition to a forfeiture, or instead of a forfeiture, the judge may direct the person convicted to remove the vehicle, snowmobile or watercraft.

**6. Rules.** The commissioner may, in accordance with the provisions of Title 5, chapter 375,<sup>2</sup> adopt any rules necessary to carry out the purposes of this chapter.

#### **Credits**

1981, c. 578; 1995, c. 65, § A-52, eff. May 11, 1995; 2001, c. 536, § 3, eff. March 18, 2002; 2009, c. 340, § 26.

#### Footnotes

1

29-A M.R.S.A. § 1551 et seq.

2

5 M.R.S.A. § 8001 et seq.

17 M. R. S. A. § 2267-A, ME ST T. 17 § 2267-A

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2268

§ 2268. Enforcement

Currentness

Every law enforcement officer in the State, including but not limited to State Police, county sheriffs and their deputies, municipal police, wardens of the Department of Inland Fisheries and Wildlife, wardens of the Department of Marine Resources, rangers of the Division of Forestry and liquor inspectors of the Department of Public Safety shall have authority to enforce this chapter.

Political subdivisions of the State may offer rewards for information which lead to the conviction of violators of this chapter.

**Credits**

1971, c. 405, § 1; 1973, c. 460, § 18; 1973, c. 513, § 22; 1973, c. 537, § 20; 1975, c. 739, § 13.

17 M. R. S. A. § 2268, ME ST T. 17 § 2268

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature



Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2269

§ 2269. Repealed. Laws 2003, c. 452, § I-41, eff. July 1, 2004

Currentness

17 M. R. S. A. § 2269, ME ST T. 17 § 2269

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2269-A

§ 2269-A. Litter receptacles; selection and placement

Currentness

**1. Procure, place and maintain litter receptacles.** A person who owns or operates an establishment or public place in which litter receptacles are required by this chapter shall procure, place and maintain receptacles at the person's own expense in accordance with this chapter.

**2. Required placement.** Litter receptacles as defined in section 2263 must be placed at all public places or establishments that serve the public, including, but not limited to: campgrounds, trailer parks, drive-in restaurants, gasoline service stations, parking lots, shopping centers, grocery store parking lots, parking lots of major industrial firms, marinas, boat launching areas, boat moorage and fueling stations, beaches and bathing areas, school grounds and business district sidewalks. The number of receptacles required is as follows:

**A.** For a campground or trailer park for transient habitation, one receptacle at each public rest room facility;

**B.** For a drive-in restaurant, parking lot, shopping center, grocery store parking lot or parking lot of a major industrial firm, one receptacle, plus one additional receptacle for each 200 parking spaces in excess of 50 spaces;

**C.** For a gasoline service station, one receptacle per gasoline pump island;

**D.** For a marina, boat launching area or boat moorage and fueling station, one receptacle at each location;

**E.** For a beach or bathing area, one receptacle at each public rest room facility;

**F.** For school grounds, one receptacle at each playground area and one at each school bus loading zone; and

**G.** For business district sidewalks, one receptacle per 1,000 feet of sidewalk curbing.

**3. Exception; remote forest campsites.** Remote forest campsites operated by the Department of Agriculture, Conservation and Forestry pursuant to Title 12, chapter 220, subchapter 2, are not considered public places or establishments that serve the public if they are designated as “carry-in and carry-out” sites from which users are expected to remove litter and other material upon their departure.

**4. Penalties.** A person who operates a business of a type described in this section commits a civil violation for which a fine of \$10 for each violation may be adjudged if that person:

**A.** Fails to place the litter receptacles on the premises in the numbers required; or

**B.** Fails to comply within 10 days of being notified by registered letter by the Department of Agriculture, Conservation and Forestry that that person is in violation.

Each day a violation continues is a separate offense.

#### **Credits**

2003, c. 452, § I-42, eff. July 1, 2004.

17 M. R. S. A. § 2269-A, ME ST T. 17 § 2269-A

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2270

§ 2270. Responsibility for maintenance of litter receptacles

Currentness

Responsibility for the removal of litter from litter receptacles placed at parks, beaches, campgrounds, trailer parks and other publicly owned public places shall remain upon those state and local agencies performing litter removal, and removal of litter from litter receptacles placed upon privately owned public places shall remain the responsibility of the owner of said premises.

**Credits**

1971, c. 405, § 1.

17 M. R. S. A. § 2270, ME ST T. 17 § 2270

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2271

§ 2271. Local regulations

Currentness

Municipalities of this State may adopt more stringent ordinances, laws or regulations dealing with subject matter of this chapter. Any less restrictive ordinances, laws or regulations now in effect dealing with the subject matter of this chapter and the minimum standards which it establishes are declared invalid and of no force and superseded by this chapter on September 23, 1971.

**Credits**

1971, c. 405, § 1; 1971, c. 622, § 61, eff. March 15, 1972.

17 M. R. S. A. § 2271, ME ST T. 17 § 2271

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2272

§ 2272. Promiscuous dumping prohibited

Currentness

No person shall deposit household garbage, leaves, clippings, prunings or gardening refuse in any litter receptacle.

Persons violating the provisions of this section are liable for the same penalties as provided for violation of section 2264-A.

**Credits**

1975, c. 739, § 15; 2003, c. 452, § I-43, eff. July 1, 2004.

17 M. R. S. A. § 2272, ME ST T. 17 § 2272

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2273

§ 2273. Penalty warning signs

Currentness

Within the limits of its budget, the Department of Transportation may erect one sign within each 100 miles of state highway mileage in each county, warning motorists of the penalties for littering or asking for their cooperation in keeping the highways clean. One such sign shall be located within a reasonable distance of all state highway entry points into this State from other states or countries. If the state highway leads to or from an international border crossing point, the sign shall be bilingual.

**Credits**

1975, c. 739, § 15.

17 M. R. S. A. § 2273, ME ST T. 17 § 2273

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated

Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2274

§ 2274. Fines, distribution

Currentness

All fines levied and collected for violations of this chapter shall be distributed as follows:

If the fine resulted from a complaint by a law officer of a state agency which receives a major share of its financial support from dedicated revenue, the fine, less court costs, shall be reimbursed to that agency; or

If the fine resulted from a complaint of a law officer of a state agency supported primarily by a General Fund appropriation, the fine, less court costs, shall be reimbursed to the department to be used in an anti-litter educational program and shall be in addition to other General Fund money appropriated for that purpose.

**Credits**

1975, c. 739, § 15; 1989, c. 878, § B-13, eff. April 20, 1990.

17 M. R. S. A. § 2274, ME ST T. 17 § 2274

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2275

§ 2275. Driver license and registration procedures

Currentness

The Bureau of Motor Vehicles shall include a summary of this chapter with each reregistration and new vehicle operator license issued.

The Bureau of Motor Vehicles shall include a summary of this chapter in the next revision and printing of the driver license information materials.

**Credits**

1975, c. 739, § 15; 1989, c. 878, § B-14, eff. April 20, 1990; 1991, c. 837, § A-45, eff. April 8, 1992.

17 M. R. S. A. § 2275, ME ST T. 17 § 2275

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

Maine Revised Statutes Annotated  
Title 17. Crimes (Refs & Annos)  
Chapter 80. Litter Control (Refs & Annos)

17 M.R.S.A. § 2276

§ 2276. Local regulations

Currentness

Municipalities of this State may adopt more stringent ordinances, laws or regulations dealing with the subject matter of this chapter. Any less restrictive ordinances, laws or regulations now in effect dealing with the subject matter of this chapter and the minimum standards which it establishes are declared invalid and of no force and superseded by this chapter on its effective date.

**Credits**

1975, c. 739, § 15.

17 M. R. S. A. § 2276, ME ST T. 17 § 2276

Current with emergency legislation through Chapter 453 of the 2013 Second Regular Session of the 126th Legislature

**Appendix B (Article 10; pg. 9)**

**3.4 Permitted, Conditional, and Excluded Uses by District:**

All land use activities, as indicated in the following table, shall conform with all of the applicable land use standards in Sections 6.A., 6.B., and 6.C. The district designation for a particular site shall be determined from the Official Land Use Zoning map.

- P Use allowed without a permit** (but the use must comply with all applicable land use standards)
- C Use allowed with conditional use approval from the Planning Board**
- X Use is prohibited**
- CEO Use allowed with a permit from the code enforcement officer**

- VR1 VILLAGE RESIDENTIAL ONE
- VR2 VILLAGE RESIDENTIAL TWO
- R1 RESIDENTIAL ONE
- R2 RESIDENTIAL TWO
- SR1 SHORELAND RESIDENTIAL ONE
- SR2 SHORELAND RESIDENTIAL TWO
- SR3 SHORELAND RESIDENTIAL THREE
- SR5 SHORELAND RESIDENTIAL FIVE
- RW2 RURAL OR WOODLAND TWO
- RW3 RURAL OR WOODLAND THREE
- VC VILLAGE COMMERCIAL
- SC SHORELAND COMMERCIAL
- RP RESOURCE PROTECTION
- C CONSERVATION
- SP STREAM PROTECTION

See table of uses on following pages

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| LAND USE:                          | Districts    |            |                              |              |    |    |   |    |    |
|------------------------------------|--------------|------------|------------------------------|--------------|----|----|---|----|----|
|                                    | VR 1<br>VR 2 | R 1<br>R 2 | SR 1<br>SR 2<br>SR 3<br>SR 5 | RW 2<br>RW 3 | VC | SC | C | RP | SP |
| <b>RESIDENTIAL</b>                 |              |            |                              |              |    |    |   |    |    |
| Cluster and Workforce Subdivisions | C            | C          | X                            | C            | C  | X  | X | X  | X  |
| Mobile Home Park                   | C            | X          | X                            | X            | X  | X  | X | X  | X  |

(c) A separate garage is an accessory structure. A separate garage with a dwelling unit shall be

| LAND USE:                                                                         | Districts                       |                                 |                                 |                                 |                                 |                                 |                                 |     |     |
|-----------------------------------------------------------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|-----|-----|
|                                                                                   | VR 1<br>VR 2                    | R 1<br>R 2                      | SR 1<br>SR 2<br>SR 3<br>SR 5    | RW 2<br>RW 3                    | VC                              | SC                              | C                               | RP  | SP  |
| deemed a dwelling unit.<br>(d) See Section 6B.4011.3 (Lots)                       |                                 |                                 |                                 |                                 |                                 |                                 |                                 |     |     |
| <b>COMMERCIAL</b>                                                                 |                                 |                                 |                                 |                                 |                                 |                                 |                                 |     |     |
| Timber harvesting <sup>10</sup>                                                   | CEO<br>or<br>G <sup>10</sup> NA | CEO<br>or<br>G <sup>10</sup> NA | CEO<br>or<br>G <sup>10</sup> NA | CEO<br>or<br>G <sup>10</sup> NA | CEO<br>or<br>G <sup>10</sup> NA | CEO<br>or<br>G <sup>10</sup> NA | CEO<br>or<br>G <sup>10</sup> NA | XNA | XNA |
| <b>MISCELLANEOUS</b>                                                              |                                 |                                 |                                 |                                 |                                 |                                 |                                 |     |     |
| Forest Management Activities except for timber harvesting & land management roads | P                               | P                               | CEO                             | P                               | P                               | P                               | P                               | X   | P   |
| Land management roads                                                             | P                               | P                               | CEO                             | P                               | P                               | P                               | P                               | C   | C   |

Note: Some footnotes have been deleted. – namely 1,2,3 & 5. 4,6,7,8 & 9 retained.

<sup>4</sup> Provided that a variance from the setback requirement is obtained from the Board of Appeals; otherwise the setback is 75 feet. Any Excavation or Filling must be limited to that necessary for the construction of approved structures.

<sup>6</sup> See further restrictions in Section 6C.5.2

<sup>7</sup> Only as provided in Section 6C.9.3

<sup>8</sup> Single family residential structures may be allowed by special exception only according to the provisions of Section 7.5.3, Special Exceptions. Two-family residential structures are prohibited.

<sup>9</sup> Permit not required but must file a written “notice of intent to construct” with CEO.

<sup>10</sup> Timber Harvesting is regulated by the Bureau of Forestry in the Department of Agriculture, Conservation and Forestry.

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Section 3.5 Dimensional Requirements for Districts: minimum area, width of lots, setbacks, etc.

| DISTRICTS                                                                                                       | SR1 see Note (f)              | SR2 see Note (f)              | SR3 see Note (f)              | SR5 see Note (f)              |
|-----------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b>DIMENSIONS see Notes (b) (h<sup>2</sup>)</b>                                                                 |                               |                               |                               |                               |
| MINIMUM LOT AREA:<br>with public sewer                                                                          | 1 acre                        | 2 acres                       | 3 acres                       | 5 acres                       |
| without public sewer                                                                                            | N/A                           | 2 acres                       | 3 acres                       | 5 acres                       |
| MINIMUM WIDTH OF LOTS:<br>Shore Frontage                                                                        | <del>250</del> <u>200</u> ft. | <del>250</del> <u>200</u> ft. | <del>250</del> <u>200</u> ft. | <del>250</del> <u>200</u> ft. |
| SETBACKS FROM:<br>normal high water line of a water body (stream), tributary stream or upland edge of a wetland | 75 ft.                        | 75 ft.                        | 75 ft.                        | 75 ft.                        |
| Great Ponds (n)                                                                                                 | 100 ft. (n)                   | 100 ft. (n)                   | 100 ft. (n)                   | 100 ft. (n)                   |
| public or private road*                                                                                         | 50 ft.                        | 50 ft.                        | 50 ft.                        | 50 ft.                        |
| property lines (d)**<br>* see Note (c) ** see Note (d)                                                          | 25 ft.                        | 25 ft.                        | 25 ft.                        | 25 ft.                        |
| MAXIMUM LOT COVERAGE                                                                                            | 15% <del>20</del> <u>20</u> % | 15% <del>20</del> <u>20</u> % | 15% <del>20</del> <u>20</u> % | 15% <del>20</del> <u>20</u> % |
| MINIMUM DISTANCE BETWEEN PRINCIPAL BUILDINGS                                                                    | 30 ft.                        | 30 ft.                        | 30 ft.                        | 30 ft.                        |

NOTES:

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(f) Within the shoreland zone: No new lot shall be created except in conformity with all of the requirements of this Ordinance for the district in which it is located. In addition to shore frontage, refer to Section 6B.4011.4.3 for the required minimum lot width. For the required measurements, refer to shore frontage and minimum lot width in Section 8. When a legally existing parcel does not contain any shore frontage, the lot may be divided such that the newly created lots do not contain any shore frontage as otherwise required in Sections 3.5 and 6B.11.4.3, provided that all other minimum lot dimensional

standards are met, including but not limited to lot area and minimum lot width.

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**6A GENERAL PERFORMANCE STANDARDS**  
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**6A.8 Vegetation**

1. **Clearing.** Clearing of trees or conversion to other vegetation is allowed for permitted construction provided that:
  1. Appropriate measures are taken, if necessary, to prevent erosion when activity is undertaken.
  2. The activity is in conformity with Section 6C.3, clearing or removal of vegetation for activities other than timber harvesting.
2. **Tree removal near town or state roads.** Removal of more than 25% of the trees within 25 feet of any town or state road in any 12 month period (except for those required to complete permitted construction) shall require a Conditional Use Approval of the Planning Board. Other woody plants must be retained or replaced with native species.
3. **Slash.** No accumulation of slash shall be left within 50 feet of any town or state road or within 50 feet of the normal high-water line of any water body, and in shoreland zone shall comply with the standards of Section 6C.3. Slash shall be disposed of so that no part extends more than 4 feet above the ground.
4. ~~**CEO Permit.** A CEO Permit is required for cutting timber larger than 4 inches in diameter measured 4 ½ feet above ground when the total amount to be cut is greater than 10 cords but less than 50 cords in any one year period.~~
5. ~~**Conditional Use Approval.** Conditional Use Approval is required from the Planning Board for cutting timber larger than 4 inches in diameter measured 4 ½ feet above ground when the total amount to be cut is 50 cords or more in any one year period.~~

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**6B SPECIFIC PERFORMANCE STANDARDS FOR ACTIVITIES AND LAND USES**  
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**6B.9 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. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
3. 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 classified GPA or river flowing to a great pond classified GPA, 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.
4. 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 except a canopy shall be attached to the recreational vehicle.
5. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
6. 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 land owner is required.
7. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

**6B.910 Home occupations and home offices**

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**6B.101 Lots**

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**6B.142 Manufactured Homes**

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**6B.123 Mineral Extraction and Exploration**

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**6B.134 Mobile Homes (temporary), Campers, Trailers and Recreational Vehicles**

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**6B.145 Sanitary Standards**

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**6B.156 Sign Regulations**

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**6B.167 Vehicles, Unregistered**

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**6B.178 Wireless Communication Facilities**

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**6B.189. Animal Husbandry & Animal Husbandry 2**

**SHORELAND ZONING STANDARDS**

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**6C.3 Clearing or Removal of Vegetation For Activities Other Than Timber Harvesting**

**7. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

1. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

1. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

2. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is

required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

3. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
  4. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
  5. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
2. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
1. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
    - (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
    - (ii) Stumps from the storm-damaged trees may not be removed;
    - (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
    - (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
  2. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

**8. Exemptions to Clearing and Vegetation Removal Requirements.** The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
  1. A coastal wetland; or
  2. A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
6. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  1. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  2. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  3. If applicable clearing and vegetation removal standards are exceeded due to

the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

**NOTE:** An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program: [http://www.maine.gov/dacf/mnap/features/invasive\\_plants/invasives.htm](http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm)

7. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

**9. Revegetation Requirements.** When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

4. Revegetation activities must meet the following requirements for trees and saplings:

1. All trees and saplings removed must be replaced with native noninvasive species;

2. Replacement vegetation must at a minimum consist of saplings;

3. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;

4. No one species shall make up 50% or more of the number of trees and saplings planted;

- 5. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
- 6. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- 5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
  - 1. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  - 2. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - 3. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - 4. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - 5. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- 6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
  - 1. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - 2. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
  - 3. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

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## **6C.7 Marine and Freshwater Structure Performance Standards**

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5. **No new structures.** No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity. A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as a watercraft.

## **6C.11 Timber Harvesting**

1. ~~**Resource Protection and Stream Protection Districts.** In the Resource Protection and Stream Protection Districts, timber harvesting is prohibited.~~
2. ~~**Areas other than Resource Protection or Stream Protection.** Except in areas as described in Section 6C.11.1. above, timber harvesting shall conform with the following provisions:~~
  1. ~~**40% limit.** Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:~~
    1. ~~**No clearcuts within shoreline setback.** Within one hundred (100) feet, horizontal distance, of the normal high-water line of 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 clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.~~
    2. ~~**Cleared openings farther than shoreline setback.** 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, tributary streams or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.~~
  2. ~~**Harvesting in excess of 40%.** Timber harvesting operations exceeding the 40% limitation in Section 6C.11.2.1 above may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the~~

~~purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.~~

- ~~3. **Accumulation of slash.** 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.~~
- ~~4. **Stream channel travel prohibited.** Timber harvesting equipment shall not use stream channels as travel routes except when:
  - ~~1. Surface waters are frozen; and~~
  - ~~2. The activity will not result in any ground disturbance.~~~~
- ~~5. **Crossing of flowing water.** All crossings of flowing water 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.~~
- ~~6. **Skid trail runoff.** Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.~~
- ~~7. **Soil exposure setback.** 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, horizontal distance, 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, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.~~

**6C.4211**Water Quality

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**SECTION 7 CODE ENFORCEMENT OFFICER**

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**7.5 Procedure for Administering Permits**

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- 3. **Special Exceptions.** In addition to the criteria specified in Section 5.9 above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

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- 4. The total footprint ~~ground floor area~~, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1500 square feet. This limitation shall not be altered by variance.

**SECTION 8 DEFINITIONS**

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- BUREAU OF FORESTRY:** State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

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- COASTAL WETLAND:** All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service Association. Coastal wetlands may include portions of coastal sand dunes. All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

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- EXPANSION OF A STRUCTURE:** An increase in the footprint ~~floor area or volume~~ of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

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- EXPANSION OF A USE:** The additional use of more ~~floor~~ footprint of a structure, land or water area devoted to a particular use; additional one or more weeks of the use's operating season; or additional business hours of operation.

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- ~~**FOREST MANAGEMENT ACTIVITIES:** Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.~~

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**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 or inland waters and that can not 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), finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water dependent use.

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**HAZARD TREE:** a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

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**LAND MANAGEMENT ROAD:** A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

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**NON-CONFORMING STRUCTURE:** A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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**NON-NATIVE INVASIVE SPECIES OF VEGETATION:** species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

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**OUTLET STREAM:** any perennial or intermittent stream, as shown on the most recent highest

resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

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**PRINCIPAL STRUCTURE OR USE:** A structure or use other than one which is wholly incidental or accessory to another structure or use on the same premises-lot.

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**SAPLING:** a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

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**SEEDLING:** a young tree species that is less than four and one half (4.5) feet in height above ground level.

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~~**SKID ROAD OR SKID TRAIL:** A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.~~

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**STORM-DAMAGED TREE:** a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

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**STRUCTURE:** Anything temporarily or permanently located, built, constructed or erected, for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected as a permanent fixture on, above, or below the surface of the land, or water. The term includes structures temporarily or permanently located, including a porches, decks or patios. ~~Anything constructed or erected that would be considered a structure but for the fact that it is temporary and not permanent which is within the shoreland zone as defined will also be considered a structure.~~ The term structure shall not include flagpoles, church steeples, fences, poles customarily used for the transmission of electricity, television antennas, mailboxes radio antennas, driveways, roads, and subsurface wastewater disposal systems and wells. Sign posts, as referenced in the "Ordinance Regulating the Building and Street Numbering in the Town of Mount Desert", shall not be included as structures.

A. Permanent: A building or structure that is intended to remain in place for a period of more than 180 days in any consecutive 12-month period.

B. Temporary: A building or structure not meeting the definition of permanent.

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**TREE:** ~~A woody perennial plant whose trunk is 4" in diameter or more, measured at 4½' above ground level. A woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.~~ ~~fixed exterior wall planes as measured from the exterior faces of these walls and roof. (Excluding foundations, but including basements as defined in this section.)~~

**Appendix C.1 (Article 22; warrant pg. 18)**

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|--------------------------|-----------|
| <i>Internal Use Only</i> |           |
|                          | TEDOCS #: |
| CT#:                     | _____     |
| CSN#:                    | _____     |

**STATE OF MAINE DEPARTMENT OF TRANSPORTATION  
MUNICIPAL PARTNERSHIP AGREEMENT**

**WIN 21930.08**

**REGARDING**

**ROUTE 3, MOUNT DESERT**

This Cooperative Agreement (AGREEMENT) is entered into by and between the MAINE DEPARTMENT OF TRANSPORTATION (“MaineDOT”), an agency of state government with its principal administrative offices located on Child Street, Augusta, Maine, and the **TOWN OF MOUNT DESERT** (“MUNICIPALITY”), a municipality in the State of Maine with offices located at **21 SEA STREET, MOUNT DESERT, ME.**

**WHEREAS,**

**MOUNT DESERT** shall perform a **HIGHWAY REHABILITATION** project (the “Project”). The work will consist of full depth pavement reclamation with drainage improvements and HMA overlay on ROUTE 3 from RLM 118.21 to RLM 119.31 (the Work”). **MOUNT DESERT** estimates this project at **\$1,000,000.00**

**MOUNT DESERT SHALL:**

- A. Procure all contracts for and oversee the Project on **ROUTE 3** for the Work outlined above.
- B. Cause such Work to be performed in accordance with a design by an engineer licensed in the State of Maine. The Licensed Engineer shall provide a certification to the Municipality and to MaineDOT that, in his/her professional opinion, the Project as designed will provide a smooth ride, not reduce the safety, mobility or structural quality of the state [state aid] road. All design documents must be stamped and signed in accordance with this provision by the Professional Engineer.
- C. Agree to secure all necessary Federal, State and Local permits necessary to complete the work. **MOUNT DESERT** also agrees to secure any needed property rights in accordance with all applicable State and Federal Law.

- D. Agrees that any exceptions to State Design Standards shall be documented as part of this process. This documentation shall compare the new design to the existing conditions for each of the exceptions to current design standards. Any such exceptions shall be displayed on the cover sheet for the Project plans with the signature and PE stamp of the engineer responsible for the design of the Project.
- E. Be responsible, within the Project limits, for the following:
  - a. Ensuring that the safety of the corridor and the life of the resulting structural and design elements are equal to or better than existing conditions and design;
  - b. Ensuring that the structures, roadways and/or design features affected by the Project work shall, at a minimum, be of equal dimensions to the existing features or structures and shall be of improved quality in terms of materials and utility;
  - c. Ensuring that the Project does not introduce any unanticipated safety hazards to the traveling public;
  - d. Ensuring that the Project retains the same level of mobility or improves mobility of travel within the corridor;
  - e. Ensuring that the Project does not in any manner decrease the life expectancy of this component of Maine's transportation system; and,
  - f. Ensuring that the Project meets the most recent standards of Americans with Disabilities Act of 1990 (ADA) design requirements.
- F. Provide certification through their Engineer to MaineDOT that the Project is complete and was constructed as designed.
- G. Ensure that construction shall commence within EIGHTEEN (18) months and shall be certified complete within THIRTY SIX (36) months of execution of this agreement. **MOUNT DESERT** may forfeit the unpaid balance of this grant if these deadlines are not met or they can not demonstrate earnest and good faith efforts to meet them.
- H. Be responsible for or cause its contractors to be responsible for all damage to public or private property of any kind resulting from any act, omission, neglect or misconduct of **MOUNT DESERT** or its contractors, including damage to vehicles passing through the Project limits.
- I. Bear all risk of loss relating to the Project and the Work regardless of cause.

**MAINEDOT SHALL:**

- A. **Provide a maximum \$500,000.00 in State funds supporting the Work stated above.** Reimbursement will be made by the Department at a minimum of 1/3 project completion upon receipt of supporting cost documentation from the Municipality. Payments will be made per Appendix A attached. The Department's Region Engineer shall review the costs and certify their eligibility prior to reimbursement of Municipal



Partnership Initiative Funds. Payment by MaineDOT Municipal Partnership Initiative funds shall not exceed **\$500,000.00** or 50% of the actual costs incurred and paid by the Municipality.

- B. This project has been approved for Calendar Year 2019.** If the **Municipality** commences construction of the project as outlined above prior to January 1, 2019, the Municipality assumes the risk and responsibility for costs incurred, in the event that funding levels fall below MaineDOT projections. If this occurs, the Municipality will not receive reimbursement from MaineDOT.

**The TOWN OF MOUNT DESERT** and MaineDOT agree to function within all applicable laws, statutes, regulations, and AGREEMENT provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this AGREEMENT.

**IN WITNESS WHEREOF**, the parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed.

**TOWN OF MOUNT DESERT**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
**Durlin Lunt**  
**Town Manager**

**STATE OF MAINE**  
**DEPARTMENT OF TRANSPORTATION**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
**David Bernhardt, PE**  
**Commissioner**

**APPENDIX A**

**PROJECT SCOPE AND COST SHARING  
MAINE DEPARTMENT OF TRANSPORTATION**

Municipal Partnership Initiative Project

**MUNICIPALITY OF MOUNT DESERT**

PROPOSED IMPROVEMENTS TO: ROUTE 3

STATE PROJECT IDENTIFICATION NUMBER (WIN) 21930.08

FUNDED CONSTRUCTION YEAR 2019

**Project Scope:** Highway Rehabilitation

**Funding Outline:** The Total Project Estimated Cost is \$1,000,000.00, and the Parties agree to share costs through all stages of the Project under the terms outlined below.

| Work Element                                           | Municipal Share |                     | State Share |            | Total Cost   |
|--------------------------------------------------------|-----------------|---------------------|-------------|------------|--------------|
|                                                        | %               | \$                  | %           | \$         | \$           |
| Project Costs                                          | 50              | 500,000.00          | 50          | 500,000.00 | 1,000,000.00 |
| <b>PROJECT SHARES</b>                                  |                 |                     |             |            |              |
| Total Cost of Additional Work above agreement estimate | 100%            |                     |             |            |              |
| <b>TOTAL ESTIMATED MUNICIPAL REIMBURSEMENT</b>         |                 | <b>\$500,000.00</b> |             |            |              |

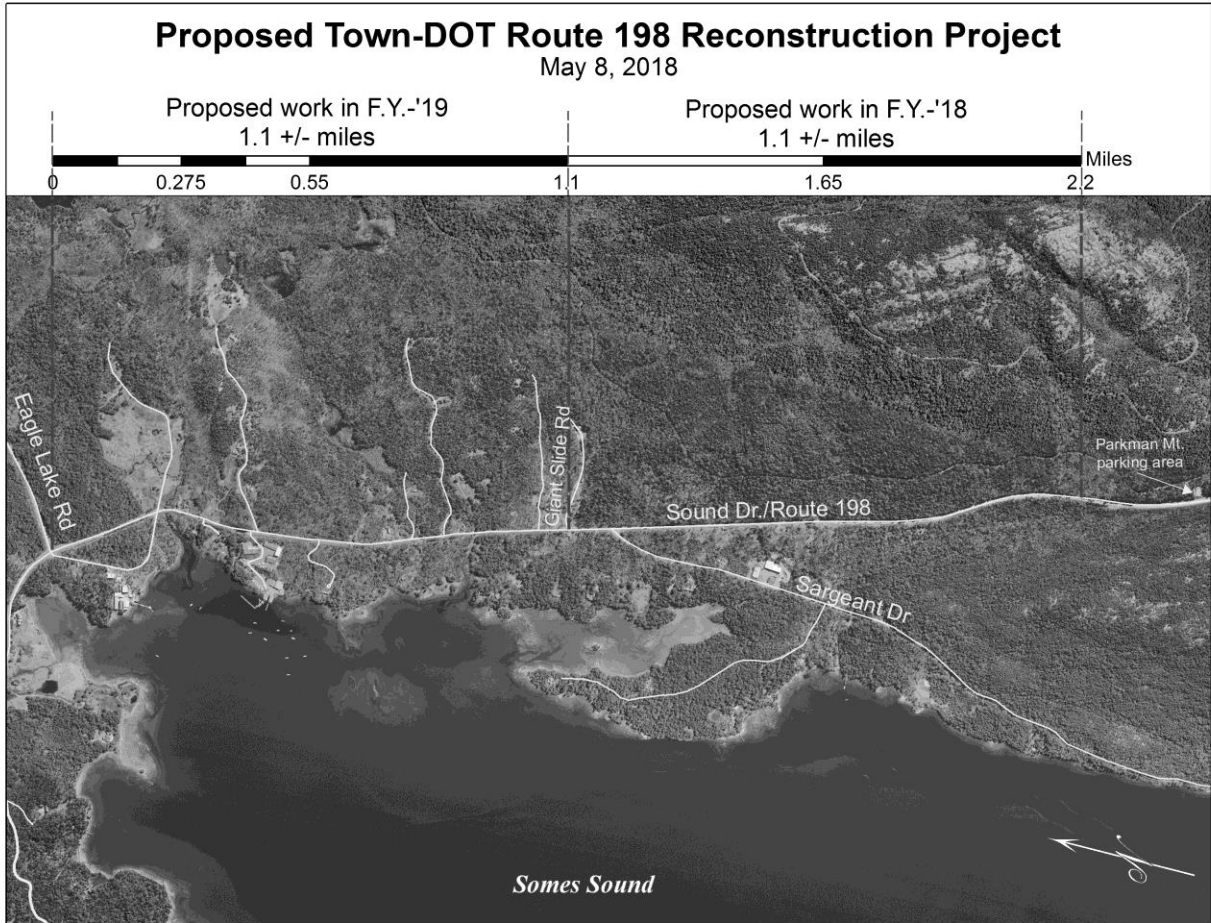
**REIMBURSEMENT SCHEDULE:**

Upon 1/3 project completion, the municipality may begin invoicing the Department. Preferred invoicing interval is 1/3, 2/3, final, the Department will accept monthly invoices after 1/3 project completion with a maximum invoice submittal not to exceed 5 invoices.

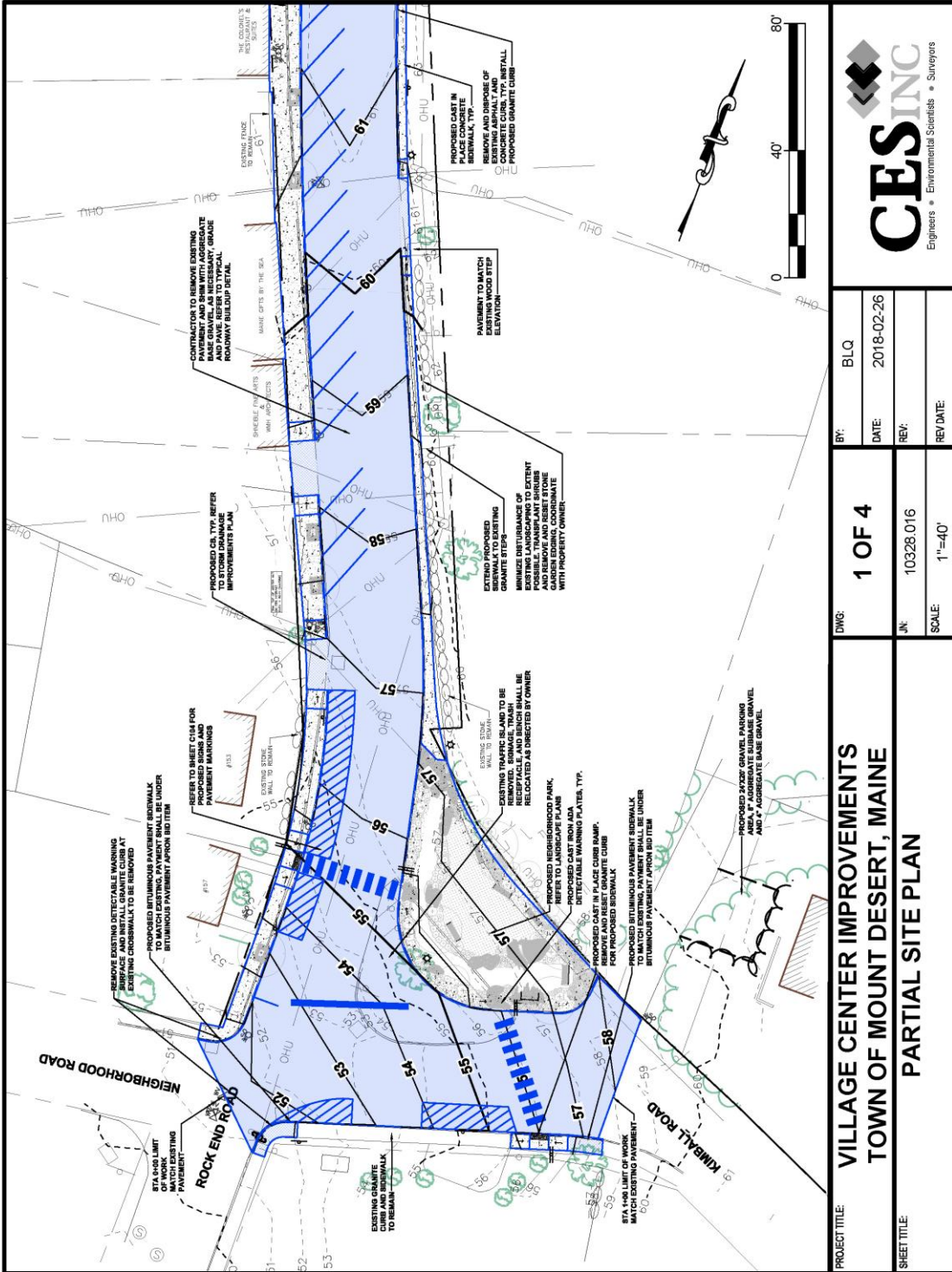
**DESIGN EXCEPTIONS REQUIRED:**  YES  NO

Design exceptions were required for this project. Please see attached approval from MaineDOT Chief Engineer outlining design exceptions.

Appendix C.2 (Article 22; pg. 18)



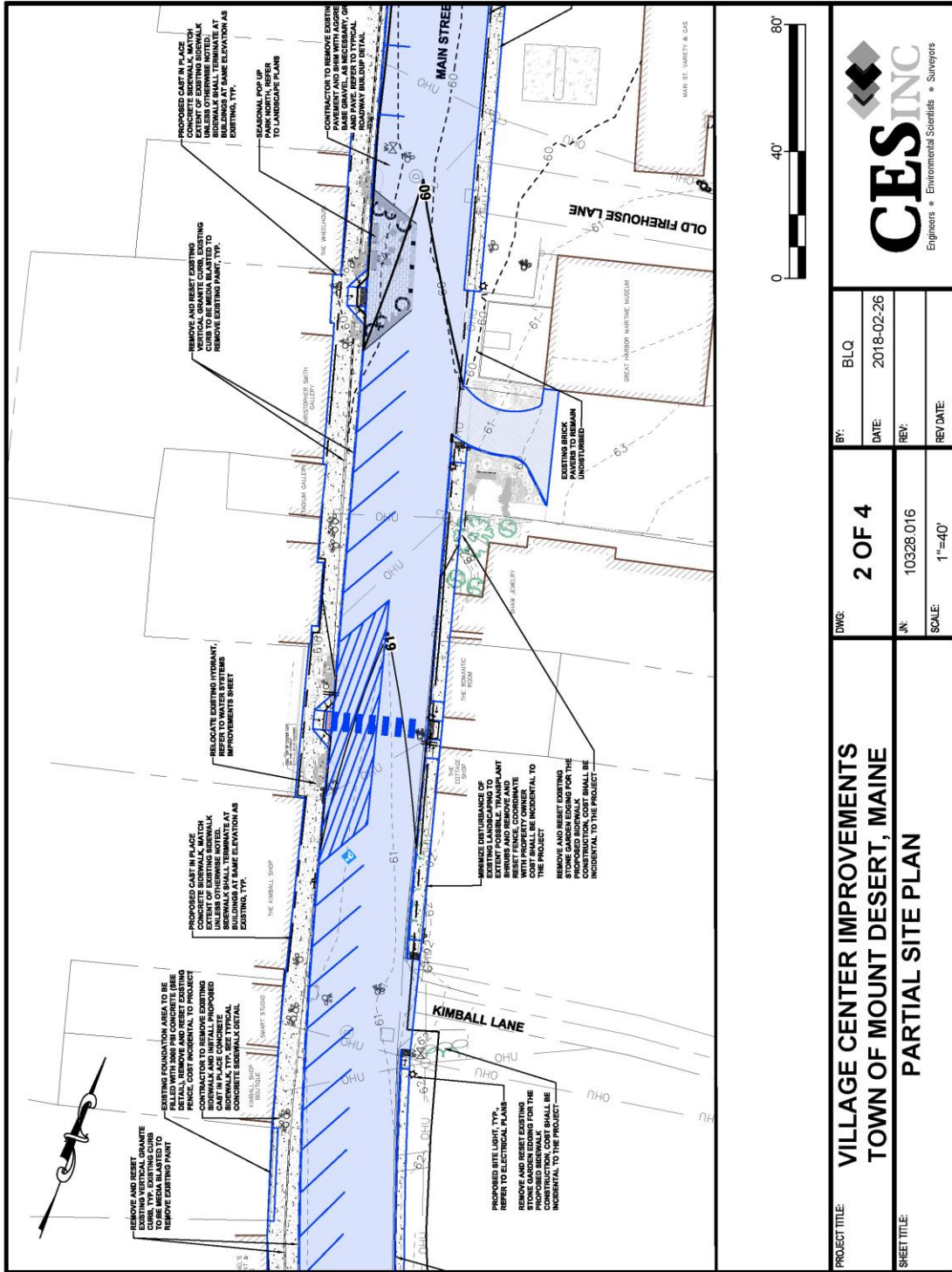
Appendix D.1 (Article 25; pg.20)  
NEH Streetscape Design



|                                                                                                          |                         |                            |
|----------------------------------------------------------------------------------------------------------|-------------------------|----------------------------|
| <b>PROJECT TITLE:</b><br>VILLAGE CENTER IMPROVEMENTS<br>TOWN OF MOUNT DESERT, MAINE<br>PARTIAL SITE PLAN | <b>DWG:</b><br>1 OF 4   | <b>BY:</b><br>BLQ          |
|                                                                                                          | <b>JN:</b><br>10328.016 | <b>DATE:</b><br>2018-02-26 |
| <b>SHEET TITLE:</b>                                                                                      | <b>SCALE:</b><br>1"=40' | <b>REV:</b>                |
|                                                                                                          |                         | <b>REV/DATE:</b>           |



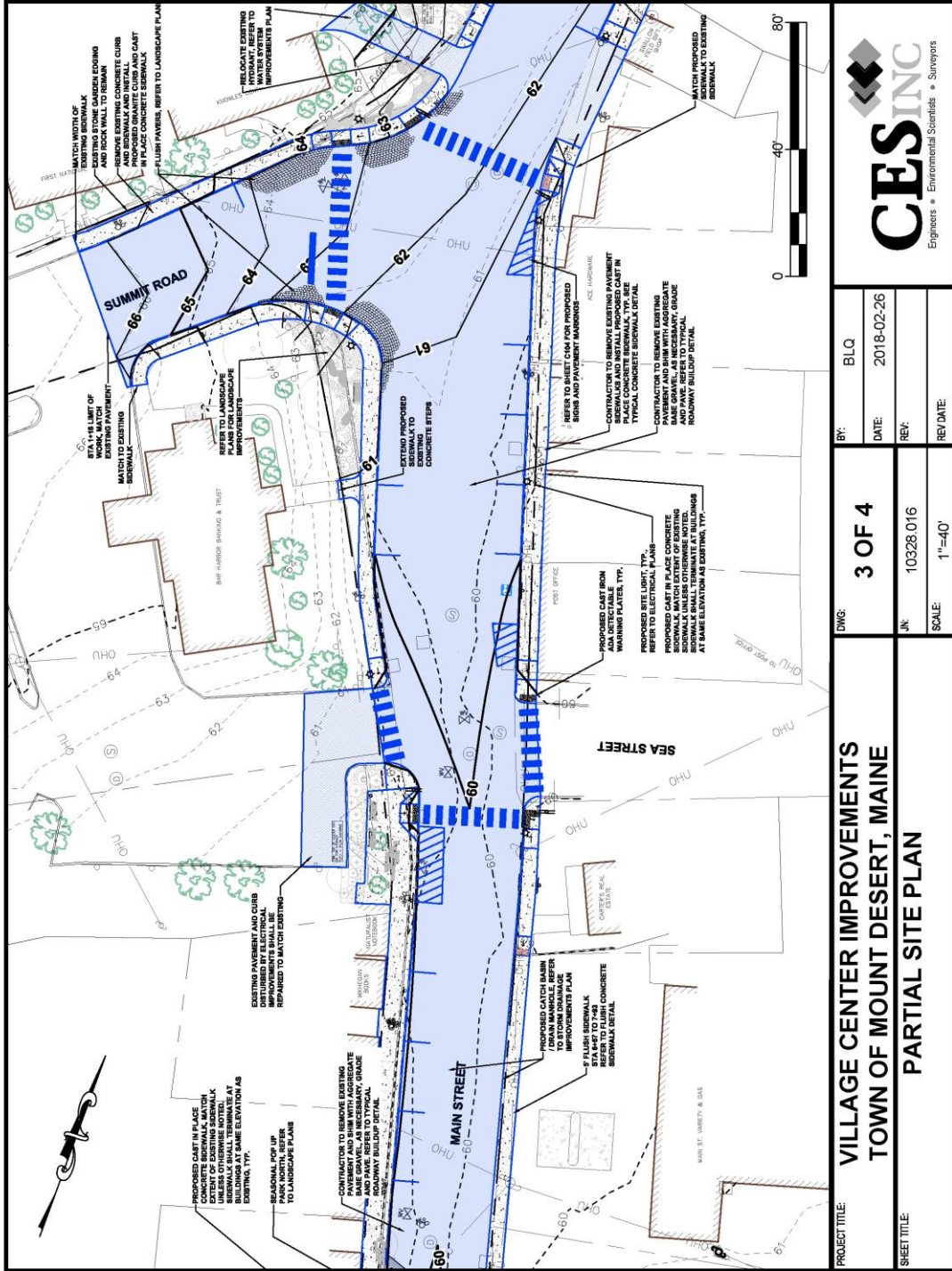
**Appendix D.2 (Article 25; pg.20)**  
**NEH Streetscape Design**




|                                                                                      |                                          |               |            |          |
|--------------------------------------------------------------------------------------|------------------------------------------|---------------|------------|----------|
| PROJECT TITLE:<br><b>VILLAGE CENTER IMPROVEMENTS<br/>TOWN OF MOUNT DESERT, MAINE</b> | DWG:                                     | <b>2 OF 4</b> | BY:        | BLQ      |
|                                                                                      | SHEET TITLE:<br><b>PARTIAL SITE PLAN</b> | DATE:         | 2018-02-26 | REV:     |
|                                                                                      |                                          | JN:           | 10328.016  | REVDATE: |
|                                                                                      |                                          | SCALE:        | 1"=40'     |          |

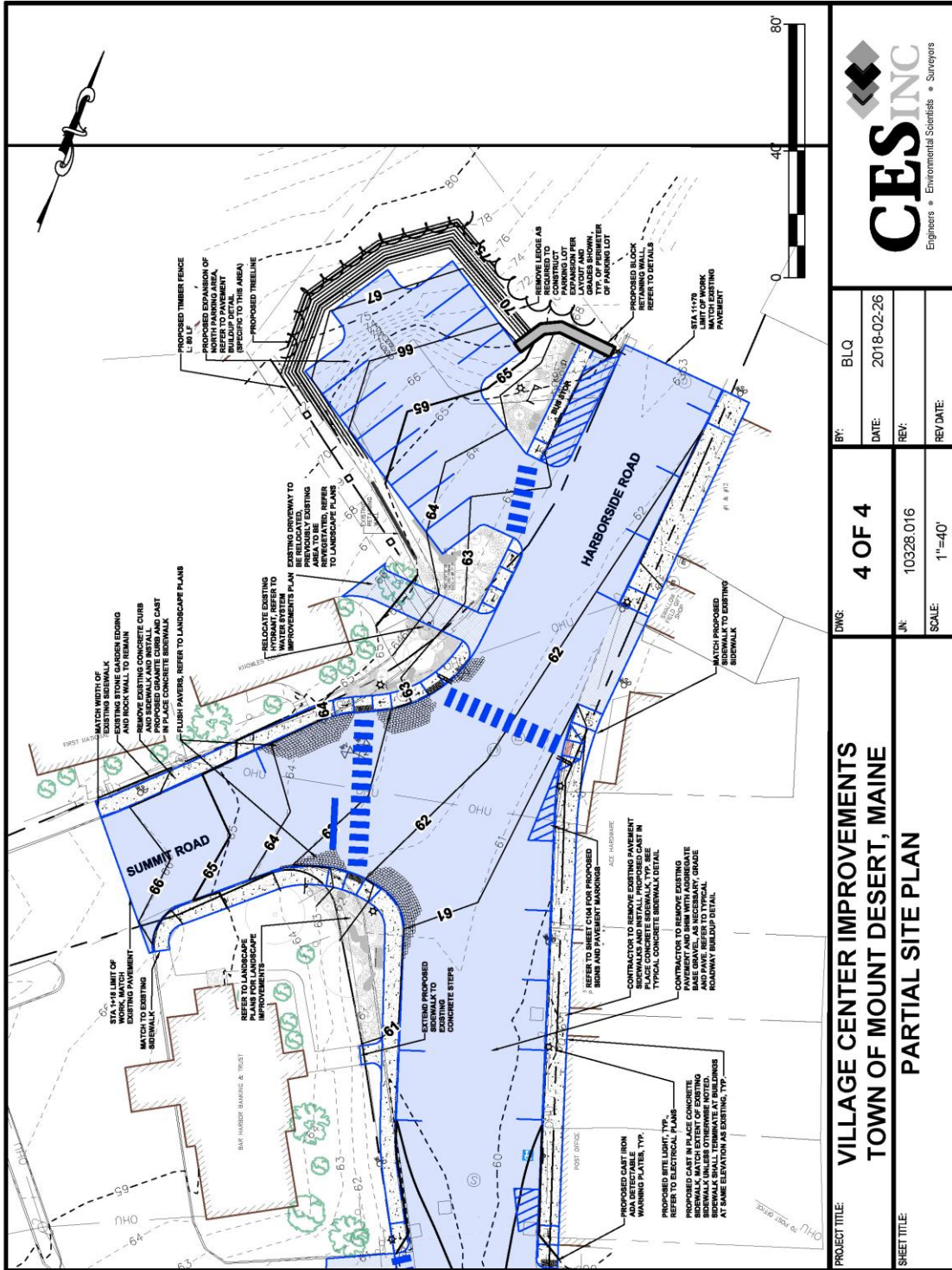



Appendix D.3 (Article 25; pg.20)  
 NEH Streetscape Design



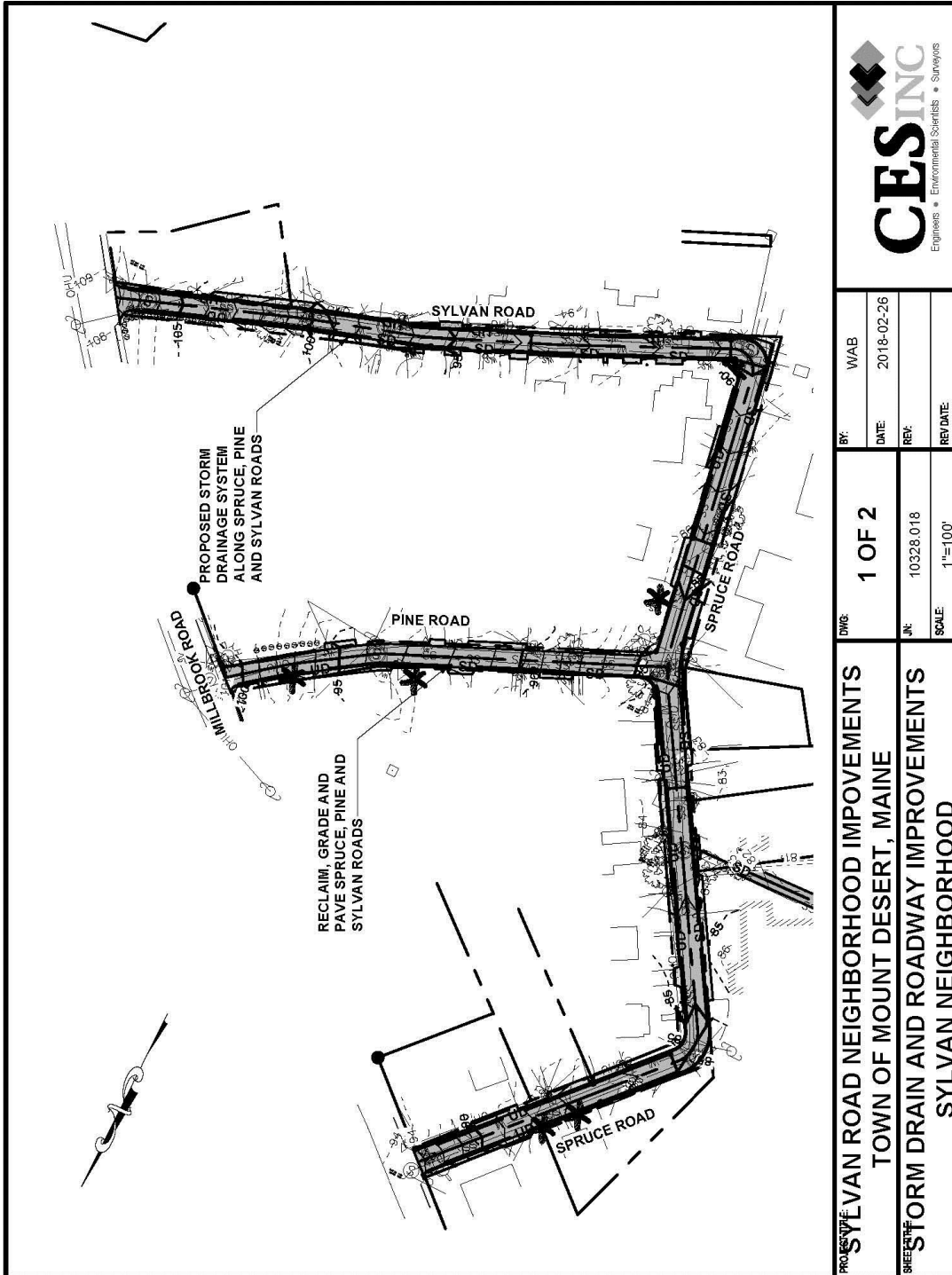
|                                                                                                                                         |                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| <br>Engineers • Environmental Scientists • Surveyors |                                                            |
| PROJECT TITLE:                                                                                                                          | VILLAGE CENTER IMPROVEMENTS<br>TOWN OF MOUNT DESERT, MAINE |
| SHEET TITLE:                                                                                                                            | PARTIAL SITE PLAN                                          |
| DWG:                                                                                                                                    | 3 OF 4                                                     |
| BY:                                                                                                                                     | BLQ                                                        |
| DATE:                                                                                                                                   | 2018-02-26                                                 |
| REV:                                                                                                                                    |                                                            |
| REV DATE:                                                                                                                               |                                                            |
| JN:                                                                                                                                     | 10328.016                                                  |
| SCALE:                                                                                                                                  | 1"=40'                                                     |

Appendix D.4 (Article 25; pg.20)  
NEH Streetscape Design



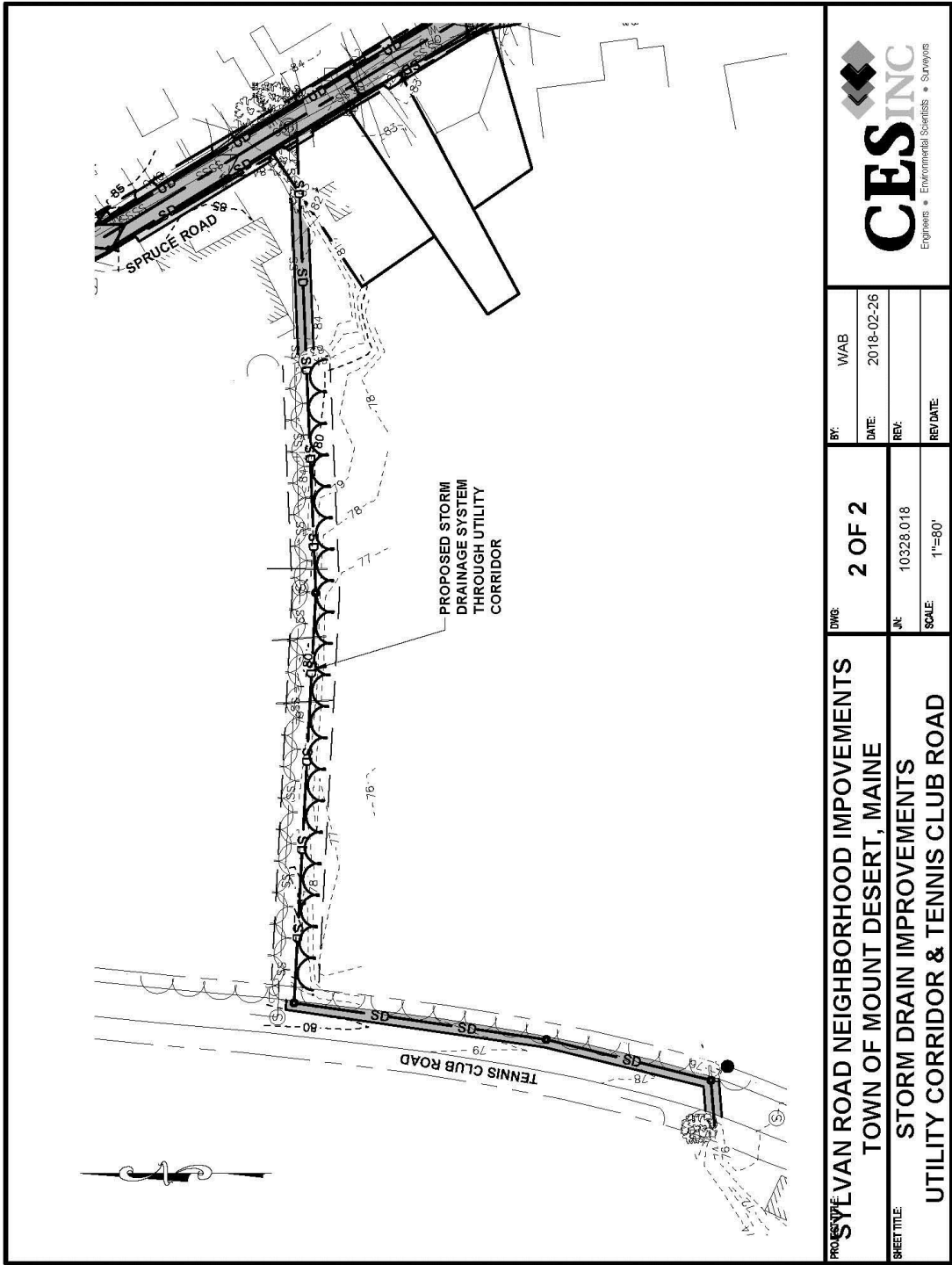
|                                                                                                                                                                |                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
|  <p><b>CES INC</b><br/>Engineers • Environmental Scientists • Surveyors</p> |                                                                                 |
| PROJECT TITLE:                                                                                                                                                 | VILLAGE CENTER IMPROVEMENTS<br>TOWN OF MOUNT DESERT, MAINE<br>PARTIAL SITE PLAN |
| SHEET TITLE:                                                                                                                                                   |                                                                                 |
| DWG:                                                                                                                                                           | 4 OF 4                                                                          |
| BY:                                                                                                                                                            | BLQ                                                                             |
| DATE:                                                                                                                                                          | 2018-02-26                                                                      |
| REV:                                                                                                                                                           |                                                                                 |
| REV/DATE:                                                                                                                                                      |                                                                                 |
| JN:                                                                                                                                                            | 10328.016                                                                       |
| SCALE:                                                                                                                                                         | 1"=40'                                                                          |

**Appendix E.1 (Article 26; pg. 21)**  
**Sylvan Road Drainage Project**





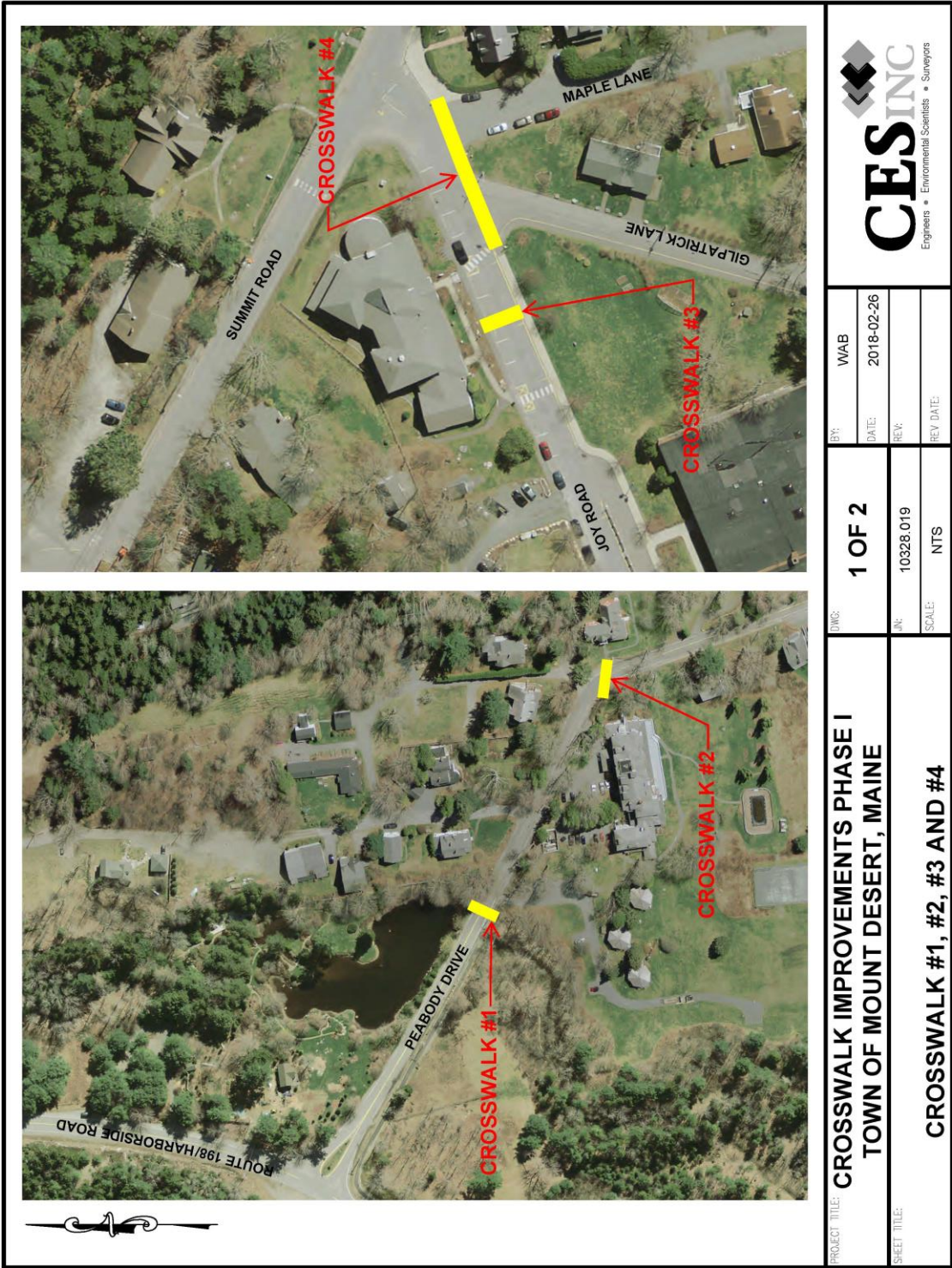
Appendix E.2 (Article 26; pg. 21)  
 Sylvan Road Drainage Project



|                                                                                                                                                               |        |            |           |            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|------------|-----------|------------|
| PROJECT: SYLVAN ROAD NEIGHBORHOOD IMPROVEMENTS<br>TOWN OF MOUNT DESERT, MAINE<br>SHEET TITLE: STORM DRAIN IMPROVEMENTS<br>UTILITY CORRIDOR & TENNIS CLUB ROAD | DWG:   | 2 OF 2     | BY:       | WAB        |
|                                                                                                                                                               | DATE:  | 2018-02-26 | DATE:     | 2018-02-26 |
|                                                                                                                                                               | NO:    | 10328.018  | REV:      |            |
|                                                                                                                                                               | SCALE: | 1"=80'     | REV DATE: |            |

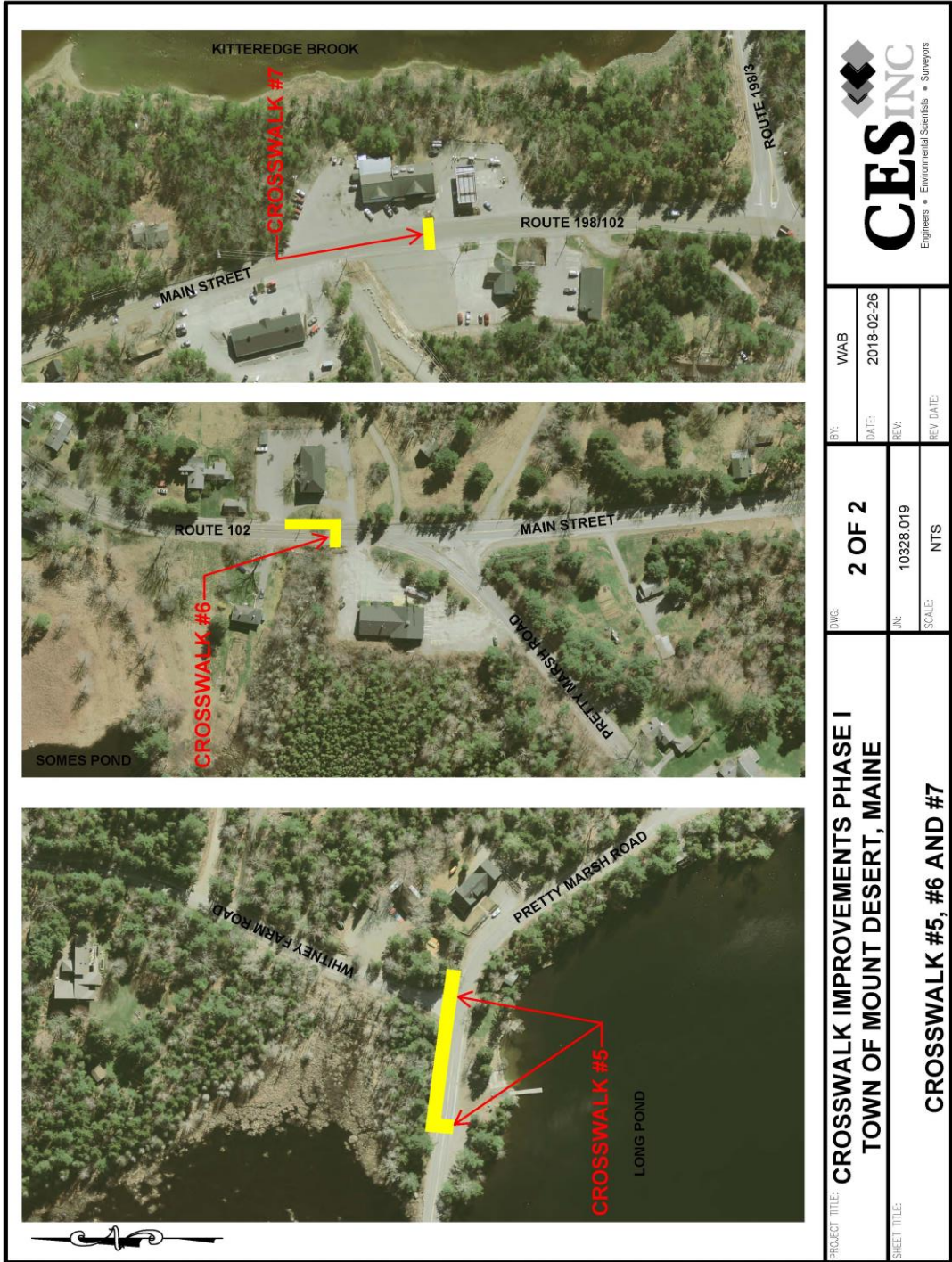


Appendix F.1 (Article 39; pg. 26)  
Crosswalks



|                                                                       |                  |
|-----------------------------------------------------------------------|------------------|
|                                                                       |                  |
| BY: WAB                                                               | DATE: 2018-02-26 |
| DATE:                                                                 | REV:             |
| REV DATE:                                                             |                  |
| DMG: 1 OF 2                                                           | AK: 10328.019    |
| SCALE: NTS                                                            |                  |
| <b>CROSSWALK IMPROVEMENTS PHASE I<br/>TOWN OF MOUNT DESERT, MAINE</b> |                  |
| <b>CROSSWALK #1, #2, #3 AND #4</b>                                    |                  |
| PROJECT TITLE:                                                        |                  |
| SHEET TITLE:                                                          |                  |

**Appendix F.2 (Article 39; pg. 26)  
Crosswalks**



**(Article 57; pg. 30)  
Estimated Tax Rate**

Appendix G  
Estimated Tax Rate

| 2018-2019 ESTIMATED TAX RATE        |                            |                                    |                          |              |
|-------------------------------------|----------------------------|------------------------------------|--------------------------|--------------|
|                                     | Proposed<br>F.Y. 2018-2019 | Budget Last Year<br>F.Y. 2017-2018 | Increase /<br>(Decrease) | % Change     |
| Municipal Budget (a)                | \$9,639,795                | \$9,234,966                        | \$404,829                | 4.20%        |
| Less Projected Revenues (b)         | \$1,629,462                | \$1,560,777                        | \$68,685                 | 4.22%        |
| <b>Net Municipal Budget</b>         | <b>\$8,010,333</b>         | <b>\$7,674,189</b>                 | <b>\$336,144</b>         | <b>4.20%</b> |
| Elementary School (c)               | \$4,008,495                | \$3,790,149                        | \$218,346                | 5.45%        |
| High School (d)                     | \$2,906,851                | \$2,896,907                        | \$9,944                  | 0.34%        |
| Hancock County Tax (e)              | \$942,317                  | \$865,972                          | \$76,345                 | 8.10%        |
| <b>Total</b>                        | <b>\$17,497,458</b>        | <b>\$16,787,994</b>                | <b>\$709,464</b>         | <b>4.05%</b> |
| <b>Amount To Be Raised</b>          | <b>\$15,867,996</b>        | <b>\$15,227,217</b>                | <b>\$640,779</b>         | <b>4.04%</b> |
| Estimated Taxable Valuation (f)     | \$2,057,090,320            | \$2,064,744,020                    | -\$14,603,000            | -0.71%       |
| <b>Estimated 2018-2019 Tax Rate</b> | <b>\$7.78</b>              | <b>\$7.42</b>                      | <b>\$0.36</b>            | <b>4.63%</b> |

**2018-2019 ESTIMATED TAX RATE / OVERLAY**

|                                             |        |                 |                               |              |             |
|---------------------------------------------|--------|-----------------|-------------------------------|--------------|-------------|
| Est. 2018-2019 Valuation times mill rate of | \$7.78 | \$15,950,097    | 2017-2018 Tax Rate            | \$7.42       | per \$1,000 |
| 2018-2019 amount to be raised               |        | \$15,867,996    | 2018-2019 Tax Rate            | \$7.78       | per \$1,000 |
| <b>Estimated Overlay</b>                    |        | <b>\$82,101</b> | <b>% Increase In Tax Rate</b> | <b>4.63%</b> |             |

Each \$0.10 on the tax rate raises \$205,700

|                         |        |                          |             |
|-------------------------|--------|--------------------------|-------------|
| To Reduce Mill Rate by: | \$0.10 | Requires either reducing | \$205,700   |
|                         | \$0.20 | spending or increasing   | \$411,400   |
|                         | \$0.30 | revenues by some         | \$617,100   |
|                         | \$0.40 | combination thereof.     | \$822,800   |
|                         | \$0.50 |                          | \$1,028,500 |
|                         | \$0.60 |                          | \$1,234,300 |
|                         | \$0.70 |                          | \$1,440,000 |
|                         | \$0.80 |                          | \$1,645,700 |
|                         | \$0.90 |                          | \$1,851,400 |
|                         | \$1.00 |                          | \$2,057,100 |

- (a) = Current Version of Budget
- (b) = 2018-2019 Projected Revenue including transfer from undesignated fund balance
- (c) = Elementary School Budget
- (d) = High School Budget
- (e) = Hancock County Budget
- (f) = Estimate of taxable value includes 14.5 million loss in value to new exemptions

**(Article 57; pg. 30)  
Tax Levy Worksheet**

**2018 MUNICIPAL PROPERTY TAX LEVY LIMIT WORKSHEET**

Municipality: MOUNT DESERT, ME    Contact Person\*: KYLE AVILA    Phone Number: (207)276-5531

**\* The Contact Person should be able to answer clarifying questions about the reported information.**

The following two pages show how to calculate your municipality's property tax levy limit. Completing these pages is not mandatory, but doing so will help ensure that your municipality complies with Maine law on the rate of property tax increases. Information on new property, appropriations, and deductions should be collected from the assessor and the valuation book before completing these pages.

Calendar Year Municipalities - For communities with "calendar year" budgets, the use of the term 2017 refers to the budget year that ended at the end of 2017 or early 2018. The use of the term 2018 refers to the budget year that will end at the end of 2018 or in early 2019.

Fiscal Year Municipalities - For communities with "fiscal year" budgets, the use of the term 2017 refers to the July 1, 2016 to June 30, 2017 budget year. The use of the term 2018 refers to the July 1, 2017 to June 30, 2018 budget year.

**LAST YEAR'S (2017) MUNICIPAL PROPERTY TAX LEVY LIMIT**

This is the portion of 2017 property tax revenue used for municipal services.

- If last year the municipality committed LESS THAN or EQUAL TO the limit, enter last year's **limit** on Line 1 below.
- If last year the municipality voted to EXCEED the limit ONCE (just last year), enter last year's **limit** on Line 1 below.

1. **LAST YEAR'S MUNICIPAL PROPERTY TAX LEVY LIMIT** \$7,793,563

**OR**

- If last year the municipality voted to INCREASE the limit PERMANENTLY, complete Steps A-D below. The information needed for this calculation is on the *Municipal Tax Assessment Warrant*, filed in the Valuation Book.

A. Last year's Municipal Appropriations (Line 2, 2017 Municipal Tax Assessment Warrant) \_\_\_\_\_

B. Last year's Total Deductions (Line 11, 2017 Municipal Tax Assessment Warrant) \_\_\_\_\_

C. If necessary, enter any revenue included in Total Deductions that paid for non-municipal appropriations, such as schools. (If all deductions paid for municipal appropriations, enter "0".) \$ \_\_\_\_\_

D. Add Lines A and C, and subtract Line B. Enter result on Line 1 above.

**CALCULATE GROWTH LIMITATION FACTOR**

- Each municipality's Growth Limitation Factor is based on local property growth and statewide income growth.

2. Total New Taxable Value of lots (splits), buildings, building improvements, and personal property first taxed on April 1, 2017 (or most recent year available) \$11,369,385

3. Total Taxable Value of Municipality on April 1, 2017 (or most recent year available) \$2,063,479,220

4. Property Growth Factor (Line 2 divided by Line 3) 0.0055

5. Income Growth Factor (provided by Office of Policy and Management) 0.0261

6. Growth Limitation Factor (Line 4 plus Line 5) 0.0316

7. Add 1 to the Growth Limitation Factor calculated in Line 6. 1.0316  
(For example, if Line 6 is 0.0362, then enter 1.0362 on Line 7.)

**2018 MUNICIPAL PROPERTY TAX LEVY LIMIT WORKSHEET**

**2018 MUNICIPAL PROPERTY TAX LEVY LIMIT WORKSHEET**

**CALCULATE 2017-2018 CHANGE IN REVENUE SHARING (previously "NET NEW STATE FUNDS")**

- Determine if revenue sharing increased or decreased. Years refer to municipal fiscal year.
- 8. 2017 Municipal Revenue Sharing \$33,380
- 9. 2018 Estimated Municipal Revenue Sharing \$34,490
- 10. If Line 8 is greater than Line 9, then calculate Line 8 minus Line 9. Enter result at right; skip Line 11.
- 11. If Line 9 is greater than Line 8, then complete 11A & 11B below.
  - A. Multiply Line 8 by Line 7. \$34,435
  - B. Calculate Line 9 minus Line 11A. Enter result at right. \$55  
(If result is negative, enter "0".)

**CALCULATE THIS YEAR'S (2018) MUNICIPAL PROPERTY TAX LEVY LIMIT**

- This year's Property Tax Levy Limit is last year's limit increased by the Growth Factor and adjusted for revenue sharing.
- 12 Apply Growth Limitation Factor to last year's limit. (Line 1 multiplied by Line 7) \$8,039,916
- 13 **THIS YEAR'S MUNICIPAL PROPERTY TAX LEVY LIMIT**  
 If Line 9 is greater than Line 8 (revenue sharing increased), you MUST subtract Line 11B from Line 12. This is required.  
 OR If Line 9 is less than Line 8 (revenue sharing decreased), you MAY add Line 10 to Line 12. This is optional.  
 - Enter result at right. \$8,039,861

**CALCULATE THIS YEAR'S (2018) MUNICIPAL PROPERTY TAX LEVY**

- The information needed for this calculation is on the 2018 Municipal Tax Assessment Warrant, filed in the Valuation Book. Use estimates if necessary.
- A. This year's Municipal Appropriations (Line 2, 2018 Municipal Tax Assessment Warrant) \$9,639,795
- B. This year's Total Deductions (Line 11, 2018 Municipal Tax Assessment Warrant) \$1,629,462
- C. If necessary, enter any revenue included in Total Deductions that paid for non-municipal appropriations, such as schools. (If all deductions paid for municipal appropriations, enter "0".) 0
- 14 **THIS YEAR'S MUNICIPAL PROPERTY TAX LEVY** (Add Lines A and C, and subtract Line B) \$8,010,333

15 COMPARE this year's MUNICIPAL PROPERTY TAX LEVY to the LIMIT (Line 13 minus Line 14) \$29,528  
 (If the result is **negative**, then this year's municipal property tax levy is greater than the limit and a vote must be taken.)

16 Did the municipality vote to EXCEED the limit ONCE (just this year)?  NO  YES  
 (Voting to exceed the limit means the municipality will calculate next year's limit based on line 13.)

If "yes", please describe why:  
 \_\_\_\_\_  
 \_\_\_\_\_

17 Did the municipality vote to INCREASE the limit PERMANENTLY (for current and future years)?  NO  YES  
 (Voting to increase the limit means the municipality will calculate next year's limit based on line 14.)

If "yes", please describe why:  
 \_\_\_\_\_  
 \_\_\_\_\_

**2018 MUNICIPAL PROPERTY TAX LEVY LIMIT WORKSHEET**

Eaton  
Peabody  
Attorneys at Law

P. Andrew Hamilton  
Direct Dial 207-992-4332  
ahamilton@eatonpeabody.com

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Bangor, Maine 04402-1210  
Phone 207-947-0111 Fax 207-942-3040  
www.eatonpeabody.com

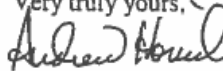
May 7, 2018

Durlin E. Lunt  
Town Manager  
Town of Mount Desert  
PO Box 248  
21 Sea Street  
Northeast Harbor, Me 04662

Dear Durlin:

As Governor LePage's veto of LD 1719 – An Act to Implement a Regulatory Structure for Adult Use Marijuana – was overridden by the Maine Legislature on May 2, 2018, that new law in Maine is now in place. Accordingly, unless a municipality votes to "opt in" and allow recreational marijuana establishments, those activities are not allowed in the municipality. Moreover, under the new law, marijuana social clubs are no longer permitted anywhere in Maine. Thus, the Town Meeting no longer needs to vote on whether there should be a moratorium on recreational marijuana establishments, as they are not permitted in the Town unless the Town Meeting, at a later date, votes to allow recreational marijuana establishments in Mount Desert.

For that reason, Article 75 of the Warrant for this Town Meeting is now moot and unnecessary, and action on Article 75 could result in confusion and potential challenge. Therefore, a motion to "pass over" Article 75 before consideration of that article would be in order.

Very truly yours,  
  
P. Andrew Hamilton

PAH/rah

50-11-001