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PART I

ADMINISTRATIVE LEGISLATION

Chapter 1
GENERAL PROVISIONS

ARTICLE I
Adoption of Code

[HISTORY: Adopted by the Town of Islesboro as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Adoption of Code

[An ordinance adopting the Code of the Town of Islesboro and making certain substantive changes to existing ordinances of the Town will be proposed before the Town Meeting. Upon final adoption, it will be included here as Article I of this chapter.]

Chapter 15

BOARDS

ARTICLE I

Board of Appeals and Board of Assessment Review

- § 15-1. Title.
- § 15-2. Authority.
- § 15-3. Purpose.
- § 15-4. Membership of Board of Appeals.
- § 15-5. Conflict of interest.
- § 15-6. Dismissal.
- § 15-7. Meetings and public hearings.
- § 15-8. Records and correspondence.
- § 15-9. Appeals.

- § 15-10. Jurisdiction.
- § 15-11. Granting variances.
- § 15-12. Recording variances.
- § 15-13. Board of Assessment Review.
- § 15-14. Conflicts.
- § 15-15. Amendments.

ARTICLE II Planning Board

- § 15-16. Establishment.
- § 15-17. Appointment.
- § 15-18. Organization and rules.
- § 15-19. Duties and powers.

[HISTORY: Adopted by the Town of Islesboro as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Development review — See Ch. 45.
Land use — See Ch. 125.

Committees and other appointments — See Ch. 318.

ARTICLE I

Board of Appeals and Board of Assessment Review

[Adopted 3-10-1977; amended 1-31-1996; 4-24-2004; 6-5-2007; 6-25-2009]

§ 15-1. Title.

This article shall be known as the "Islesboro Board of Appeals and Board of Assessment Review Ordinance."

§ 15-2. Authority.

This article is enacted under the authority of 30-A M.R.S.A. §§ 2691 and 4353.

§ 15-3. Purpose.

The purpose of this article is to provide a vehicle and process of appeal from decisions made by officials and committees of the Town of Islesboro.

§ 15-4. Membership of Board of Appeals.

- A. The Board of Appeals (hereinafter "Board") is hereby established.
- (1) The Board of Selectmen shall appoint five regular members and two alternate members to the Board, all eligible to vote in the Town of Islesboro.
 - (2) Alternate members shall attend all meetings of the Board but shall only vote when appointed to substitute for a regular member.
 - (3) When a regular member is unable to participate in a meeting or hearing, the Chair or, in the Chair's absence, the Vice Chair shall appoint an alternate member to substitute for that full member.
 - (4) In the absence of both Chair and Vice Chair, the alternate member substitute shall be appointed by vote of the remaining regular members.
 - (5) Alternate members may be counted for purposes of establishing a quorum. When so appointed, they shall have all the powers of a regular member.
 - (6) In the event that a member is unable to serve for an entire hearing, an alternate member may be appointed in that member's place during the hearing, provided that the alternate had been in attendance for all evidence and testimony presented at the hearing prior to his or her appointment. The replaced member shall not be permitted to vote on the matter considered at that Board hearing.
- B. Regular members and alternate members of the Board shall serve staggered terms of three years.
- C. The Board shall elect annually a Chair, Vice Chair and secretary from its membership.
- D. The following shall be excluded from membership on the Board:
- (1) Members of the Board of Selectmen or their spouses;
 - (2) Town employees;
 - (3) Planning Board members or their spouses;
 - (4) Pollution Control Committee members or their spouses;
 - (5) The Codes Enforcement Officer and the officer's spouse; and
 - (6) The Assessor, Assessor's agent or employee, or their spouses.

§ 15-5. Conflict of interest.

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

§ 15-6. Dismissal.

A member of the Board may be dismissed for cause by the Board of Selectmen before expiration of the member's term.

§ 15-7. Meetings and public hearings.

- A. The Chair shall call meetings and public hearings of the Board as required.
- B. The Chair shall also call meetings of the Board when requested to do so by a majority of the members or by a majority of the Selectmen.
- C. The Chair shall preside at all meetings of the Board and shall be the official spokesman of the Board.
- D. Notice of meetings and public hearings shall be posted at least seven days before the meeting or public hearing by posting notices of the date, time, place and nature of the meeting or public hearing in at least three customary prominent public places in Town.
- E. A quorum of the Board necessary to conduct an official Board of Appeals meeting or hearing shall consist of at least three members. If only three members are present, then two votes can constitute a Board action.
- F. The Board may provide rules, which shall be recorded by the secretary, for any matter relating to the conduct of any hearing, provided that any rule subsequently may be waived by vote of a majority of the Board.
- G. The Board shall hear appeals from decisions of the Planning Board and Codes Enforcement Officer as set forth in § 15-10A and B solely as an appellate body. The Board shall consider only evidence presented to the Planning Board and the Codes Enforcement Officer in its proceedings and shall determine, after written or oral arguments presented by the relevant parties, the correctness of the decision by the Planning Board or Codes Enforcement Officer with regard to possible error of law, misinterpretation of the ordinance or misapplication of the law to the facts. In hearing requests for variances however, the Board shall hear evidence de novo and make a decision on granting a variance independent of any previous testimony to the Planning Board or Codes Enforcement Officer. The burden of proof in any appeal or request for variance shall be upon the appellant or petitioner. Note: A violator or complainant may not appeal enforcement matters to the Board. Appeals of enforcement matters shall be appealed to Superior Court.
- H. Each party shall have the right to:
 - (1) Present its case or defense by oral or documentary evidence.
 - (2) Submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
 - (3) Be represented by counsel or by other agent, provided that written authorization of such representation is submitted to the Board.

- I. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record.
- J. All decisions shall become part of the record and shall include:
 - (1) A statement of findings and conclusions;
 - (2) The reasons or basis therefor, upon all the material issues of fact, law, or discretion presented; and
 - (3) The appropriate order, relief, or denial thereof.
- K. Notice of any decision shall be mailed or hand delivered to the appellant or petitioner, the appellant's or petitioner's representative or agent, the Planning Board, or any other concerned agency or office, and the Board of Selectmen within seven calendar days of the Board's decision.
- L. The Board may reconsider any decision within 30 calendar days of the Board's decision, upon presentation of new evidence. A vote to reconsider and the action taken on that reconsideration shall be taken within 30 days of the date of the vote on the original decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this section.

§ 15-8. Records and correspondence.

- A. The Secretary shall maintain a permanent record of all Board proceedings and correspondence of the Board.¹
- B. Records of the Board shall be kept in the Town Office.
- C. The secretary shall be responsible for maintaining those records that are required as part of the various proceedings that may be brought before the Board.

§ 15-9. Appeals.

Any party may take an appeal, within 45 days of the date of the vote on the original decision or 30 days from the date of the vote of the reconsideration, to Superior Court from any order, relief or denial in accordance with Maine Rules of Civil Procedure, Rule 80B.

§ 15-10. Jurisdiction.

The Board shall hear appeals only on matters within its jurisdiction.

- A. The Board shall hear appeals from decisions made by the Planning Board and the Codes Enforcement Officer under the provisions of Chapter 125, Land Use, and Chapter 45, Development Review; the Board of Selectmen; the Town Manager; and as provided for below.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. The Board may grant variances from Chapter 125, Land Use, and Chapter 45, Development Review, for reasons of hardship and as further provided in §§ 15-11 and 15-12 of this article.
- C. The Board shall hear appeals from decisions of the Pollution Control Committee and the Codes Enforcement Officer acting under the provisions of Chapter 167, Pollution Control. The Board is limited to hearing appeals from decisions made in § 167-12A, B, and C of that ordinance only.²
- D. The Board shall hear appeals from decisions made under the provisions of ordinances or regulations that contain an appeal procedure identified as being within the responsibilities of the Board.
- E. The Board shall hear appeals from the decisions made by the Town Manager in the following cases only:
 - (1) Town employee appeals from disciplinary suspension or disciplinary termination of employment. Appeals of disciplinary termination of employment shall be heard within 15 calendar days of the filing of the appeal.
 - (2) Those grievances permitted to be appealed to the Board by the Town of Islesboro Policies and Procedures Manual. The Board may refuse to hear appeals by Town employees that are frivolous or do not meet the limitations on appeal set forth in this section.

§ 15-11. Granting variances.

The Board may grant variances from the provisions of Chapter 125, Land Use, and the provisions of Chapter 45, Development Review.

- A. Undue hardship. A variance may be granted by the Board only where strict application of the ordinance, or a provision thereof, to the petitioner and the petitioner's property would cause undue hardship. The words "undue hardship" as used here mean:
 - (1) That the land in question cannot yield a reasonable return unless a variance is granted;
 - (2) That the need for a variance is due to the unique circumstances of the property and not the general condition in the neighborhood;
 - (3) That the granting of a variance will not alter the essential character of the locality; and
 - (4) That the hardship is not the result of action taken by the applicant or a prior owner.
- B. Disability. A variance may be granted by the Board to the owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) The Board shall restrict any variance granted under this provision solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability.
 - (2) The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling.
 - (3) For the purposes of this provision, a disability has the same meaning as a physical or mental disability under the Maine Human Rights Act,³ and the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.⁴
- C. Setback variance for single-family dwellings. A variance may be permitted from a setback requirement only when strict application of the ordinance to the petitioner and the petitioner's property would cause undue hardship, which means that the application meets each of the criteria listed below:
- (1) The application is for a single-family dwelling that is the primary year-round residence of the petitioner.
 - (2) A variance under this provision may not exceed 20% of a setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage.
 - (3) A variance under this subsection may exceed 20% of a setback requirement (other than minimum setbacks from a wetland or water body required within shoreland districts by rules adopted pursuant to 38 M.R.S.A. Chapter 3, Subchapter 1, Article 2-B) if there is undue hardship and the petitioner has obtained the written consent of affected abutting landowners.
- D. Variance from dimensional standards. The Board may grant a variance from the dimensional standards of an ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty, which means that the application meets each of the criteria listed below:

Note: As used in this provision, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements. As used in this provision, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the district in which the property is located and results in significant economic injury to the petitioner.

- (1) The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood.

3. Editor's Note: See 5 M.R.S.A. § 4551 et seq.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties.
 - (3) The practical difficulty is not the result of action taken by the petitioner or a prior owner.
 - (4) No other feasible alternative to a variance is available to the petitioner.
 - (5) The granting of a variance will not unreasonably adversely affect the natural environment.
 - (6) The property is not located in whole or in part within shoreland areas as described in 38 M.R.S.A. § 435.
- E. Any variance granted by the Board in a Resource Protection District, Shoreland Protection District, Meadow Pond District, or Maritime Activities District shall be reported to the Commissioner of the State of Maine Department of Environmental Protection.⁵

§ 15-12. Recording variances.

- A. If the Board grants a variance to the provisions of Chapter 125, Land Use, or Chapter 45, Development Review, a certificate in recordable form shall be prepared containing the following information:
- (1) Name of the current property owner;
 - (2) Identification of the property by reference to the last recorded deed in its chain of title;
 - (3) Indication of the fact that a variance, including any conditions on the variance, has been granted; and
 - (4) The date of the granting of the variance.
- B. The certificate shall be recorded in the Waldo County Registry of Deeds within 90 days of the final written approval of the variance, or the variance is void.
- C. The appellant or petitioner shall pay all recording fees.

Note: For the purpose of Subsections B and C, the date of final written approval shall be the date stated on the written approval.

- D. The variance is not valid until recorded as provided for in this section.

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 15-13. Board of Assessment Review. ⁶

The Board of Assessment Review shall hear appeals from decisions made by the appointed Assessor pursuant to procedures set forth in 30-A M.R.S.A. § 2691, Subsection 3, and rules set forth in 36 M.R.S.A. §§ 843 to 849.

§ 15-14. Conflicts.

If any section, subsection, sentence, clause, phrase or any other portion of this article is in conflict with any ordinance, manual or written policy of the Town of Islesboro regarding the right of appeal, manner of appeal, grounds for appeal or timetable for appeal to the Board of Appeals or the Board of Assessment Review, the provisions of this article shall prevail.

§ 15-15. Amendments.

- A. This article may be amended from time to time in the manner set forth by law for the passing of ordinances.
- B. If an amendment to this article affects appeals to provisions of Chapter 125, Land Use, the Board shall notify the Commissioner of the State of Maine Department of Environmental Protection.

ARTICLE II

Planning Board

[Adopted 3-14-1985; amended 6-15-1992]

§ 15-16. Establishment. ⁷

Pursuant to 30 M.R.S.A. § 3001, the Town of Islesboro hereby establishes the Town of Islesboro Planning Board.

§ 15-17. Appointment.

- A. Board members shall be appointed by the Board of Selectmen and sworn by the Town Clerk.
- B. The Board shall consist of five members and two associate members.
- C. The term of each member shall be three years except the initial appointments shall be for one, two, three, four, and five years, respectively. The term of office of an associate member shall be three years.⁸
- D. When there is a permanent vacancy, the Board of Selectmen shall within 60 days of its occurrence appoint a person to serve for the unexpired term. A vacancy shall occur upon

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

the resignation or death of any member, or when a member ceases to be a voting resident of the Town, or when a member fails to attend four consecutive regular meetings or fails to attend at least 75% of all meetings during the preceding twelve-month period. When a vacancy occurs, the Chair of the Board shall immediately so advise the Board of Selectmen in writing. The Board may recommend to the Board of Selectmen that the attendance provisions be waived for cause, in which case no vacancy will then exist until the Board of Selectmen disapproves the recommendation. The Board of Selectmen may remove members of the Planning Board by unanimous vote, for cause, after notice and hearing.

- E. A member of the Board of Selectmen may not be a member or associate member.

§ 15-18. Organization and rules.

- A. The Board shall elect a Chair and a secretary from among its members and create and fill such other offices as it may determine. The term of all offices shall be one year with eligibility for reelection.
- B. When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chairman, the chairman shall designate an associate member to sit in his stead.
- C. An associate member may attend all meetings of the Board and participate in its proceedings but may vote only when that associate member has been designated by the Chair to sit for a member.⁹
- D. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.
- E. The Chair shall call at least one regular meeting of the Board each month.
- F. No meeting of the Board shall be held without a quorum consisting of three members or associate members authorized to vote.¹⁰
- G. The Board shall adopt rules for transaction of business, and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected at reasonable times.

§ 15-19. Duties and powers.

- A. The Board shall perform such duties and exercise such powers as are provided by Town ordinance and the laws of the State of Maine.

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. The Board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.¹¹

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 23

CAMPING

§ 23-1. Title and authority.

§ 23-2. Purpose.

§ 23-3. Camping on Town-owned property.

§ 23-4. Camping on state-owned property.

§ 23-5. Camping on private property.

§ 23-6. Campsite placement.

§ 23-7. Violations and penalties.

§ 23-8. Definitions.

[HISTORY: Adopted by the Town of Islesboro 3-15-1971; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Land use — See Ch. 125.

§ 23-1. Title and authority.

This chapter shall be titled "Town of Islesboro Camping Ordinance" and is enacted under the provisions of 30-A M.R.S.A. § 3001 (Ordinance power).

§ 23-2. Purpose.

The purpose of this chapter is to regulate camping in the Town of Islesboro.

§ 23-3. Camping on Town-owned property.

Camping on Town-owned property is prohibited.

§ 23-4. Camping on state-owned property.

Camping on Warren Island State Park is permitted subject to the rules of the Maine Department of Conservation Bureau of Parks and Lands.

§ 23-5. Camping on private property.

No camping shall be permitted on private property unless or until:

- A. Permission is granted to the camper(s) by the owner of the private property and that permission is in writing in the absence of the property owner(s).

- B. A permit signed by the Town Manager or Town Manger's designee is obtained. The permit shall be granted only after the applicant has satisfied the following conditions:
- (1) Permission to camp has been obtained from the property owner.
 - (2) Adequate arrangements for the applicant's disposal of sewage and solid waste has been made so no health hazard or public nuisance will be created.
 - (3) The applicant has obtained a fire permit for the use of any open fires.

§ 23-6. Campsite placement.

Campsite placement on any lot, including the area intended for a recreational vehicle, shall have the following setbacks:

- A. One hundred feet from the normal high-water line of the Meadow Pond.
- B. Seventy-five feet from the normal high-water line of other water bodies, tributary streams, or from the upland edge of a nonforested wetland.

§ 23-7. Violations and penalties.

The penalties contained in 30-A M.R.S.A. § 4452, Subsection 3B, shall apply to violation of the provisions of this chapter.

Note: As of the date of this chapter the minimum penalty for a specific violation is \$100, and the maximum penalty is \$2,500.

§ 23-8. Definitions.

As used in this chapter the following terms shall have the meanings indicated:

CAMPING — The placing or erecting of any temporary structure, vehicle or shelter for the purpose of eating and/or sleeping; or sleeping or intending to sleep outdoors without shelter after sunset and before sunrise; or remaining in or occupying any stationary vehicle after dark for the purpose of eating, sleeping or shelter when no other abode is available in the Town of Islesboro to the occupant(s) of the vehicle. The term "vehicle" shall include, but not be limited to, automobiles, trucks, buses, camper trailers, motor homes, and mobile homes not permanently set in place. The term "structure" shall include, but not be limited to, tents, lean-tos, shacks and huts not owned by the camper(s).

TOWN-OWNED PROPERTY — Property owned by the inhabitants of the Town of Islesboro, all Town roads, Town ways, public ways, private ways and state-aid roads and their rights-of-way in the Town.

Chapter 30

CEMETERIES

- | | |
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| <p>§ 30-1. Title.</p> <p>§ 30-2. Authority.</p> <p>§ 30-3. Purpose.</p> <p>§ 30-4. Cemetery Committee.</p> <p>§ 30-5. Areas regulated.</p> <p>§ 30-6. Definitions.</p> <p>§ 30-7. Interments and disinterments.</p> <p>§ 30-8. Ownership and property rights of plot owners.</p> <p>§ 30-9. Transfer or assignment.</p> <p>§ 30-10. Control of work within cemetery.</p> | <p>§ 30-11. Decoration of plots.</p> <p>§ 30-12. Conduct of persons within cemetery.</p> <p>§ 30-13. Protection from loss or damage.</p> <p>§ 30-14. Care of plots.</p> <p>§ 30-15. Deeds and rules are sole agreements.</p> <p>§ 30-16. Modifications and amendments.</p> <p>§ 30-17. Monuments and markers.</p> <p>§ 30-18. Enforcement.</p> <p style="text-align: right;">Attachment A, Pricing of Lots at Bayview Cemetery</p> |
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[HISTORY: Adopted by the Town of Islesboro 4-26-2003. Amendments noted where applicable.]

§ 30-1. Title. ¹

This chapter shall be known as the “Town of Islesboro Cemetery Ordinance.”

§ 30-2. Authority. ²

This chapter is enacted in accordance with the provisions of 30-A M.R.S.A. §§ 3301 and 4401.

§ 30-3. Purpose. ³

This chapter is enacted to:

- A. Establish a Cemetery Committee (“Committee”) to administer this chapter;
- B. Provide regulations for cemetery lot owners in the Town-owned cemeteries known as "Bayview Cemetery" and "Sprague Cemetery";
- C. Regulate the sale of Town-owned cemetery lots; and

1. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

D. Regulate the operation and care of the cemeteries and plots therein.

§ 30-4. Cemetery Committee. ⁴

- A. The members of the Cemetery Committee shall be appointed by the Board of Selectmen annually with terms running from July 1 to June 30.
- B. There shall be seven members of the Committee of which at least five members shall be residents of the Town of Islesboro at the time of their appointment.
- C. When a member is unable to serve or is removed for cause by the Board of Selectmen, the Board may appoint a person to complete the term of that member.
- D. The Committee shall elect a Chair who shall call the meetings of the Committee as needed to administer this chapter. The Committee shall meet at least semiannually, the first meeting to elect a Chair.

§ 30-5. Areas regulated.

The cemeteries of the Town to which these regulations apply are the two Town-owned cemeteries, Bayview Cemetery and Sprague Cemetery.

§ 30-6. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BOARD OF SELECTMEN — The duly elected Board of Selectmen of the Town of Islesboro.

CEMETERY COMMITTEE — The persons duly authorized by the Board of Selectmen to administer, control and order all persons, vehicles and funerals in all Town cemeteries. Hereafter referred to as the "Committee."

IMMEDIATE FAMILY — Includes husband, wife, mother, father, children, siblings, brothers, sisters, grandmother, grandfather and grandchildren.⁵

INTERMENT — The permanent disposition of the remains of a deceased person by cremation and inurnment, or burial.

LOT, PLOT or BURIAL SPACE — Used interchangeably and shall apply with like effect to one or more than one adjoining grave(s).

MEMORIAL — Includes a monument, marker or headstone for family or individual use.

4. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

PERPETUAL CARE — See § 30-14 of this chapter.⁶

RESIDENT — At time of lot purchase, an individual who is/does any two of the following three things:

- A. Currently registered to vote in the Town of Islesboro;
- B. Currently registers his or her vehicle(s) in the Town; and/or
- C. Is an owner of record of property either real or personal in the Town.

TOWN OF ISLESBORO — Its inhabitants as a corporate body.

§ 30-7. Interments and disinterments.

- A. A state certificate (Disposition of Human Remains) is required for all interments, removals and disinterments, including cremated remains, and shall be submitted to the Town Clerk in order to provide a record of the burial(s).
- B. Every earth interment shall be made enclosed in an outer container or receptacle, the design and installation of which shall meet the state standards. Cremains are not required to be enclosed in another container or receptacle.
- C. The Committee reserves the right to refuse interment in any lot or open any burial place for any purpose, except on application by the plot owner or owners of record or their duly authorized agent.
- D. The Committee reserves the right to make an interment of any member of the immediate family or any one of several plot owners upon his or her written authorization. No other person may be interred in any plot without the consent of all those owners of the plot who are recorded as such on the books of the cemetery. If there are no immediate family members who are still living, a nonimmediate family member may be interred with the permission of the Committee.

§ 30-8. Ownership and property rights of plot owners.

- A. There shall be a limit of sale of lots to two lots (10 feet by 20 feet) totaling 400 square feet to be owned by each immediate family.
- B. Sale prices of lots shall be listed on Attachment A to this chapter. The Board of Selectmen upon a recommendation of the Committee and after a duly called public hearing has the right to amend, set or establish such prices.⁷

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The definition of "perpetual care funds," which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See § 30-14.

7. Editor's Note: Attachment A is included at the end of this chapter.

§ 30-9. Transfer or assignment.

No transfer or assignment of any plot, or interest therein, shall be valid without the consent of the Committee in writing first to be had and endorsed upon such transfer or assignment and thereafter being recorded in the Town's cemetery records.

§ 30-10. Control of work within cemetery.

- A. All grading, landscaping and improvements of any kind and all care on plots shall be done, and all trees, shrubs and herbage of any kind shall be planted, trimmed, cut or removed and all openings and closing of plots, and all interments, disinterments and removals shall be made only by or under the direction of the Committee.
- B. The throwing of rubbish in any part of the cemetery is prohibited.

§ 30-11. Decoration of plots.

- A. The Committee shall have the authority to remove all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind from the cemetery as soon as, in the judgment of the Committee, they become unsightly, dangerous, detrimental, or diseased, or when they do not conform to the standards listed above.
- B. The Town shall not be liable for floral pieces, baskets or frames in which or to which such floral pieces are attached, beyond the acceptance of such floral pieces for funeral services held in the cemetery. The Town shall not be liable for lost, misplaced or broken flower vases, for frozen plants or herbage of any kind, or for plantings damaged by the elements, thieves, vandals, or by other causes beyond its control.
- C. The planting of trees, bushes, flowers and shrubs is allowed with the recommendation of small shrubs, such as Alberta spruce, that are slow growing (dwarf species) and that no yews be allowed. All care for trees and shrubs planted on lots shall be the responsibility of the lot owner.
- D. Flags that are placed on graves shall have a maximum height of 48 inches. The Town shall be notified when a veteran dies so that the Committee can be sure to place a flag on the lot at the appropriate time. Flags shall be placed on veterans' lots from mid-May through November.

§ 30-12. Conduct of persons within cemetery.

- A. There shall be no commercial/professional filming allowed on cemetery grounds.
- B. No snowmobiles or recreational all-terrain vehicles shall be permitted within the cemetery.

§ 30-13. Protection from loss or damage.

The Town shall take reasonable precautions to protect plot owners, within the cemetery, from loss or damage, but it distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control, and especially from damage caused by the elements, acts of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosives, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.

§ 30-14. Care of plots.

- A. The term "perpetual care" as used in reference to plots shall be held to mean the cutting of the grass upon said plots at reasonable intervals and the making and cleaning of the plots. It also means and intends to mean the general preservation of the plots and the grounds, walks, roadways and boundaries, to the end that said grounds shall remain and be reasonably cared for as cemetery grounds forever. See mowing and maintenance contract for specifications.
- B. Unless otherwise provided for by separate agreement, perpetual care shall not be construed to mean the maintenance, repair, reconstruction or replacement of any memorial, marker, monument or of any object, material or construction upon the lot; nor the planting of flowers or ornamental plants; nor watering or sprinkling of lots.⁸
- C. The Board of Selectmen upon recommendation of the Committee is hereby empowered to determine and regulate the size plots to be laid out in the various sections of the cemetery, from time to time, as it is improved.
- D. The Board of Selectmen upon recommendation of the Committee shall determine and regulate as it may deem fit the cost to plot purchasers, taking into consideration the plot location, physical differences in character of the ground, financial considerations of the purchasers, and other such factors as may tend to influence the value of the lot.
- E. Perpetual care is required on all lots purchased. The fee for perpetual care varies depending on the size of the lot. The fee for perpetual care will be invested in the Town of Islesboro Cemetery Trust Fund; said amount goes to the principal, and the interest generated from the trust account is budgeted into the Town revenue budget by vote at Town Meeting, to be put toward cemetery lot maintenance. Perpetual care shall be limited absolutely to the income received from the investment of the perpetual care funds, no part of the principal being expended.⁹
- F. It is understood and agreed between the purchaser and the Town that all of said funds may be deposited with others of like character and intent, to the end that the income from such accumulated general fund shall be used for the general improvement and perpetual care of those portions of the cemetery designated for perpetual care.

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Original Subsection F, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- G. The income from perpetual care funds shall be expended by the Town in such manner as will, in its judgment, be most advantageous to the property owners as a whole, and in accordance with the purposes and provisions of the laws of the state applicable to the expenditure of such funds.

§ 30-15. Deeds and rules are sole agreements. ¹⁰

The certificate of ownership and the rules along with any amendments thereto shall constitute the sole agreement between the Town and the plot owner. The statement of any employee or agent, unless confirmed in writing by the Board of Selectmen, shall in no way bind the Town.

§ 30-16. Modifications and amendments. ¹¹

- A. Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. When emergencies arise or special cases occur where literal enforcement of the rules may be impractical or cause undue hardship, the Board of Selectmen, upon recommendation of the Committee, may make exceptions, suspensions or modifications of the rules without notice. Such exceptions, suspensions, or modifications of the rules shall in no way be construed to affect the validity or continued application of the provisions of this chapter.
- B. The Selectmen may, and it hereby expressly reserves the right at any time or times to, adopt new rules, or amend, alter or repeal any rule, section, subsection or sentence in these rules.

§ 30-17. Monuments and markers. ¹²

Monuments, including stone or concrete benches, shall be placed on foundations excavated to the frost line (approximately four feet deep) or to bedrock. The foundations shall be two inches wider on all sides than the base of the monument.

§ 30-18. Enforcement.

- A. Any violation of this chapter shall be deemed to be a nuisance.
- B. Violation of the provisions of this chapter shall be reported to the Codes Enforcement officer by the Committee for appropriate enforcement action.¹³
- C. The Board of Selectmen, or its authorized agent, is hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this chapter and recovering fines without court action. Such agreements shall not allow an

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner, owner's agent, or contractor acted in bad faith, or unless the removal of the structure or use will result in substantial environmental damage.

- D. Any person who orders or conducts any activity in violation of this chapter shall be penalized in accordance with 30-A M.R.S.A. § 4452.

Note: Current penalties include fines of not less than \$100 nor more than \$2,500 per violation for each day that the violation continues.

CEMETERIES

30 Attachment 1

Town of Islesboro

Attachment A

Pricing of Lots at Bayview Cemetery

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Size of lots:

All cemetery lots sold shall measure seven feet by ten feet.

Cremation:

Up to five sets of cremated remains (cremains) may be interred into one lot.

Costs:

Residents

Total cost: \$500 (\$150 for lot; \$350 for mandatory perpetual care)

Nonresidents

Total cost: \$1,000 (\$300 for lot; \$700 for mandatory perpetual care)

Resident qualifications:

To qualify as a “resident,” the purchaser shall either be a registered voter in the Town of Islesboro; register and automobile in the Town of Islesboro; or own real estate property in the Town of Islesboro.

Chapter 45

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[HISTORY: Adopted by the Town of Islesboro 5-22-1987, as amended through 6-25-2009. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 15, Art. II.
Floodplain management — See Ch. 70.

Land use — See Ch. 125.

ARTICLE I
General Provisions

User's Guide: This article contains general information related to the title of the chapter, the statutory authority under which it was prepared and adopted, the municipal officials charged with its administration, the area of jurisdiction, the date of its adoption, and the procedure for its amendment.

§ 45-1. Title.

This chapter shall be known and be cited as the "Town of Islesboro Development Review Ordinance."

§ 45-2. Authority.

This chapter is adopted pursuant to 30-A M.R.S.A. § 3001 and 30-A M.R.S.A. § 4401.

§ 45-3. Applicability.

The provisions of this chapter shall apply to the following land uses, structures, and facilities within the boundaries of the Town of Islesboro:

- A. Subdivisions as defined by 30-A M.R.S.A. § 4401.
- B. Building(s), structures and use(s) of land for commercial, industrial, office, multiple dwelling residential, municipal, institutional, utility, fraternal, and recreational purposes, including:
 - (1) New buildings and structures;
 - (2) New uses of existing buildings, structures and land;
 - (3) Resumption of uses which have been discontinued for at least two years;
 - (4) Any construction, alteration, or relocation of any building, structure, or facility that is greater than 120 square feet or has a completed fair market value of \$3,000 or more;
 - (5) Alterations after 22 May 1987 that increase the height of any part of the building, structure, or facility, or result in a twenty-percent increase in floor space, parking area, seating capacity or outdoor storage area; and
 - (6) Customary home occupations and small workshop operations.

§ 45-4. Exemptions.

- A. This chapter does not apply to the following:
 - (1) Existing uses or uses which were legally established prior to the adoption of this chapter;
 - (2) Subdivision lots exempted by 30-A M.R.S.A. § 4401;
 - (3) Detached single-family and two-family dwelling units, when not part of a new subdivision or new development proposal;
 - (4) Agricultural land management and forest management practices.
- B. This chapter is not exempted from the provisions of Chapter 125, Land Use.

§ 45-5. Conflict with other ordinances.

Whenever the requirements of this chapter are in conflict with the requirements of any other lawfully adopted rule, regulation or ordinance, the more restrictive or higher standard, as deemed by the Planning Board, shall control.

§ 45-6. Amendments.

This chapter may be amended by a majority vote of a Town Meeting. Amendments may be initiated by a majority vote of the Planning Board or by request of the Board of Selectmen or by petition signed by a number of registered voters greater than 10% of the votes cast in the last gubernatorial election in the Town. The Planning Board shall conduct a public hearing on the amendments.

§ 45-7. Effective date.

The provisions of this chapter shall become effective on May 22, 1987, and on the day a Town Meeting amends this chapter.

**ARTICLE II
Purposes**

User's Guide: This article explains the purposes of this chapter.

§ 45-8. Purposes.

The purposes of this chapter are as follows:

- A. To assure the comfort, convenience, safety, health and welfare of the citizens of Islesboro;
- B. To protect the natural resources from harm and to integrate new development harmoniously into the island's natural environment;
- C. To promote the development of an economically sound and stable community;
- D. To protect property rights and values by balancing the rights of landowners to use their land for the purposes regulated by this chapter with the corresponding rights of abutting and neighboring landowners to enjoy their property without undue disturbance from noise, smoke, dust, fumes, odor, glare, traffic, stormwater runoff or the pollution of ground- or surface water resources;
- E. To provide the means for assessing development proposals for their fiscal impacts on the municipality's ability to provide and improve necessary public facilities and services;
- F. To establish and provide procedures whereby:

- (1) Town officials as defined in this chapter may review the developments regulated by this chapter by providing fair and reasonable standards for evaluating such developments;
- (2) A public hearing process through which Town residents may raise questions and receive answers regarding how such developments may affect them is provided;
- (3) Aggrieved parties may appeal decisions made under this chapter to the Board of Appeals.

ARTICLE III Administration

User's Guide: This article contains provisions for the administration of this chapter including specific provisions for certificates of compliance, conditions of approval, and public hearings. If any two ordinances conflict, the more restrictive of the two ordinances will apply. ¹

§ 45-9. Administering body. ²

The Planning Board of the Town of Islesboro, hereinafter called the Board, shall administer this chapter. No building permit or plumbing permit or certificate of compliance shall be issued by the Board or Codes Enforcement Officer for any use or development within the scope of this chapter until an application required by this chapter has been reviewed and approved by the Board.

§ 45-10. Planning Board approval required.

After the effective date of this chapter, no person shall engage in any activity requiring a permit under this chapter without first obtaining the approval of the Board.

§ 45-11. Application required.

- A. Applications for approval shall be submitted in writing to the Board, on forms provided by it. The Board may require the submission of whatever additional information is necessary to determine compliance with the provisions of this chapter.
- B. The applicant shall notify abutting property owners by certified mail, at least seven days before the application is to be considered by the Planning Board, of the applicant's intentions by sending a letter providing a brief description of the project, along with the date, time and place of the Planning Board hearing, and that a complete application is on file at the Town office for review. The applicant shall provide the Planning Board with

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

an exact copy of the letter that was sent certified mail to the abutters, along with a copy of the certified mail receipts.

§ 45-12. Permits required before approval.

Applications for approval under the provisions of this chapter will not be considered complete for processing until all other required local, state, and federal permits have been secured and evidence that they have been secured has been provided to the Board. Note: Many activities, particularly those involving the shoreland, the surface area of water bodies, streams, and wetlands, are regulated by state and federal agencies as well as by this chapter and other ordinances of the Town. Applicants should consult with the appropriate authorities or the Codes Enforcement Officer prior to applying for a Development Review Ordinance permit to ensure compliance with state or federal regulations.

§ 45-13. Commencement and completion of work; permit expiration and extension.

- A. A permit issued under the provisions of this chapter shall expire 24 months after the date of its issuance.³
- B. Activities which are not commenced or substantially completed within the time limits provided above shall be subject to new application, and the approval previously issued under this chapter shall be considered void.
- C. A permit may be extended one time for up to 24 months by the Board if application is submitted not later than 30 days prior to expiration of the permit.
 - (1) Extensions of permits will be subject to all provisions of this chapter in effect at the time the extension is granted.
 - (2) An expired permit may not be extended.

§ 45-14. Certificate of compliance. ⁴

No lot, building, structure or activity requiring approval under this chapter shall be conveyed, leased, or occupied or offered for sale, conveyance, lease, or occupancy without a certificate of compliance issued by the Codes Enforcement Officer indicating that all of the terms of approval have been complied with.

§ 45-15. Conditions of approval.

- A. The Board may, in approving applications, add such terms and conditions that it finds necessary to comply with the purposes of this chapter. Such terms and conditions may include, but are not limited to, specifications and requirements for:

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) Type of vegetative cover;
 - (2) Increased setbacks or dimensional requirements;
 - (3) Specific sewage or other waste disposal facilities;
 - (4) Specific water supply facilities; impact on aquifer;
 - (5) Landscaping and planting screens;
 - (6) Periods of operation;
 - (7) Operational controls;
 - (8) Professional inspection and maintenance;
 - (9) Specific storage and display requirements;
 - (10) Sureties and bonds;
 - (11) Restrictive covenants;
 - (12) Location of piers, docks, parking areas and signs;
 - (13) Type of construction;
 - (14) Any other term or condition of approval necessary to fulfill the purposes of this chapter;
 - (15) Ferry and Grindle Point parking;
 - (16) Public facilities, e.g. Town office, health center, school, post office, fire department, emergency medical services, recreation, and the like; and⁵
 - (17) Noise levels.⁶
- B. Violation of any terms or conditions of approval shall be considered a violation of this chapter.

§ 45-16. Public hearings.

- A. The Board shall determine whether to hold a public hearing for a minor subdivision application, a major subdivision preliminary plan application, a major subdivision final plan application, a minor development application, or a major development application. The Board shall base its decision to hold a public hearing on any of the following criteria:
- (1) When a written request for a public hearing from the applicant or an abutting property owner has been received by the Board;

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

6. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) When the size, nature, or location of the proposed activity would have an unusual, potentially harmful, or harmful impact on the neighborhood, the environment, or could cause health or safety problems.
 - (3) When the applicant is a member or an associate member of the Planning Board or is a member of the Board of Selectmen.
- B. When the Board determines that a public hearing shall be held, it shall schedule such public hearing within 30 days after the issuance of a dated receipt for a complete application. The Board may arrange the public hearing to coincide with a regular scheduled meeting of the Board and shall:
- (1) Post notices of the date, time, place, and purpose of the hearing in at least three conspicuous public places in the Town at least seven days in advance of the public hearing; and
 - (2) For minor or major subdivision applications or major development applications publish notice of the hearing at least seven days in advance in a newspaper of general circulation in the Town at least two times.
- C. The applicant shall certify to the Board that:
- (1) Notice of the time, date, and place of the public hearing has been sent by certified mail to all abutters, as defined in this chapter, of the property involved.
 - (2) Notification was mailed at least seven days in advance of the hearing stating the nature of the application as well as the date, time, and place of the public hearing. Note: The abutters and owners of property shall be considered to be those against whom taxes are assessed.
- D. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board.
- E. At any public hearing, a party may be represented by an authorized agent, representative, or attorney.
- F. Hearings may be continued to other times for good cause.
- G. During a public hearing the following procedures shall be followed to maintain orderly process:
- (1) The applicant's case shall be heard first;
 - (2) Each side shall proceed without interruption, except for questions of clarification from the Chair;
 - (3) Questions shall be asked through the Chair;
 - (4) All persons at the hearing shall abide by the order of the Chair.
- H. After the public hearing, the Board shall:

- (1) Consider the testimony or information received at the public hearing;
- (2) Inform the applicant of any changes required in a final plan;
- (3) Reach a decision on the proposed final subdivision or development plan within 30 days;
- (4) Inform the applicant and the Codes Enforcement Officer, in writing, within seven days of its decision stating its reason for its decision;
- (5) Prepare detailed, written findings of fact, based on sufficient, reasonable evidence presented at the public hearing, as well as Board's conclusions and the reasons or basis thereof.

§ 45-17. Administrative procedures.

- A. The Planning Board shall prepare an agenda for each regularly scheduled meeting.
- B. The Board may limit reviews of applications for preliminary or final approval to one per regularly scheduled meeting to allow thorough review of each application.
- C. Applicants shall request to be placed on the Board's agenda at least one week in advance of a regularly scheduled meeting by contacting the Chair or the Board's designee.

§ 45-18. Independent consultants.

The applicant will be required to reimburse the Town if the Planning Board requires the services of an independent consultant(s) to assist in the review of the application.

ARTICLE IV
Criteria of Approval

User's Guide: This article contains the criteria by which the Board will judge all applications submitted pursuant to this chapter.

§ 45-19. Criteria and standards.

In approving subdivisions and developments requiring approval under this chapter, the Board shall consider the following criteria and standards. Before granting approval, the Board shall make written findings of fact that the provisions of this chapter have been met. In all instances the burden of proof of compliance with these criteria and standards shall be upon the person proposing the subdivision or development. The developer shall demonstrate that the development or subdivision:

- A. Will not result in undue water or air pollution. In making this determination, the Board shall, at least, consider:

- (1) The elevation of the land above sea level and its relation to the floodplains;
 - (2) The nature of soils and subsoils and their ability to adequately support waste disposal;
 - (3) The slope of the land and its effect on effluents;
- B. Has sufficient quantity and quality of water available for the reasonably foreseeable needs of the proposed subdivision or development;
 - C. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
 - D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
 - E. Will not cause unreasonable public or private road congestion or unsafe conditions with respect to use of the public or private roads, existing or proposed, including parking at Grindle Point.
 - F. Will provide for adequate solid and sewage waste disposal.
 - G. Will not cause an unreasonable burden on the ability of the Town to dispose of solid waste and sewage if municipal services are to be utilized;
 - H. Will not have an undue adverse effect on the scenic or natural beauty of the area, esthetics, historic sites, rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
 - I. Is in conformance with this chapter, other applicable local ordinances, state and federal laws and regulations, the Town's Comprehensive Plan, Development Plan or Master Land Use Plan, if any;
 - J. Will not create an adverse fiscal impact upon the municipality's ability to provide or improve necessary public facilities and services including transportation and parking;
 - K. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;
 - L. Will not unreasonably interfere with access to direct sunlight for solar energy;
 - M. Will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water whenever situated, in whole or in part, within 250 feet of any pond, lake, stream or tidal waters.

§ 45-20. Flood hazard areas.

All principal structures within the subdivision or development, located within designated flood hazard areas, as shown on Federal Emergency Management Agency Maps or Flood Hazard Boundary Maps, on file for public inspection at the Town Office, shall be constructed in accordance with the provisions of Chapter 70, Floodplain Management.

§ 45-21. Financial and technical capacity.

- A. The applicant shall have adequate financial and technical capacity to meet these stated standards.
- B. The developer shall, upon request of the Board, submit detailed financial statements that demonstrate adequate financial capacity to complete the project under the provisions and standards of this chapter.

ARTICLE V
Violations and Enforcement

User's Guide: This article contains specific provisions outlining those actions which shall be considered violations of this chapter and provisions for enforcement including revocation of permits. It also provides that contractors and others shall be held liable for their actions which are in violation of this chapter.

§ 45-22. Recording of subdivision plan without approval prohibited.

No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with this chapter.

§ 45-23. Conveyance without recording prohibited.

No person may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

§ 45-24. Conveyance of lots not shown on final plan prohibited.

No person may convey, offer or agree to convey any land in an approved subdivision which is not shown on the final plan as a separate lot.

§ 45-25. Conveyance without approval prohibited.

No person may convey, offer or agree to convey any land in a subdivision which has not been approved as required by this chapter.

§ 45-26. Utility hookups prior to approval prohibited.

No public utility, water district, sanitary district, or any utility company of any kind shall serve any lot in a subdivision or building in a development for which a final plan has not been approved by the Board.

§ 45-27. Development prior to approval prohibited.

Development of a subdivision or project requiring approval under this chapter without Board approval shall be a violation. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a final plan approved as provided in this chapter.

§ 45-28. Road completion prior to conveyance required.

- A. No lot in a subdivision may be sold, leased or otherwise conveyed before the road upon which the lot fronts is completed in accordance with the provisions of this chapter.⁷
- B. No unit in a multifamily development shall be occupied before the road upon which the unit is accessed is completed in accordance with the provisions of this chapter.

§ 45-29. Failure to comply with conditions of approval and revocation of permit.

Any violation of this chapter shall be grounds for revoking the approved development or subdivision permit; initiating legal proceedings to enjoin construction, development, or any specific activity that violates the conditions of permit approval; and applying the appropriate legal penalties provided by statute and this chapter.

- A. The Planning Board may revoke a permit issued by the Board at a regular meeting of the Board or at a special meeting of the Board called for that purpose.
 - (1) The permittee shall be notified of the Board's intention to consider revocation of the permit by certified mail.
 - (2) Notice shall be mailed not less than 14 days prior to the meeting considering the revocation.
 - (3) Grounds for revocation shall include the following:
 - (a) Fraudulent or erroneous information on the application, or permit issued in error;
 - (b) Violation of the terms of the permit;
 - (c) Violation of state or federal statutes or regulations or Town ordinances resulting from work done under the terms of the permit;
 - (d) Unsafe or hazardous work conditions or conditions which would damage the environment or endanger public safety; or
 - (e) Failure to comply with conditions of approval.
- B. Persons whose permits have been revoked may appeal to the Board of Appeals as provided for in § 45-36 of this chapter. Revocation of the permit shall not be stayed during the period of appeal.

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 45-30. Owner responsible for off-site sedimentation.⁸

Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the owner to remove sediment from all adjoining surfaces, drainage systems and watercourses and to repair any damage, at the owner's expense, as quickly as possible. Failure to do so within two weeks after official notification by the Board or Codes Enforcement Officer shall be considered a violation of this chapter.

§ 45-31. Nuisances.

Any violation of this chapter shall be deemed a nuisance.

§ 45-32. Codes Enforcement Officer.

It shall be the duty of the Codes Enforcement Officer to enforce the provisions of this chapter. If the Codes Enforcement Officer shall find that any provision of this chapter is being violated, the Codes Enforcement Officer shall notify in writing the person or persons responsible for such violation, including the nature of the violation, and ordering the corrective action necessary, including the discontinuance of illegal use of land, buildings, structures, and abatement of nuisance conditions. A copy of such notice shall be maintained as a permanent record.

§ 45-33. Legal actions.

When the above action does not result in correction or abatement of the violation or nuisance condition, the Selectmen or Town Manager, upon notice from the Codes Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this chapter in the name of the inhabitants of the Town of Islesboro.

§ 45-34. Fines.

- A. Any person, including but not limited to a landowner, a landowner's agent, developer, subdivider, or contractor, who orders or conducts any activity in violation of this chapter shall be subject to the provisions of 30-A M.R.S.A. § 4452.
- B. All fines recovered under that section shall accrue to the Town.

§ 45-35. Late fee.

- A. Should an applicant commence work on a project requiring a permit before receiving such permit or violate the provisions of a permit, the Planning Board, upon showing of good cause by the applicant, may waive the provisions of § 45-34 upon payment by the applicant of a late fee of \$100 in addition to all other fees required by this chapter.

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. "Good cause," for the purposes of this chapter, shall include, but not be limited to, a clear showing by the applicant that the violation of this chapter by the applicant was inadvertent or beyond the applicant's control. The burden of proof of good cause shall be upon the applicant.

ARTICLE VI Appeals

User's Guide: This article provides for administrative appeals of the decisions of the Planning Board and Codes Enforcement Officer as well as requests for variances from the provisions of this chapter.

§ 45-36. Appeals and variances.

Appeals from the decisions of the Planning Board and Codes Enforcement Officer and requests for variances from the provisions of this chapter shall be made within 45 days and in accordance with the provisions of Chapter 15, Article I, Board of Appeals and Assessment Review.

ARTICLE VII Multiple Dwelling and Lodging Facilities

User's Guide: This article contains the standards and requirements for hotels, motels, cabins, hospitals, nursing or convalescent homes, inns, bed-and-breakfast establishments, congregate dwelling facilities, apartment house and other multiple dwelling facilities and lodging whether for transient or permanent residence.

§ 45-37. Location.

Multiple dwelling facilities shall not be located in the Resource Protection, Limited Development, Meadow Pond, or Maritime Activities Districts.

§ 45-38. Lot size.

- A. Rooming houses and bed-and-breakfast facility are considered to be customary home occupations, and therefore, no additional lot size requirements, beyond those required for a residence, shall apply.⁹
- B. Hotels, motels, hospitals, cabins, nursing or convalescent homes, and other commercial lodging whether for transient or permanent residence shall be located on lots of not less than 65,340 square feet (1.5 acres) in area for each building not accessory to the principal use.

⁹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) In addition to the minimum lot size of 65,340 square feet each lot shall contain the following additional minimum lot areas for the facilities listed below:
 - (a) Each bedroom: 8,000 square feet.
 - (b) Each public room: 8,000 square feet. Note: "Public rooms" shall include but not be limited to conference rooms, lobbies, restaurant/coffee shops, shops, exercise rooms, recreation rooms, and indoor swimming pools. The term "public room" shall not include rest rooms or rooms incidental to a use requiring additional lot square footage such as changing rooms, restaurant kitchens and office space used in the operation of the business.
 - (2) Cabins, as defined below, shall meet the requirements of this chapter that apply to motels and hotels. The aggregate number of cabins shall be considered one principal use.
- C. Apartment houses, congregate dwelling facilities, and other similar multiple dwelling facilities not connected to a public sewer shall be located on lots of not less than 65,340 square feet (1.5 acres) in area per apartment. The Planning Board may permit a lesser minimum lot size for efficiency or one-bedroom apartments and for apartments designed for and to be occupied by the handicapped as defined by the Americans with Disabilities Act.
- (1) Each apartment permitted a lesser lot size by the Planning Board shall have not less than 21,780 square feet (0.5 acre) in lot area for each designated apartment and a total lot area of not less than 65,340 square feet per building not accessory to the principal use.
 - (2) In permitting the lesser lot size per apartment, the Planning Board shall consider the number of apartments designated and the effect on the neighborhood that the higher density would create.
- D. Apartment houses, congregate dwelling facilities, and other similar multiple dwelling facilities connected to a public sewer shall be located on a lot of not less than 65,340 square feet in area per building not accessory to the principal use and that has not less than 21,780 square feet (0.5) acre per apartment.

§ 45-39. Parking.

All parking facilities referred to in this section shall be off street and on site.

- A. All multiple dwelling units shall be provided with 1.5 parking spaces per dwelling unit consistent with Article XV of this chapter.
- B. The Planning Board may require more or fewer than 1.5 spaces per dwelling unit for good cause.

§ 45-40. Safety.

The Planning Board shall require all multiple dwelling units to meet all requirements of the State Fire Marshal's Office, Occupational Safety and Health Act (OSHA), and the Americans with Disabilities Act (ADA). The Planning Board may stipulate additional safety requirements.

§ 45-41. Burden of proof.

An applicant for multiple dwellings bears the burden of proof that there would be no undue adverse effects on the aquifer, ferry, parking, roads, public facilities, etc.

ARTICLE VIII
Pre-Application Conference

User's Guide: This article contains specific information related to the procedures to be followed during a pre-application conference, the required submissions, the setting of the contour intervals required on subsequent plans, the scheduling of required on-site inspections, and establishes that rights are not vested by the pre-application review.

§ 45-42. Purpose.

- A. The purpose of the pre-application conference is to allow any prospective applicant applying under the provisions of this chapter the opportunity to discuss a proposed project with the Board.
- B. It is a voluntary, informal procedure intended to identify any prospective problems that may arise as a result of the proposed project or prospective application.

§ 45-43. Procedure.

The procedures to be followed for a pre-application conference are as follows:

- A. The prospective applicant shall request that the matter be placed on the agenda for discussion with the Board.
- B. The prospective applicant shall present a simple sketch plan indicating the scope of the prospective project, any prospective construction, any significant or difficult terrain conditions, and any other features of the proposed project that the prospective applicant wishes to discuss with the Board.

§ 45-44. Site inspection and contour interval.

- A. The prospective applicant may request the Board to conduct an on-site inspection of the area of the proposed project.

- B. The Chair of the Board shall then appoint at least two members or associate members of the Board to conduct such a site inspection within 30 days of the request.
- C. The applicant shall prepare the site prior to site inspection by placing stakes at the corners of all proposed structures and facilities.
- D. Those conducting the site inspection shall report their findings to the Board at the next regular meeting of the Board after the site inspection has been completed.
- E. The report of the site inspection findings shall include the following:
- (1) The general slope of the land;
 - (2) The proximity of the proposed project to any water body, wetland, Resource Protection District, Limited Development District, or Meadow Pond District;
 - (3) Sight lines to and from the proposed project;
 - (4) Any other information relevant to assist the Board and the prospective applicant to determine the feasibility of the proposed project.
- F. The prospective applicant may request that the Board determine the contour interval required on subsequent plans.
- (1) The Board shall determine the contour interval required based on the steepness of the slope of the land and shall notify the prospective applicant in writing within 30 days of its determination. Note: Since contour intervals are vertical, the flatter the land the smaller the interval must be in order to reveal the contours of the land.
 - (2) The contour interval in feet for slopes of less than 10% shall be at least equal to the slope of the land in percent. (For example, a site having a general slope of 5% would require a contour interval of at least five feet.)
 - (3) The contour interval for slopes greater than 10% shall not be more than 10 feet. The Board may require contour intervals of less than 10 feet for areas where the slope of the terrain and the area drained is such that the Board deems lesser intervals necessary.
 - (4) If an applicant elects not to request a determination of the contour interval required on plans submitted to the Board as part of an application, the contour interval shall be not more than five feet.
 - (5) If upon review of the preliminary or final plan the Board determines that the nature of the project requires contour intervals of less than five feet pursuant to Subsection F(2), the applicant then shall supply such plans.

§ 45-45. Rights not vested.

The submittal of any plan or document at a pre-application conference shall not constitute an application, nor shall such submittal be considered the initiation of the review process for the purposes of bringing a plan under the protection of 1 M.R.S.A. § 302.

ARTICLE IX
Procedures and Submissions for Minor Subdivisions

User's Guide: This article outlines the procedures and submissions required for the review and approval of minor subdivisions. A minor subdivision contains not more than four lots or dwelling units.

§ 45-46. General.

The Board may require, where it deems necessary for the protection of public health, safety, and welfare, that a minor subdivision comply with all or any of the submission requirements for a major subdivision.

§ 45-47. Procedure.

- A. The applicant shall submit an application for approval at least seven days prior to a scheduled meeting of the Board.
- B. Each application for minor subdivision shall be accompanied by a minimum nonrefundable application fee of \$300 per lot or dwelling unit payable by check to the Treasurer, Town of Islesboro. If a public hearing is deemed necessary by the Board, an additional minimum nonrefundable fee of \$75 shall be required to cover the additional costs of advertising. All notification costs of a public hearing are to be at the applicant's expense.¹⁰
- C. Within 30 days of receiving the application, the Planning Board shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material required. After a completed application is received, the Board shall notify the applicant and begin its full evaluation of the proposed subdivision.
- D. The applicant, or the applicant's duly authorized representative, shall attend the meeting of the Board to discuss the plan.
- E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant.
 - (1) The Board shall determine whether to hold a public hearing on the application based on any of the criteria set forth in § 45-16A.
 - (2) If the Board determines to hold a public hearing, it shall follow the appropriate provisions of § 45-16 and the applicant shall make certification to the Board in accordance with § 45-16C of this chapter.
 - (3) The applicant shall notify all abutting property owners of the proposed subdivision specifying the location of the proposed subdivision and including a general description of the project.

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- F. Within 30 days of a public hearing, or within 60 days of receipt of a complete application, if no public hearing is held, or within another time limit as may be otherwise mutually agreed to, in writing, by the Board and the applicant, the Board shall make its findings of fact on the application and approve or approve with conditions or deny the plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.¹¹

§ 45-48. Submissions.

- A. The subdivision plan for a minor subdivision shall consist of:
- (1) Two reproducible, stable based transparent originals, of each sheet required, one to be recorded at the Registry of Deeds, the other to be filed in the Assessor's office;
 - (2) Three full-sized copies of one or more maps or drawings drawn to a scale of 100 feet to the inch.
- B. Plans for subdivisions containing more than 100 acres may be drawn at a scale of 200 feet to the inch, provided that all necessary detail can easily be read.
- C. Plans shall be no larger than 24 inches by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board in a format specified by the Board.
- D. Three copies of all information accompanying the plan shall be submitted.
- E. The application for approval of a minor subdivision shall include the following information:
- (1) Proposed name of the subdivision, or identifying title, and the Assessor's map and lot numbers.
 - (2) A field survey of the boundary lines of the subdivision, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the subdivision and each lot shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
 - (3) A copy of the deed from which the survey was based.
 - (4) A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 - (5) A copy of any deed restrictions intended to cover all or part of the lots in the subdivision.
 - (6) Indication of the type of sewage disposal to be used in the subdivision.

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (7) A written statement from the Town Manager certifying that the sewage treatment facility has the capacity to collect and treat the wastewater from the subdivision if it is proposed that sewage disposal be accomplished by connection to a public sewer.
- (8) A map showing all test pits dug on the site and test pit analysis for each lot prepared by a licensed site evaluator or soils scientist shall be provided to the Board when sewage disposal is to be accomplished by subsurface sewage treatment on site.
- (9) A statement indicating the type of water supply system(s) to be used in the subdivision.
- (10) Any other information required by the Board to determine whether approval should be granted or denied.

F. The plan shall have the following information delineated or included:

- (1) The date the plan was prepared;
- (2) North arrow;
- (3) Graphic map scale;
- (4) Names and addresses of the record owner, subdivider, and individual or company who prepared the plan, and the names of adjoining property owners;
- (5) If any portion of the subdivision is in a floodplain, the boundaries of any flood hazard areas and the one-hundred-year flood elevation;
- (6) The title and boundary lines of any land use districts occurring on or within 250 feet of the perimeter of the proposed subdivision;
- (7) The setback lines of all applicable building setbacks;
- (8) Any areas on a proposed lot greater than 10,000 square feet that are not suitable for building because of soil conditions or slope;
- (9) The location and size of existing and proposed sewers, water mains, culverts and drainageways on or adjacent to the property to be subdivided;
- (10) The location, names, and widths of existing and proposed roads, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision;
- (11) The width and location of any existing and proposed roads or public improvements shown upon the Protection Districts Map and the Comprehensive Plan, if any, within the subdivision;
- (12) The proposed lot lines with dimensions and lot areas;
- (13) All parcels of land proposed to be dedicated to public use and the conditions of such dedication;

- (14) The location of any open space to be preserved and an explanation of improvements and its management;
 - (15) A plan for the disposal of surface drainage waters, prepared by a registered professional engineer when required by the Board.
- G. Contour lines at the interval specified by the Board, showing elevations in relation to mean sea level (NGVD), shall be provided on a separate plan.

§ 45-49. Final approval and filing.

- A. No plan shall be approved by the Board as long as the applicant is in default on a previously approved plan.
- B. Upon findings of fact and determination that all standards and provisions of 30-A M.R.S.A. § 4404 and this chapter have been met, and upon voting to approve the subdivision, the Board shall sign the plan and issue a permit for the subdivision.
- (1) The Board shall specify in writing its findings of fact and reasons for any conditions or denial.
 - (2) One copy of the signed plan shall be retained by the Board as part of its permanent records.
 - (3) One copy of the signed plan shall be forwarded to the Tax Assessor.
 - (4) One copy of the signed plan shall be forwarded to the Codes Enforcement Officer.
 - (5) Any subdivision plan not recorded with the Waldo County Register of Deeds within 90 days of the date upon which the plan is approved and signed by the Board shall be considered unapproved. The subdivision permit shall be revoked and the plan shall require resubmission, review and approval.
- C. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised plan is first submitted to the Board and the Board approves any modifications.
- (1) The Board shall make findings that the revised plan meets the standards and provisions of 30-A M.R.S.A. § 4404 and this chapter.
 - (2) In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- D. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement, or other open space shown on such plan.
- (1) When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the Town, approval of the plan shall not constitute an

acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect.

- (2) The Board may also require the filing of a written agreement between the applicant and the Board of Selectmen covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

ARTICLE X

Procedures and Submissions for Major Subdivision Preliminary Plans

User's Guide: This article outlines the procedures and submissions required for the review and approval of preliminary plans for major subdivisions. A major subdivision contains more than four lots or dwelling units.

§ 45-50. Procedure.

- A. The applicant for major subdivision approval shall submit an application for approval of a preliminary plan of subdivision at least seven days prior to a scheduled meeting of the Board.
- B. All applications for preliminary plan approval for a major subdivision shall be accompanied by a nonrefundable application fee of \$100 per lot or dwelling unit, whichever is greater, payable by check to the Treasurer, Town of Islesboro. In addition the Board may require an initial fee of \$500 per lot or dwelling to be deposited in a non-interest-bearing account to be used by the Board in hiring independent consulting services to review the application.
 - (1) The Board shall estimate the total cost of such services and shall notify the applicant in a timely manner of that estimate which shall then be prepaid by the developer.
 - (2) Any balance remaining in the account after the services have been rendered shall be returned to the applicant. Any funds due the Board from the applicant shall be paid prior to approval.
 - (3) If a public hearing is deemed necessary by the Board, an additional minimum nonrefundable fee of \$75 shall be charged to the applicant to cover the costs of advertising and postal notifications.¹²
- C. Upon submittal of the application for preliminary plan approval to the Board, the applicant shall also notify by certified mail all abutting property owners of the proposed subdivision specifying the location of the proposed subdivision and including a general

¹² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

description of the project. The applicant shall provide the Planning Board with an exact copy of the documents that were sent by certified mail to the abutters.¹³

- D. The applicant, or the applicant's duly authorized representative, shall attend the meeting of the Board to discuss the preliminary plan.
- E. Within 30 days of receipt of a preliminary plan application form and fee, the Board shall notify the applicant in writing whether the preliminary plan application is complete, and, if not, what additional submissions are required for a complete application. Upon receipt of a complete preliminary plan application, the Board shall issue a dated receipt.
- (1) The Board shall determine whether to hold a public hearing on the preliminary plan application based on any of the criteria set forth in § 45-16A.
 - (2) If the Board determines to hold a public hearing, it shall follow the appropriate provisions of § 45-16 and the applicant shall make certification to the Board in accordance with § 45-16C of this chapter.
- F. Within 30 days of a public hearing, or within 60 days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to, in writing, by the Board and the applicant, the Board shall make findings of fact on the application for preliminary plan approval and approve, approve with conditions, or deny the preliminary plan.
- G. When granting approval to a preliminary plan, the Board shall state the conditions of approval, if any, with respect to:
- (1) The specific changes which it will require in the final plan;
 - (2) The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and
 - (3) The amount of all performance guarantees that the Board will require as prerequisite to the approval of the final plan.
- H. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan.
- (1) The final plan shall be submitted for approval of the Board upon fulfillment of the provisions of this chapter and the conditions of preliminary approval, if any.
 - (2) Prior to the approval of the final plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 45-51. Submissions.

- A. Location map. The preliminary plan shall be accompanied by a location map showing the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the municipality. The location map shall show:
- (1) Existing subdivisions within 250 feet of the proposed subdivision.
 - (2) Locations and names of existing and proposed roads.
 - (3) Boundaries and designations of any land use districts.
 - (4) An outline of the proposed subdivision and any remaining portion of the owner's property abutting the proposed subdivision.
- B. Preliminary plan. The preliminary plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of 100 feet to the inch. The Board may allow plans for subdivision containing more than 100 acres to be drawn at a scale of 200 feet to the inch, provided that all necessary detail can be easily read. In addition, eight copies of the plan(s) reduced to a size of 8 1/2 inches by 11 inches shall be submitted. The following information shall either be shown on the preliminary plan or accompany the application for preliminary approval:
- (1) Proposed name of the subdivision, name of the Town of Islesboro and Waldo County, and the Property Map, Town of Islesboro, Waldo County, Maine (Tax Map) map and lot numbers;¹⁴
 - (2) An actual field survey of the boundary lines of the proposed subdivision and each lot, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the proposed subdivision and each lot shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner;
 - (3) Contour lines at the interval specified by the Board, showing elevations in relation to mean sea level (NGVD);
 - (4) The number of acres within the proposed subdivision; the square footage and number of acres of each proposed lot; all land defined as not suitable for development; location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features; the location of any trees larger than 75 inches in circumference at breast height in the subdivision;
 - (5) The date the plan was prepared, magnetic North point, graphic map scale, names and addresses of the owners of record, subdivider, and individual or company who prepared the plan;

14. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (6) The names and addresses of owners of record of adjacent property, including any property directly across an existing public road from the subdivision and those requested by the Board;
- (7) The location of any land use boundaries affecting the subdivision;
- (8) The location and size of existing and proposed sewers, water mains, culverts and drainageways on or adjacent to the property to be subdivided;
- (9) The location, names, and widths of existing and proposed roads, easements, building lines, parks and other open spaces on or adjacent to the subdivision;
- (10) The width and location of any existing and proposed roads or public improvements shown upon the Protection Districts Map and the Comprehensive Plan, if any, within the subdivision;
- (11) All parcels of land proposed to be dedicated to public use and the conditions of such dedication;
- (12) The location of any open space to be preserved and an explanation of its improvements and management;
- (13) If any portion of the subdivision is in a floodplain, the boundaries of any flood hazard areas and the one-hundred-year flood elevation;
- (14) The boundaries of all required setbacks.
- (15) A copy of the deed from which the survey was based, together with a copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances affecting the property;
- (16) A copy of all covenants or deed restrictions intended to cover all or part of the lots in the proposed subdivision;
- (17) A written statement from the Town Manager certifying that the sewage treatment facility has the capacity properly to collect and treat the wastewater from the proposed subdivision if it is proposed that sewage disposal be accomplished by connection to a public sewer;
- (18) A map showing all test pits dug on the site and test pit analysis for each proposed lot prepared by a licensed site evaluator or soils scientist if it is proposed that sewage disposal is to be accomplished by subsurface sewage treatment on site;
- (19) Statement of the type of water supply system(s) to be used in the subdivision;
- (20) A soil erosion and sedimentation control plan endorsed by the Waldo County Soil and Water Conservation District;
- (21) A plan for the disposal of surface drainage waters, prepared by a registered professional engineer;

- (22) A copy of a high-intensity soils map covering the subdivision and a written soils report, both prepared by a Maine registered soils scientist. The Board may waive or modify this requirement for lots that are greater than five acres in size.

ARTICLE XI

Procedures and Submissions for Major Subdivision Final Plans

User's Guide: This article outlines the procedures and submissions required for the review and approval of final plans for major subdivisions. It is recommended that applicants consult 30-A M.R.S.A. §§ 4401 to 4406 to ensure statutory compliance.

§ 45-52. Procedure.

- A. The applicant shall apply to the Board for final approval of a major subdivision plan no later than 90 days after the Board approves the applicant's preliminary plan. The final plan shall be in substantial accord with the approved preliminary plan and shall reflect any changes required by the Board at the time the preliminary plan was approved.
 - (1) The applicant may, for good cause, apply for an extension of time beyond 90 days after preliminary plan approval if application for extension is made prior to the expiration of the ninety-day period.
 - (2) The Board shall grant the applicant an extension, upon showing of good cause, to a date certain, but no more than 180 days after the expiration of the first ninety-day period.
 - (3) If the applicant does not present a final plan for approval before the expiration of the ninety-day period or any extension granted by the Board, the application will be deemed to have lapsed.
 - (4) If an applicant wishes to submit a lapsed application to the Board, the Board may require the applicant to submit a preliminary plan as set forth in Article X of this chapter together with all fees required.
 - (5) Notwithstanding approval of the preliminary plan, the final plan shall meet all the provisions of this chapter and any amendments thereto in effect at the time of submission of the final plan.
- B. Each application for final plan approval for a major subdivision shall be accompanied by a nonrefundable application fee of \$400 per lot or dwelling unit, whichever is greater, payable by check to the Treasurer, Town of Islesboro.
 - (1) The Board may require an initial fee of \$500 per lot or dwelling unit to be deposited in a non-interest-bearing account to be used by the Board in hiring independent consulting services to review the application. The applicant may be required to pay additional costs for such services if they exceed the initial fee.

- (2) Any balance remaining in the account after the services have been rendered shall be returned to the applicant. Any funds due the Board from the applicant shall be paid prior to approval.
 - (3) If a public hearing is deemed necessary by the Board, an additional minimum nonrefundable fee of \$75 shall be charged to the applicant to cover the costs of advertising and postal notifications.¹⁵
- C. Prior to submission of the final plan application, the following approvals shall be obtained in writing, where appropriate:
- (1) Maine Department of Environmental Protection, under the Natural Resources Protection Act (38 M.R.S.A. §§ 480-A to 480-U);¹⁶
 - (2) Maine Department of Health and Human Services, if the applicant proposes to provide a central water supply system, or if centralized or shared subsurface sewage disposal systems are to be utilized;
 - (3) The Town Manager, if an existing public sewage disposal system is to be used.
- D. The applicant or duly authorized representative shall attend the meeting of the Board to discuss the final plan.
- E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant.
- F. Within seven days after the dated receipt is issued, the applicant shall notify by certified mail, return receipt requested, the Town Manager, Road Commissioner, School Superintendent, Fire Chief, and Emergency Services Director of the details of the proposed subdivision and shall request that these officials comment in writing to the Board upon the adequacy of their department's existing capital facilities to service the proposed subdivision. The notification shall include the following information:¹⁷
- (1) The number of lots or dwelling units proposed;
 - (2) The length of roadways and size of turnarounds;
 - (3) The size and construction characteristics of any multifamily, commercial or industrial buildings.
- G. The Board shall determine whether to hold a public hearing on the final plan application based on any of the criteria set forth in § 45-16A.
- H. If the Board determines to hold a public hearing, it shall follow the appropriate provisions of § 45-16, and the applicant shall make certification to the Board in accordance with § 45-16C of this chapter.

15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

16. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

17. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- I. Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article XXI of this chapter.
- J. Within 30 days of the public hearing, or within 60 days of receipt of a complete application if no hearing is held, the Board shall make written findings of fact and conclusions relative to the standards contained in 30-A M.R.S.A. § 4404 and the provisions of this chapter.¹⁸
 - (1) If the Board finds that all standards of the statute and this chapter have been met, it shall approve the final plan and issue a permit.
 - (2) If the Board finds that any of the standards or provisions of the statute and this chapter have not been met, the Board shall either deny the application or approve the application and issue a permit with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the findings of fact.

§ 45-53. Submissions.

- A. The final plan shall consist of one or more maps or drawings drawn to scale of 100 feet to the inch. Plans for subdivisions containing more than 75 acres may be drawn at a scale of 200 feet to the inch.
- B. Plans shall be no larger than 24 inches by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board.
- C. The applicant shall submit:
 - (1) Two reproducible, stable based transparent original plans, one to be recorded at the Waldo County Register of Deeds, the other to be filed at the Assessor's office;
 - (2) Three full-sized copies of the plan; and
 - (3) Eight copies of the final plan, reduced to a size of 8 1/2 inches by 11 inches.
 - (4) On a computer disk, in digital format, all information on the subdivision plan as recorded at Waldo County Register of Deeds. The format must be in a GIS program acceptable to the Islesboro Town Assessor.
- D. The application for approval of the final plan shall include the following information and submissions:¹⁹
 - (1) Proposed name of the subdivision, name of the Town of Islesboro and Waldo County, and the Tax Assessor's map and lot numbers;

18. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

19. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) An actual field survey of the boundary lines of the proposed subdivision and each lot, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the proposed subdivision and each lot shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner;
- (3) The number of acres within the proposed subdivision; the square footage and number of acres of each proposed lot; all land defined as not suitable for development; location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features; the location of any trees larger than 75 inches in circumference at breast height in the subdivision;
- (4) The date the plan was prepared, magnetic North point, graphic map scale, names and addresses of the owners of record, subdivider, and individual or company who prepared the plan;
- (5) The names and addresses of owners of record of adjacent property, including any property directly across an existing public road from the subdivision and those requested by the Board;
- (6) The location of any land use boundaries affecting the subdivision;
- (7) The location and size of existing and proposed sewers, water mains, culverts and drainageways on or adjacent to the property to be subdivided;
- (8) The location, names, and widths of existing and proposed roads, easements, building lines, parks and other open spaces on or adjacent to the subdivision;
 - (a) The plan shall contain sufficient data to allow the location, bearing and length of every road line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established;
 - (b) The length of all straight lines, the deflection angles, radii, length of curves and central angles of the curves, tangent distances and tangent bearings for each road shall be included;
- (9) The width and location of any existing and proposed roads or public improvements shown upon the Protection Districts Map and the Comprehensive Plan, if any, within the subdivision;
- (10) All parcels of land proposed to be dedicated to public use and the conditions of such dedication together with:
 - (a) Written offers of cession to the Town of all public open spaces shown on the plan;
 - (b) Copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained.
 - (c) Written evidence that the Board of Selectmen is satisfied with the legal sufficiency of the written offer of cession;

- (11) The location of any open space to be preserved and an explanation of its improvements and management;
 - (12) If any portion of the subdivision is in a floodplain, the boundaries of any flood hazard areas and the one-hundred-year flood elevation;
 - (13) The boundaries of all required setbacks.
 - (14) A copy of the deed from which the survey was based, together with a copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances affecting the property;
 - (15) A copy of all covenants or deed restrictions intended to cover all or part of the lots in the proposed subdivision;
 - (16) A written statement from the Town Manager certifying that the sewage treatment facility has the capacity to collect and treat the wastewater from the proposed subdivision if it is proposed that sewage disposal be accomplished by connection to a public sewer;
 - (17) A map showing all test pits dug on the site and test pit analysis for each proposed lot prepared by a licensed site evaluator or soils scientist if it is proposed that sewage disposal is to be accomplished by subsurface sewage treatment on site;
 - (18) Statement of the type of water supply system(s) to be used in the subdivision contained in a written report from a licensed well driller or hydro-geologist, familiar with the area, certifying evidence of adequate groundwater supply and quality;
 - (19) A soil erosion and sedimentation control plan endorsed by the Waldo County Soil and Water Conservation District;
 - (20) A plan for the disposal of surface drainage waters, prepared by a registered professional engineer;
 - (21) A copy of a high-intensity soils map covering the subdivision and a written soils report, both prepared by a Maine registered soils scientist. The Board may waive or modify this requirement for lots that are greater than five acres in size;
 - (22) A contour map showing contour lines at the interval specified by the Board, showing elevations in relation to mean sea level (NGVD);
 - (23) A written statement from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary;
 - (24) A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots.
- E. Prior to final approval of the final plan, the applicant shall submit a list of construction and maintenance items, with both capital and annual operating cost estimates that must be financed by the Town or quasi-municipal districts. The list shall include but not be limited to:

- (1) Schools, including busing;
 - (2) Recreation facilities;
 - (3) Road maintenance and snow removal;
 - (4) Stormwater drainage;
 - (5) Police and fire protection;
 - (6) Wastewater treatment;
 - (7) Solid waste disposal;
 - (8) Water supply;
 - (9) Ferry transportation and parking;
 - (10) Emergency medical services and the health center.
- F. The applicant shall provide the Board with an assessment of the financial impacts of the proposed development on the above public facilities and services and shall be required to compensate the Town for the net public cost directly attributable to the proposed development. Such impact fees shall be paid to the Town prior to final approval as provided in Article XXII of this chapter.

§ 45-54. Final approval and filing.

- A. No plan shall be approved by the Board as long as the applicant is in default on a previously approved plan.
- B. Upon findings of fact and determination that all standards and provisions of 30-A M.R.S.A. § 4404 and this chapter have been met, and upon voting to approve the subdivision, the Board shall sign the final plan.
 - (1) The Board shall specify in writing its findings of fact and reasons for any conditions or denial.
 - (2) One copy of the signed plan shall be retained by the Board as part of its permanent records.
 - (3) One copy of the signed plan shall be forwarded to the Tax Assessor.
 - (4) One copy of the signed plan shall be forwarded to the Codes Enforcement Officer.
 - (5) Any subdivision plan not recorded with the Waldo County Register of Deeds within 90 days of the date upon which the plan is approved and signed by the Board shall be considered unapproved and shall require resubmission, review and approval.

- C. At the time the Board grants final plan approval, it may permit the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the plan.
- D. If the Board of Selectmen, the Town Manager, Superintendent of Schools, or other municipal officials notified of the proposed subdivision inform the Board that there are not adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision.²⁰
- E. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted to the Board and the Board approves any modifications.
- (1) The Board shall make findings that the revised plan meets the standards and provisions of 30-A M.R.S.A. § 4404 and this chapter.
 - (2) In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- F. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement, or other open space shown on such plan.
- (1) When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the Town, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect.
 - (2) The Board may also require the filing of a written agreement between the applicant and the Board of Selectmen covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- G. Failure to commence substantial construction of the subdivision within 24 months of the date of approval and signing of the final plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this subsection, the Board shall have a notice placed in the Registry of Deeds to that effect.

20. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE XII

Procedures and Submissions for Site Plan Review Applications

User's Guide: This article outlines the procedures and submissions required for site plan review applications for major and minor developments. A minor development is an area less than 3,000 square feet.

§ 45-55. Procedures and submissions for minor development.

- A. Applications for minor development shall be submitted on the form required by the Board.
- B. The applicant will make full disclosure of the purpose and extent of the proposed activity.
- C. To be eligible for minor development status, proposed activities shall meet all of the following criteria:
 - (1) The proposed activity is subject to the provisions of this chapter;
 - (2) The proposed activity occupies an area of less than 3,000 square feet in total; or the activity occupies an area greater than 3,000 square feet but creates little appreciable impact on traffic, air quality, noise, drainage, and natural views outside its location;
 - (3) The proposed activity will require changes to the lot only to the extent needed for construction of the activity or for access during construction.
- D. In addition to meeting all the criteria set forth in Subsection C(1), (2) and (3), application for approval of minor development may be made for any of the following proposed activities:
 - (1) Customary home occupations or small workshop operations or an activity which would otherwise qualify as a customary home occupation or minor workshop operation if the owner were to reside on the premises;
 - (2) A commercial, office, municipal, fraternal, institutional, or recreational activity in an existing structure which will require no substantial change to the exterior of the structure;
 - (3) An activity requiring the construction of a structure or facility, which is not inconsistent in size or appearance with nearby structures or facilities, or if it is inconsistent with other nearby structures or facilities, it will not be visible from dwellings, the road, or the shore;
 - (4) An activity which will generate only minor additional traffic to the neighborhood and the current or proposed access to the proposed activity is safe;
 - (5) An activity which creates no noise, smoke, or emission of particulate matter that would create a nuisance to the neighborhood or to the public;

- (6) An activity that would create no drainage problems, unsafe, unsanitary, or unsightly conditions;
 - (7) An activity which is an operation on a commercial, industrial, office, municipal, institutional, fraternal, or recreational site that is similar to activities normally conducted on a residential site, including but not limited to landscaping, driveway building and maintenance, clearing, or construction of handicap access;
 - (8) A continuing municipal or public school activity, including but not limited to paving, repaving, and maintenance of roads, parking lots, driveways, and municipal or public school structures and facilities.
- E. The Board will examine the application and determine if site review is required. The following activities will not require site review unless the Board determines unusual circumstances require such site review:
- (1) Additions to existing structures, such as stairs, porches, decks, walkways, and antennas;
 - (2) Similar structures aggregating in total less than 120 square feet;
 - (3) Paving, repaving or placing gravel on existing driveways and roads; and
 - (4) Minor landscaping not involving removal or diminution of existing buffers.
- F. The Board may determine after review of the application or after site review that the proposed activity is significant enough to require application to be made under the provisions of §§ 45-57 and 45-58 of this chapter.
- G. After review of the application for minor development, the Board may require any or all of the following prior to final approval of the application:
- (1) Conditions or stipulations;
 - (2) That the development meet some or all of the general and specific performance requirements of this chapter;
 - (3) Technical, legal, or engineering advice at the applicant's expense; and
 - (4) Interim and final inspection by the Codes Enforcement Officer.

§ 45-56. Fees for minor developments.

- A. A fee of \$30, plus \$0.10 per square foot for new structures, excluding parking lots and driveways, shall be paid to the Treasurer, Town of Islesboro, for applications not requiring site review.
- B. A fee of \$60, plus \$0.10 per square foot for new structures, excluding parking lots and driveways, shall be paid to the Treasurer, Town of Islesboro, for applications requiring site review.

- C. Fees are not refundable if the Board determines that the proposed development is not subject to § 45-57 of this chapter.

§ 45-57. Procedure for major development.

The following procedure shall govern the submission and review of applications for site and building plans, other than subdivisions or minor developments:

- A. The applicant for site plan review shall submit an application for site plan review with the Board at least seven days prior to a scheduled meeting.
- B. All applications for site plan review shall be accompanied by a minimum nonrefundable application fee of \$200, plus \$0.10 per square foot payable by check to the Treasurer, Town of Islesboro. An additional minimum nonrefundable fee of \$75 shall be required to cover the costs of advertising and postal notification for the required public hearing.²¹
- C. Prior to submission of the site plan review application, the following approvals shall be obtained in writing, where appropriate:
- (1) Maine Department of Environmental Protection, under the Natural Resources Protection Act (38 M.R.S.A. §§ 480-A to 480-U);²²
 - (2) Maine Department of Health and Human Services, if the applicant proposes to provide a central water supply system, or if centralized or shared subsurface sewage disposal systems are to be utilized;
 - (3) The Town Manager, if an existing public sewage disposal system is to be used.
- D. The applicant, or duly authorized representative, shall attend the meeting of the Board to discuss the final plan.
- E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant.
- F. Within seven days after the dated receipt is issued, the applicant shall notify by certified mail, return receipt requested, the Town Manager, Road Commissioner, School Superintendent, Fire Chief, and Emergency Services Director of the details of the proposed subdivision and shall request that these officials comment in writing to the Board upon the adequacy of their department's existing capital facilities to service the proposed subdivision. The notification shall include the following information:²³
- (1) The number of lots or dwelling units proposed;
 - (2) The length of roadways and size of turnarounds;

21. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

22. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

23. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (3) The size and construction characteristics of any multifamily, commercial or industrial buildings.
- G. The Board shall determine whether to hold a public hearing on the site plan application based on any of the criteria set forth in § 45-16A.
- H. If the Board determines to hold a public hearing, it shall follow the appropriate provisions of § 45-16, and the applicant shall make certification to the Board in accordance with § 45-16C of this chapter.
- I. Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article XXI of this chapter.
- J. Within 30 days of the public hearing, or within 60 days of receipt of a complete application if no hearing is held, the Board shall make written findings of fact and conclusions relative to the standards and the provisions of this chapter.²⁴
- (1) If the Board finds that all standards of this chapter have been met, it shall approve the final plan and issue a permit.
- (2) If the Board finds that any of the standards or provisions of this chapter have not been met, the Board shall either deny the application or approve the application and issue a permit with conditions to ensure all of the standards will be met by the development. The reasons for any conditions shall be stated in the findings of fact.

§ 45-58. Submissions for major developments.

- A. The site plan shall consist of one or more maps or drawings drawn to scale of not more than 100 feet to the inch. Plans for developments containing more than 75 acres may be drawn at a scale of not more than 200 feet to the inch.
- B. Plans shall be no larger than 24 inches by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board.
- C. The applicant shall submit:
- (1) Two reproducible, stable based transparent original plans, one to be recorded at the Waldo County Register of Deeds, the other to be filed at the Assessor's office;
- (2) Three full-sized copies of the plan; and
- (3) Eight copies of the site plan, reduced to a size of 8 1/2 inches by 11 inches.
- D. The application for approval of the site plan shall include a plan or plans that include the following:

24. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) Name and address of the applicant and authorized agent; the name of proposed development; and any land within 200 feet of the proposed development in which the applicant has title or interest;
 - (2) Assessor's map and lot number and location of boundary lines of land use districts in which the development lies;
 - (3) Names of abutting landowners and any other landowners specified by the Board;
 - (4) Perimeter survey of the parcel made and certified by a registered land surveyor relating to reference points, showing true North point, graphic scale, corners of parcel and date of survey and total acreage. Areas within 200 feet of the proposed development site shall be included;
 - (5) Existing and proposed locations and dimensions of any utility lines, sewer lines, waterlines, easements, drainage ways, and public or private rights-of-way;
 - (6) Location, ground floor area and elevations of buildings and other structures on parcels abutting the site;
 - (7) Location and dimensions of on-site pedestrian and vehicular access ways; parking areas; loading facilities; design of entrance and exit of vehicles to and from the site on to public streets; and curb and sidewalk lines;
- E. The applicant shall submit the following supporting documents when required by the Board:
- (1) A copy of a high-intensity soils map covering the development and a written soils report, both prepared by a Maine registered soils scientist;
 - (2) An on-site soils investigation report, including logs, by a licensed site evaluator or registered soils scientist if on-site sewage disposal is proposed. The report shall contain the types of soil, location of test pits, and proposed location and design of the best practical subsurface disposal system for the site;
 - (3) A landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening;
 - (4) Topography by actual survey, indicating contours at intervals as specified by the Board in relation to mean sea level (NGVD);
 - (5) Location of aquifers and aquifer recharge areas; and
 - (6) An erosion and sedimentation control plan;
- F. The following information shall be required by the Board from the applicant:
- (1) Evidence by the applicant of title and interest in the land that the application covers;
 - (2) A description of the proposed uses to be located on the site, including quantity and type of residential units, if any;

- (3) Total floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure;
 - (4) Summary of existing and proposed easements, restrictions and covenants placed on the property;
 - (5) Method of solid waste disposal;
 - (6) Copies of letters to the abutting landowners, Town Manager, Selectmen, Road Commissioner, Fire Chief, and Emergency Services Director notifying them of the proposed development;²⁵
 - (7) Statement of financial capacity which shall include the names and sources of the financing parties, including banks, government agencies, private corporations, partnerships and limited partnerships, and whether these sources of financing are for construction loans or long-term mortgages or both;
 - (8) List of local, state, and federal ordinances, statutes, laws, codes and regulations applicable to the project;
 - (9) The applicant's evaluation of the availability and suitability of off-site public facilities, including sewer, water, and roads;
 - (10) A statement from the Fire Chief as to the availability of fire hydrants and/or fire ponds, or provision of fire protection services;
 - (11) A written statement from the Town Manager certifying that the sewage treatment facility has the capacity to collect and treat the wastewater from the proposed development if it is proposed that sewage disposal be accomplished by connection to a public sewer;
 - (12) A statement from either the Town's consulting engineer or Road Commissioner that the proposed road or street construction will meet Town specifications;
 - (13) An estimate of the date when construction will start and when the development will be completed.
- G. The Board may require that the applicant submit a list of construction items with cost estimates that will be completed by the developer prior to the sale of lots, facilities or buildings.
- H. The Board may require that the applicant submit a separate list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the Town or quasi-municipal districts. This list shall include but not be limited to:
- (1) Schools, including busing;
 - (2) Recreation facilities;

25. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (3) Road maintenance and snow removal;
 - (4) Stormwater drainage;
 - (5) Police and fire protection;
 - (6) Wastewater treatment;
 - (7) Solid waste disposal;
 - (8) Water supply;
 - (9) Emergency medical services and health center;
 - (10) Impact on ferry services during construction and the long-term effect.
- I. The applicant shall provide the Board with an assessment of the financial impacts of the proposed development on the public facilities and services and shall be required to compensate the Town for the net public cost directly attributable to the proposed development. Such impact fees shall be paid to the Town prior to final approval as provided in Article XXII.

ARTICLE XIII General Performance Standards

User's Guide: This article contains performance standards with which all development proposals submitted for approval pursuant to this chapter must comply.

§ 45-59. Standards to be met.

In reviewing applications submitted pursuant to this chapter, the Board shall consider the following performance standards and make written findings that each has been met prior to issuing final approvals. In all instances the burden of proof shall be upon the applicant.

§ 45-60. (Reserved) ²⁶

§ 45-61. Municipal services.

The proposed development shall not cause an unreasonable adverse impact on municipal services, including, but not limited to, municipal road systems, Fire Department, Police Department, solid waste program, sewage treatment plant, schools, open spaces, recreational programs and facilities.

26. Editor's Note: Original Section 13.1, Conformance with Comprehensive Plan, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 45-62. Landscape preservation and enhancement.

- A. The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction.
- B. After construction is completed, landscaping shall be planted that will define, soften or screen the appearance of off-street parking areas, buildings and other structures from the public right-of-way and abutting properties in order to enhance the physical design of the proposed development and to minimize the encroachment of the proposed uses on neighboring land uses.

§ 45-63. Relation of proposed buildings to environment.

- A. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed structures, so as to have a minimally adverse effect on the environment and aesthetic qualities of the developed and neighboring areas.
- B. Special attention shall be paid to the bulk, location and height of buildings and such natural features as slope, soil type, and drainageways.

§ 45-64. Retention of open spaces and natural or historic features.

- A. In any development or subdivision larger than 15 acres in size or which contains significant scenic or historical areas, the Board may require the developer to provide up to 10% of the total area of the development or subdivision as open space.
- B. Land reserved for open space purposes shall be of a character, configuration, and location suitable for the particular use intended.
 - (1) A site intended to be used for active recreation purposes, such as a playground or field, shall be relatively level and dry.
 - (2) An active recreation site shall have a total frontage on one or more roads of at least 200 feet and have no major dimensions of less than 200 feet.
 - (3) Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable, but no less than 25 feet of road frontage.
 - (4) The configuration of scenic or passive recreation sites shall be reviewed prior to approval by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc., where necessary and appropriate.
- C. Reserved land acceptable to the Board and the developer or subdivider may be required to be dedicated to the Town as a condition of approval.
 - (1) Dedicated land shall be deeded to the Town only upon its acceptance by a Town Meeting.
 - (2) Dedicated land not accepted by a Town Meeting shall remain dedicated to the purpose approved by the Board.

- (3) Refusal by a Town Meeting to accept dedicated land shall not void the Board's approval of the development or subdivision.
- D. The Board may require that the development plans include a landscape plan that will show:
 - (1) The preservation of any existing trees larger than 75 inches circumference at breast height;
 - (2) The replacement of trees and vegetation;
 - (3) Graded contours;
 - (4) Ponds and streams; and
 - (5) The preservation of scenic, historic or environmentally significant areas.
- E. Preservation of trees on the northwesterly borders of lots shall be encouraged as far as possible, to retain a natural wind buffer.

§ 45-65. Land not suitable for development.

The following lands shall not be included in the calculations of lot area for the purpose of meeting the provisions of this chapter:

- A. Land which is situated below the normal high-water line of any adjacent water body.
- B. Land which is located within the one-hundred-year frequency floodplain as identified on the Federal Emergency Management Agency Flood Hazard Maps, on file at the Town Office, unless the developer or subdivider shows proof through the submittal of materials prepared by a registered land surveyor or registered engineer that the property in question lies at least two feet above the one-hundred-year flood level. The elevation of filled or made land shall not be considered.
- C. Land which is part of a right-of-way, or easement, including utility easements.
- D. Land that has been created by filling or draining a pond or wetland.

§ 45-66. Topsoil and vegetation removal.

- A. Topsoil shall be considered part of the development.
 - (1) Only surplus topsoil from roads, parking areas, and building excavations may be removed from the development site.
 - (2) Topsoil removed in the course of sand and gravel or other mineral extraction shall be stored on site and used for reclamation of the excavated area after operations are completed.

- B. Existing vegetation shall be left intact to the greatest extent possible to prevent soil erosion. The Board shall require a developer to take measures to correct and prevent soil erosion in the proposed development.
- C. Cutting of trees and removal of vegetation shall conform in all respects to the provisions of Chapter 125, Land Use, in effect at the time the development or subdivision is approved by the Board.

§ 45-67. Erosion and sedimentation control.

The following measures relating to conservation, erosion and sediment control shall be included where applicable as part of all projects submitted for review and approval under this chapter:

- A. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction, and cleanup stages. The plan shall be submitted to the Board for approval and shall include, where applicable, provisions for:
 - (1) Mulching and revegetation of disturbed soil.
 - (2) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (3) Permanent stabilization structures such as retaining walls or riprap.
- B. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- C. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- D. Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine months of the initial date of exposure. In addition:
 - (1) Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
 - (2) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

- (3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- E. Natural and man-made drainageways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five-year storm or greater and shall be stabilized with vegetation or lined with riprap.
- F. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best management practices:
- (1) Stripping of vegetation, soil removal and regrading or other development shall be done in such a way as to minimize erosion;
 - (2) Development shall preserve outstanding natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;
 - (3) The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site;
 - (4) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;
 - (5) The disturbed area and the duration of exposure shall be kept to a practical minimum;
 - (6) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods;
 - (7) The top of a cut or the bottom of a fill section shall not be closer than 15 feet to an adjoining property, unless otherwise specified by the Board. Extraction operations (gravel pits, etc.) shall not be permitted within 100 feet of any property line;
 - (8) During grading operations, methods of dust control shall be employed wherever practicable;
 - (9) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at the developer's expense as quickly as possible;
 - (10) It is the responsibility of any person performing any activity on or across a stream, watercourse or swale or upon the floodway or right-of-way thereof to maintain as nearly as possible the present state of the stream, watercourse, swale, floodway or right-of-way during the duration of such activity and to return it to its original or equal condition after such activity is completed; and

- (11) Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

§ 45-68. Site conditions.

- A. During construction, the site shall be maintained and left each day in a safe and sanitary manner.
 - (1) Any condition which could lead to personal injury or property damage shall immediately be corrected by the developer upon an order by the Codes Enforcement Officer or other authorized personnel.
 - (2) The developer shall make provision for disposal of oil and grease from equipment, and the site area should be regularly treated to control dust from construction activity.
- B. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris. Excess or scrap building materials shall be removed or destroyed according to the instructions of the Codes Enforcement Officer prior to issuing an certificate of compliance.²⁷
- C. No change shall be made to the elevation or contour of any lot or site by the removal of earth to another lot or site other than as shown on an approved site plan.
 - (1) Minimal changes in elevations or contours necessitated by field conditions may be made only after approval by the Codes Enforcement Officer.
 - (2) All changes necessitated by field conditions shall be shown as changes to the final plan and shall be signed by the Codes Enforcement Officer on the revised plan.

§ 45-69. Lot standards.

- A. No waterfront lot in a major subdivision shall contain less than 130,680 square feet (three acres). In all other cases, no lot shall contain less than 65,340 square feet (1.5 acres). The lot configuration shall be designed to maximize the use of solar energy on building sites with suitable orientation.
- B. Lot configuration and area shall be designed to provide for adequate off-road parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.
- C. Lots with multiple frontages shall be avoided wherever possible.
 - (1) The plan and deed restrictions shall indicate vehicular access shall be located only on the less traveled way whenever lots have frontage on two or more roads.

²⁷ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) The Board may waive this requirement upon good cause shown by the developer that economic necessity, traffic safety, or aesthetics justifies such waiver. In waiving this requirement, the Board shall consider traffic flow, sight lines, and other safety considerations.
- D. Wherever possible, side lot lines shall be perpendicular to the road.
- E. The division of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division.
- F. The development shall be designed to accommodate the extensions of public utilities to the development under the following conditions. Public utilities may include, but are not limited to, water supply, public sewer, natural gas and cable television lines.
- (1) When plans for such extensions have been published by a competent authority; and
- (2) Such extensions are contemplated to be accomplished within seven years after the approval of the development or subdivision.
- G. If a lot on one side of a stream, tidal water, public or private road, right-of-way, or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
- (1) This section shall not include as streams, flows of water contained all times between banks which are less than 30 inches in width at their widest point anywhere on a lot.
- (2) This section shall not include as roads or rights-of-way, abandoned private roads or abandoned rights-of-way which are barred for use by anyone other than the developer. Such abandoned private roads or rights-of-way shall be physically restricted so as not to provide access through or from any lot to any other piece of land.
- H. Flag lots and other odd-shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
- I. No lot in a development or subdivision established after May 22, 1987, shall have less than 200 feet of continuous frontage on a road except as provided for in Chapter 125, Land Use, § 125-33E.
- J. No waterfront lot in a major subdivision established after June 3, 2008, shall have less than 250 feet of continuous shore frontage, except that developments in the Maritime Activities District shall be subject to the provisions of Chapter 125, Land Use, § 125-33E.²⁸
- K. Except in the Maritime Activities District, if more than one dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all

28. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

dimensional requirements, other than road frontage, shall be met for each additional dwelling unit or principal structure.

§ 45-70. Setbacks.

The following setbacks shall apply to all developments and subdivisions:

A. No building, structure, or facility of any kind shall be located closer than 100 feet, horizontal distance, to:

- (1) The normal high-water line of the Meadow Pond;
- (2) The upland edge of a nonforested wetland, or to the normal high-water line of any body of water;
- (3) The normal high-water line of a stream; or
- (4) The top of the bank of a body of water or stream where the bank is six feet or more, vertical distance, above the shore or the top of the stream, unless a land surveyor registered by the State of Maine or a certified civil engineer shall indicate by stakes set on the land the 100 feet horizontal distance from the normal high-water line.

Note: Subsection A shall not apply to structures or facilities such as piers, docks, or retaining walls which require direct access to the water as an operational necessity.

B. No building, structure, or facility of any kind shall be built or located closer than 50 feet to the center of a state or Town road, approved subdivision road, private road, or other road.

C. No building, structure, or facility of any kind shall be built or located within 15 feet of any lot line.

- (1) The Planning Board may approve applications for driveways closer than 15 feet to the side lot line if it determines that safe access to the property is not otherwise possible.
- (2) Individual subsurface sewage disposal systems may be constructed up to five feet from any lot line, provided that the average increase to the elevation of the existing grade within 15 feet of the lot line does not exceed two feet and provided that no part of the system including any cover material is any closer than five feet to any lot line.
- (3) No aboveground structure higher than four feet above mean grade level shall be permitted within 10 feet of a subsurface sewage disposal system.
- (4) Fences and riprap shall be exempt from side lot setback requirements.

- D. No excavation of earth, no building, structure (except fences) or facility of any kind shall be located within 40 feet of any burial site which contains human remains. This site needs to be delineated during construction.

§ 45-71. Height.

- A. No part of a building or structure (except a church or education building or institution) in the Rural Protection District and Maritime Activities District shall exceed a height of 38 feet from the mean grade level to the peak of the roof except as permitted below.²⁹
- B. In the Rural Protection District only, accessories to structures such as solar collectors, domes, cupolas, and other ornamental features, chimneys, ventilators, skylights, tanks, bulkheads, machinery, antennas, communication towers, and other accessory features which are required above roofs, or stand alone, may exceed the height limitation, provided that no structure or accessory to that structure exceeds 75 feet above mean grade level and that the structure is not used for habitation or human occupation.
- C. No structure shall exceed a height of 35 feet in the Resource Protection District, the Limited Development District, the Shoreland Protection District, the Maritime Activities District, or Meadow Pond District, except that structures such as transmission towers and antennas not having a floor area and which do not exceed 75 feet in height may be permitted.

§ 45-72. Lot coverage.

- A. Except in the Maritime Activities District, the total area of all structures, parking lots and other nonvegetated surfaces shall not exceed 20% of the lot, including land area previously developed.
- B. In the Maritime Activities District lot coverage shall not exceed 70%.

§ 45-73. Utilities.

- A. The Board may require electric, cable television, and telephone lines to be underground. Any utility installations remaining above ground shall be located so as to have a harmonious relation to neighboring properties and the site.
- B. Underground utilities shall be installed prior to the installation of the final gravel base of the road.
- C. The size, type, and location of streetlights and utilities shall be shown on the plan and approved by the Board.

29. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 45-74. Advertising features.

The size, number, location, design, color, texture, lighting and materials of all permanent exterior signs and outdoor advertising structures or features shall not detract from or adversely affect the design, appearance, and environmental and aesthetic qualities of proposed buildings and structures and the surrounding properties.

§ 45-75. Lighting design standards.

In connection with each site plan, the applicant shall submit plans for all proposed exterior lighting. These plans shall include the location, type of light, radius of light, manufacturer's specification sheet and the intensity in footcandles. The following design standards shall be followed:

- A. The style of the light and light standard shall be consistent with the architectural style of the principal building.
- B. Freestanding lights shall be not be higher than the principal building and shall not exceed 25 feet in height.
- C. All lights shall be shielded to restrict the maximum apex angle of the cone of illumination to 150°.
- D. Where lights along property lines will be visible to adjacent residents, the lights shall be appropriately shielded.
- E. Spotlight-type fixtures attached to buildings should be avoided except for safety or security reasons.
- F. Freestanding lights shall be located and protected to avoid being damaged by vehicles.
- G. Lighting should be located along streets, parking areas, at intersections and crosswalks and where various types of circulation systems merge, intersect or split.
- H. Pathways, sidewalks and trails should be lighted with low or mushroom-type standards.
- I. Stairways and sloping or rising paths, building entrances and exits require illumination.
- J. Lighting shall be provided where buildings are set back or offset.
- K. The following lighting intensity at ground level shall be provided:
 - (1) Parking lots: an average of 1.5 footcandles throughout.
 - (2) Intersections: three footcandles.
 - (3) Maximum at property lines: one footcandle.
 - (4) In residential areas: average of 0.6 footcandle.
- L. Display lighting shall be shielded and located and maintained so as not to create or constitute a hazard or nuisance to the traveling public or to neighbors.

- M. Parking area lighting shall be shielded and located and maintained so as not to create or constitute a hazard or nuisance to the traveling public or to neighbors.
- N. All exterior lighting shall be designed to minimize adverse impact on neighboring properties.

§ 45-76. Dust, fumes, vapors, gases, odors, glare and explosive materials.

- A. Emission of dust, dirt, fly ash, fumes, vapors, or gases which could damage human health, animals, vegetation or property, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission, shall be prohibited.
- B. No land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevation.
- C. No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines onto neighboring properties or onto any Town way so as to impair the vision of the driver of any vehicle upon that Town way.
- D. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the National Fire Protection Association (NFPA), Code Nos. 30, 58, and 59A.

§ 45-77. Oil and chemical storage.

- A. All aboveground outdoor storage facilities for fuel, chemicals, chemical or industrial wastes and potentially harmful raw materials shall be located on reinforced cement.
- B. The facilities shall be completely enclosed by an impervious dike monolithically poured, which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a fifty-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area.
- C. Retail fuel establishments meeting the requirements of Department of Environmental Protection for fuel storage facilities need meet only those requirements.
- D. Storage tanks for home heating fuel and diesel fuel, not exceeding 500 gallons in size, shall be exempted from this requirement.

§ 45-78. Refuse disposal.

- A. The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner.
- B. The Board shall consider the impact of particular industrial or chemical wastes or by-products upon the Town sanitary landfill (in terms of volume, flammability or

toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable state and federal regulations.

- C. The Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

§ 45-79. Construction in flood hazard areas.

- A. When any part of a development is located in a flood hazard area as identified by the Federal Emergency Management Agency Flood Hazard Maps, the plan shall indicate that all principal structures on lots in the development shall be constructed in conformance with Chapter 70, Floodplain Management.
- B. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

ARTICLE XIV
Road Design and Construction Standards

User's Guide: This article contains specific road design and construction standards applicable to all developments requiring approval under this chapter, particularly subdivisions.

§ 45-80. General requirements.

- A. The proposed development shall provide for safe access to and from public and private roads.
- (1) Safe access shall be assured by providing an adequate number and location of access points with respect to sight distances, intersections, schools and other traffic generators.
 - (2) Curb cuts shall be limited to the minimum number and widths necessary for safe entering and exiting.
 - (3) The proposed development shall not have an unreasonable adverse impact on the Town road system.
- B. The proposed development shall assure safe interior circulation within its site by separating pedestrian and vehicular traffic and providing adequate parking and loading areas.
- C. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
- D. The Board shall not approve any development plan unless proposed roads are designed in accordance with the specifications contained in this chapter. Approval of a final plan by

the Board shall not be deemed to constitute or be evidence of acceptance by the Town of any road or easement.

- E. Applicants shall submit to the Board, as part of their final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed roads and parking areas. The plans shall include the following information:
- (1) Date, scale, and magnetic or true North point.
 - (2) Intersections of the proposed road with existing roads.
 - (3) Road right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
 - (4) Complete curve data for all horizontal and vertical curves.
 - (5) Turning radii at all intersections.
 - (6) Center-line gradients.
 - (7) Locations of all existing and proposed overhead and underground utilities.
- F. Upon receipt of plans for a proposed public road the Board shall forward one copy to the Board of Selectmen, the Town Manager, Road Commissioner, and the Town's consulting engineer for review and comment. Plans for roads which are not proposed to be accepted by the Town shall be sent to the Town's consulting engineer for review and comment.

§ 45-81. Road design standards.

- A. These design standards shall be met by all roads within developments reviewed under this chapter and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
- B. Roads shall be designed to discourage through traffic within residential developments.
- C. Wherever existing or other proposed roads, topography, and the public safety permit, roads should run in east/west directions to maximize access for solar energy utilization. The character, extent, width, and grade of all roads shall be considered in their relation to existing or planned roads.
- D. Where a development borders an existing narrow road, not meeting the width requirements of the standards for roads in this chapter, or when the Comprehensive Plan indicates plans for realignment or widening of a road would require use of some of the land in the development, the development plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes."
- (1) Land reserved for such purposes may not be included in computing lot area or setback requirements of this chapter.
 - (2) When such widening or realignment is indicated on the development plan, the reserve area shall not be included in any lot but shall be reserved to be deeded to the Town or state.

E. Where a major subdivision or development abuts or contains an existing or proposed Town way, no residential lot may have vehicular access directly onto the Town way.

- (1) This requirement shall be noted on the plan and in the deeds of any lot with frontage on the Town way.
- (2) This requirement may be waived by the Board for up to four lots, upon a showing by the developer that the Town way on which the proposed lots abut is not a traffic artery or high-volume traffic road and that such access will not cause a safety problem. Traffic arteries and high traffic roads in the Town of Islesboro are designated as follows:

Name of Street	Location
Babidge Road	From Pendleton Point Road to West Shore Drive
Derby Road	From Pendleton Point Road to West Shore Drive
East Shore Drive	From Pendleton Point Road to the northernmost point of Charlotte's Cove
Ferry Road	From Grindle Point to intersection of West Bay Road and Mill Creek Road
Hewes Point Road	From Main Road to its easternmost point
Meadow Pond Road	From Main Road to Turtle Head Road
Mill Creek Road	From Ferry Road to intersection of Main Road and Pendleton Point Road
Pendleton Point Road	From Pendleton Point to intersection of Mill Creek Road and Main Road/Pendleton Point Road
Turtle Head Road	From Main Road to Meadow Pond Road
West Bay Road	From Ferry Road to Main Road (Historical Society)
West Shore Drive	From Derby Road to Pendleton Point Road

F. Any development containing 20 or more lots or dwelling units shall have at least two road connections with existing public roads, roads shown on the Protection Districts Map, or roads on an approved development plan for which performance guarantees have been filed and accepted.

G. The following design standards in Table 1 apply according to road classification:

Table 1		
Description	Public Rights-of-Way	Private Rights-of-Way
Minimum right-of-way width (feet)	50	50
Minimum pavement width (feet)	18 to 20	18 to 20

Table 1

Description	Public Rights-of-Way	Private Rights-of-Way
Minimum shoulder width (each side) (feet)	2 to 4	2 to 4
Minimum grade	0.5%	N/A
Maximum grade	6%	10%
Minimum center-line radius (feet)	150	150
Minimum tangent between curves of reverse alignment (feet)	100	100
Roadway crown	0.25 inch per foot	N/A
Minimum angle of road intersections	90°	90°
Maximum grade within 75 feet of intersection	2%	N/A
Minimum curb radii at intersections (feet)	15	N/A
Minimum right-of-way radii at intersections (feet)	10	10

- H. The center line of the roadway shall be the center line of the right-of-way.
- I. In addition to the design standards above, dead-end roads shall be constructed to provide a cul-de-sac turnaround with the following requirements for radii:
 - (1) Sixty-five-foot property line radii and fifty-foot outer edge of travel way radii.
 - (2) The Board may require the reservation of a twenty-foot easement in line with the dead end road to provide continuation of pedestrian traffic or utilities to the next road.
 - (3) The Board may also require the reservation of a fifty-foot easement in line with the dead-end road to provide continuation of the road where future subdivision or development is possible.
- J. The following are the requirements for grades, intersections and sight distances:
 - (1) Grades of all roads shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
 - (2) All changes in grade shall be connected by vertical curves to provide for the minimum sight distances below.
 - (3) Where new road intersections or driveway curb cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to Table 2 below:

Table 2

Posted Speed Limit (miles per hour)	15	20	25	30	35	40	45
Sight Distance (feet)	150	200	250	300	350	400	450

- (4) Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.
- K. Cross (four-cornered) road intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of 200 feet shall be maintained between center lines of side roads.
- L. Where installed, curbing shall be granite or bituminous concrete and shall be installed on a thoroughly compacted gravel base of six inches minimum thickness, except bituminous curbing shall be installed on the base course of the pavement. The specified pavement width above shall be measured between the curbs.

§ 45-82. Road construction standards.

- A. Minimum thickness of material after compaction shall conform to Table 3 below:

Road Materials	Public Rights-of-Way (inches)	Private Rights-of-Way (inches)
Aggregate subbase course Maximum sized stone = 411	18	12
Crushed aggregate base course	3	3
Hot bituminous pavement		
Total thickness	2.50	N/A
Surface course	0.75	N/A
Base course	1.75	N/A

- B. The following procedures shall be followed in preparing new road sites:
 - (1) Before any clearing has started on the right-of-way, the center line and sidelines of the new road shall be staked or flagged at fifty-foot intervals.
 - (2) Before grading is started, the entire area under the proposed travel way(s), shoulders, side slopes and drainageways shall be cleared of all stumps, roots, brush, and other objectionable material. All ledge, large boulders, and tree stumps shall be removed from this area. The Planning Board may require additional removal of stumps, roots, brush, ledge, large boulders and other objectionable material within the right-of-way.

- (3) All organic materials shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the Town's consulting engineer as not suitable for roadways, the subsoil shall be removed from the road site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate subbase in Table 4 below.
- (4) Side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical and shall be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.
- (5) All underground utilities shall be installed prior to paving or placement of the final gravel course. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving or placement of the final gravel course.

C. Road subbase and base construction requirements are as set forth below:

- (1) Road bases shall be constructed as follows: The aggregate subbase course shall be sand and gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch square mesh sieve shall meet the following grading requirements:

Table 4
Percentage by Weight Passing Square Mesh Sieve

Sieve Designation	Sieve
1/4 inch	25% to 70%
No. 40	0% to 30%
No. 200	0% to 7%

- (2) Aggregate for the subbase shall contain no particles of rock which will not pass the six-inch square mesh sieve. The aggregate base course shall be screened or crushed gravel of hard durable particles free of vegetative matter, lumps, or balls of clay and other deleterious substances. The gradation of the material that passes a two-inch square mesh sieve shall meet the following grading requirements:

Table 5
Percentage by Weight Passing Square Mesh Sieve

Sieve Designation	Sieve
1/2 inch	45% to 70%
1/4 inch	30% to 55%
No. 40	0% to 20%
No. 200	0% to 5%

- (3) Aggregate for the base shall contain no particles of rock which will not pass the two-inch square mesh sieve.
- D. Where new pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even vertical joint.
- E. Road curbs and gutters shall be installed as required by the Board. Curbs shall be vertical except when sloped curbs are specifically allowed or required by the Board.
- F. Minimum standards for the base layer of pavement shall be the Maine Department of Transportation (MDOT) specifications for plant mix Grade B with an aggregate size no more than 3/4 inch maximum.
- G. Minimum standards for the surface layer of pavement shall meet the MDOT specifications for plant mix Grade C with an aggregate size no more than 1/2 inch maximum.
- H. The finish course of gravel roads shall consist of not less than four inches of gravel or crushed rock with an aggregate size no more than 1/2 inch maximum with sufficient crown to provide adequate drainage.
- I. Notwithstanding the above requirements, the Board may approve substitution of shale or other material for the subbase course and base course, provided that, in the opinion of the Town's consulting engineer, the shale or other material will not interfere with or degrade the base layer or surface layer of paved roads or the finish layer of gravel roads.

§ 45-83. Cleanup.

Following road construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire road right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized and seeded.

§ 45-84. Road names, signs and lighting.

- A. Roads which join and are in alignment with roads of abutting or neighboring properties shall bear the same name.
- B. Names of new roads shall not duplicate nor bear phonetic resemblance to the names of existing roads within the Town and shall be subject to the approval of the Board.
- C. The developer shall install road name signs, traffic safety and control signs or, at the option of the Board, when installed by the Town, reimburse the Town for the costs of such installation.
- D. Road lighting shall be installed as approved by the Board.

§ 45-85. Certification of construction.

- A. Upon completion of road construction, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Codes Enforcement Officer, at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of this chapter.
- B. As-built plans shall be submitted to the Codes Enforcement officer.

ARTICLE XV
Parking and Entrance Design Standards

User's Guide: This article contains specific parking area and site entrance design and construction standards applicable to those development projects proposing and/or requiring on-site, off-street parking and road entrances.

§ 45-86. General requirements.

- A. The proposed development layout shall provide for safe access and egress to and from public and private roads by providing adequate location, numbers, and control of access points, including sight distances, turning lanes, and traffic signs or signals when required by existing and projected traffic flow on the municipal road systems.
- B. The layout and design of all means of vehicular and pedestrian circulation (including walkways, interior drives, and parking areas) shall provide for safe general interior circulation; separation of pedestrian and vehicular traffic; service traffic; loading areas; and arrangement and use of parking areas.
- C. In the design of parking areas, special attention shall be given to:
 - (1) The separation of pedestrian and vehicular traffic;
 - (2) The arrangement of parking areas that are safe and convenient and which have a minimum adverse affect on the design, appearance, and environmental and aesthetic qualities of proposed buildings and structures and neighboring properties.

§ 45-87. Parking area design standards.

- A. Access.
 - (1) There shall be adequate provisions for ingress and egress to all parking spaces.
 - (2) The width of access drives or driveways shall be determined as part of site plan review depending on use, topography and similar considerations.
- B. Size of aisles.
 - (1) The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements set forth in Table 6 below.

- (2) Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than 90°.

Table 6

Parking Angle	Minimum Aisle Width (feet)
0° (parallel parking)	12
30°	12
45°	13
60°	18
90° (perpendicular parking)	30

- C. No off-road parking or loading shall be located within the required front and side yard setbacks on Town ways.
- D. Sidewalk and curbing.
 - (1) Sidewalks between parking areas and principal structures, along aisles and driveways, and wherever pedestrian traffic shall occur, shall be provided with a minimum width of four feet of passable area and shall be raised six inches or more above the parking area except where the sidewalks cross roads or driveways.
 - (2) Guardrails or wheel stops permanently anchored to the ground shall be provided in appropriate locations.
 - (3) Parked vehicles shall not overhang or extend over sidewalk areas unless an additional sidewalk width of 2.5 feet is provided to accommodate such overhang.
- E. Marking and delineation of parking areas.
 - (1) Parking stalls, driveways and aisles shall be clearly marked and delineated.
 - (2) The Board may require that certain areas be maintained for firefighting, other emergency operations, or handicapped access. Such areas shall be appropriately designated.
- F. General circulation and parking design guidelines. The following guidelines shall apply to parking area designs:
 - (1) Parking space allocations should be oriented to specific buildings.
 - (2) Parking areas should be designed to focus on major walkways, which should be fenced or marked.
 - (3) Where pedestrians must cross service roads or access roads to reach parking areas, crosswalks should be clearly designed by pavement markings or signs and lighted.
 - (4) Driveways shall approach from the right to permit passengers to alight to or from the sidewalk.

- (5) Whenever possible, one-way traffic shall be established at building entrances.

§ 45-88. Entrance location and design.

As used in this section, "driveway" includes Town ways and both public and private rights-of-way, as well as entrance roads to any use other than single-family dwelling units.

A. General standards.

- (1) All entrance and exit driveways shall be located to afford maximum safety to traffic, provide for safe and convenient ingress and egress to and from the site and to minimize conflict with the flow of traffic.
- (2) Any exit driveway or driveway lane shall be so designed in profile and grading and located to provide the following minimum sight distance in Table 7, measured in each direction. The measurements shall be taken from the driver's seat of a vehicle standing on the exit driveway where the front of the vehicle is a minimum of 10 feet behind the curbline or edge of shoulder; where the height of the eye is three feet nine inches; to the top of an object four feet six inches above the pavement.

Table 7

Allowable Speed (miles per hour)	Required Sight Distance (feet)
15	150
20	200
25	250
30	300
35	350
40	400
45	450

- (3) Where a site occupies a corner of two intersecting roads, no driveway entrance or exit shall be located within 50 feet of the point of tangency of the existing or proposed curb radius of that site.
- (4) No part of any driveway shall be located within a minimum of 15 feet of a side property line. However, the Board may permit a driveway serving two or more adjacent sites to be located on or within 15 feet of a side property line between the adjacent sites.
- (5) Where two or more two-way driveways connect a single site to any one road, a minimum clear distance of 100 feet measured along the right-of-way line shall separate the closest edges of such driveways. If one driveway is two-way and one is a one-way driveway, the minimum distance between them shall be 75 feet.

- B. Driveways used for two-way operation shall intersect the road at an angle of 90° or as near to that angle as site conditions permit, but in no case less than 60°.
- C. The dimensions of driveways shall be designed to accommodate adequately the volume and character of vehicles anticipated to be attracted daily to the development for which a site plan is prepared. The required maximum and minimum dimensions for driveways are indicated in Table 8 below. Driveways serving large volumes of daily traffic or traffic of over 15% truck traffic shall be required to utilize high-to-maximum dimensions.

Table 8

Type of Development	One-Way Operation Driveway Width (feet)	Two-Way Operation Driveway Width (feet)
3 to 10 dwelling units	10 to 15	15 to 25
10 dwelling units or over	15 to 25	20 to 35
Commercial and industrial	15 to 30	25 to 35

- D. All driveways shall be five feet wider at the curblin, and this additional width shall be maintained for a distance of 20 feet into the site.
- E. All driveways shall be constructed with a surface approved by the Board.
 - (1) Surfaces of driveways shall extend to the paved or travel portion of the road.
 - (2) Surfaces of driveways shall extend their entire length as well as the width defined by the required driveway dimensions specified in Table 8.
- F. Driveways shall be constructed to be flat enough to prevent the dragging of any vehicle undercarriage. If the gradient of the intersection of the driveway and a sidewalk or road is too high and would cause undercarriage drag, the driveway or sidewalk gradient shall be adjusted to provide an acceptable entrance or exit.
- G. Driveways shall not have a grade in excess of 15%. Driveways shall not be located where visibility is limited because of curves, topography, or other sight impediments.

ARTICLE XVI
Buffers and Screening Standards

User's Guide: This article contains specific standards relating to the buffers and screening required along property lines and Town ways.

§ 45-89. Special buffer requirements along Town ways.

- A. Land within 50 feet of the right-of-way of all Town ways shall be a buffer area.

- (1) The Board may waive the following criteria when a natural stand of vegetation that substantially meets these requirements exists and is retained.
- (2) Within the buffer area, the following minimum plantings and buffers shown in Table 9 below shall be required:

Table 9

Number Per 100 Linear Feet

Buffer Area Location	Width	Structure	CT	UT	SH	ET
Screening for all one-story buildings	501	N/A	10	15	30	10
Screening for all buildings of two stories or more	501	N/A	15	15	30	20
Screening of all parking areas which are visible from Town ways	N/A	Berm	N/A	N/A	20	N/A
Total screening, where required by Planning Board	N/A	Fencing or berm wall	N/A	N/A	N/A	N/A

LEGEND:

- CT = Canopy trees.
- UT = Understory trees.
- SH = Shrubs.
- ET = Evergreen trees.

- B. Landscaping also shall be required within 50 feet of the right-of-way of Town ways on any site where the aggregate required off-road parking exceeds five parking spaces, and where a site contains 24 parking spaces, a minimum of three canopy trees, two understory trees and six shrubs shall be required.
- C. Unless otherwise specifically indicated by the Board, all plant materials required by the Board under this chapter shall meet the following minimum size standards shown in Table 10 below:

Table 10

Plant Material Type	Plantings in Buffer Areas	
	Abutting Vacant Lands	All Other Plantings
Canopy Trees		
Single stem	1.5 inches caliper	2.5 inches caliper
Multi-stem clump	6 feet height	10 feet height
Understory Trees	4 feet height	1.5 inches caliper
Evergreen Trees	3 feet height	5 to 7 feet height
Shrubs		
Deciduous	15 inches height	24 inches height
Evergreen	12 inches height	18 inches height

D. All plantings required under this chapter shall be of a type and species appropriate for the soil types and climatic conditions in Islesboro, Maine.

§ 45-90. Buffer and screening requirements.

- A. Buffers in the form of fences, landscaping, berms, and mounds shall be required to minimize any adverse impacts or nuisance on the site or on adjacent properties.
- B. Buffers shall be considered in or for the following areas and purposes:
 - (1) Along property lines, to shield various uses from each other;
 - (2) Along interior roads running parallel to roads exterior to the site, to prevent confusion, particularly at night;
 - (3) Around parking areas, garbage collection areas, and loading and unloading areas; and
 - (4) To block prevailing wind patterns and to stop wind-borne debris from leaving the site.
- C. Buffers shall be sufficient to shield structures and uses from the view of incompatible abutting properties and public road ways and to otherwise prevent any nuisances.
- D. The following shall have setbacks and screening to provide an audio/visual buffer sufficient to minimize their adverse impact on other land uses within the development site and surrounding properties, such as a fence or a dense evergreen hedge six feet or more in height.
 - (1) Exposed storage areas, service areas, exposed machinery installation;
 - (2) Sand and gravel extraction operations;
 - (3) Truck loading areas, utility buildings and structures;

- (4) Areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse; and
- (5) Similar accessory areas and structures.
- E. Where a potential safety hazard to children would be likely to arise, physical screening and fencing sufficient to deter small children from entering the premises shall be provided and shall be maintained in good condition.
- F. Natural features shall be maintained wherever possible to provide a buffer between the proposed development and incompatible abutting properties and public roadways. When natural features such as a topography, gullies, stands of trees, shrubbery, or rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be utilized.
- G. Evergreens may be used as buffers, provided that they are planted properly.
 - (1) An evergreen buffer requires two or three rows of staggered plantings.
 - (2) The rows shall be five feet apart and the evergreens planted four feet on center.
- H. Fencing and screening shall be durable and properly maintained at all times by the owner.
- I. Fencing and screening shall be located within the property line to allow access for maintenance on both sides without intruding upon abutting properties.
- J. All buffer areas shall be maintained in a neat and sanitary condition by the owner.

§ 45-91. Plant material maintenance bond required.

- A. Prior to issuance of any building permit, the Board may require that the applicant furnish, in the name of the Town of Islesboro, a bond, letter of credit, or other form of security approved by the Board, equal to at least 10% of the value of all plantings required under this subsection.
- B. The bond shall be binding for a minimum of three years and shall be subject to the condition that required plantings be maintained in accordance with the terms of the Board's approval and in a good and healthy condition.
- C. Notwithstanding the requirement of a bond from the applicant, the owner of any premises approved by the Board under any section of this chapter shall have a continuing obligation to maintain required plantings in accordance with the terms of the Board's approval and in a good and healthy condition.

ARTICLE XVII

Storm Drainage Design and Construction Standards

User's Guide: This article contains specific standards relating to the design and construction of stormwater management systems.

§ 45-92. General provisions.

- A. The storm drainage system will not adversely affect neighboring properties, downstream water quality, or cause soil erosion. Whenever possible, on-site absorption of runoff waters shall be utilized to minimize discharges from the site.
- B. Surface water runoff shall be minimized and detained on site if possible or practicable.
 - (1) If it is not possible to detain water on site, downstream improvements to the channel may be required of the developer to prevent flooding caused by the project.
 - (2) The natural state of watercourses, swales, floodways or rights-of-way shall be maintained as nearly as possible.
 - (3) The design basis shall be a fifty-year storm.

§ 45-93. Stormwater management design standards.

- A. Adequate provision shall be made for disposal of all stormwater generated within the development and any drained groundwater through a management system of swales, culverts, underdrain, and watercourses.
- B. The stormwater management system shall be designed to conduct stormwater flows to existing watercourses.
- C. All components of the stormwater management system shall be designed to meet the criteria of a twenty-five-year storm based on rainfall data for the closest reporting station to Islesboro, Maine.
- D. The minimum pipe size for any storm drainage pipe shall be 12 inches.
 - (1) Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet.
 - (2) Pipe shall be bedded in a fine granular material containing no stones larger than three inches or containing lumps of clay or organic matter within a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.
- E. Catch basins shall be installed where necessary and located at the outermost edge of the travel way of the road.
- F. Inlets and outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce stormwater velocity.
- G. The stormwater management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built, and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.

- H. Downstream drainage requirements shall be studied to determine the effect of the proposed development.
- (1) The storm drainage shall not overload existing or future planned storm drainage systems downstream from the development.
 - (2) The developer shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.
- I. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the stormwater drainage system.

§ 45-94. Storm drainage construction standards.

- A. Reinforced concrete pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 170).
- (1) Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the one-hundredth-inch crack strength with a Class B bedding.
 - (2) Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek."
 - (3) Perforated concrete pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.
- B. Corrugated metal pipe shall be bituminous coated meeting the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.
- C. ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings shall conform to the requirements of AASHTO M 264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type III.
- D. Corrugated plastic pipe shall conform to the requirements of AASHTO 252.
- E. Manholes and catch basins:
- (1) Manholes and catch basins shall be constructed of precast concrete sections or portland cement concrete blocks or a combination of both. An eight-inch prepared concrete base be used for block and a prepared earth foundation for precast concrete sections.
 - (2) Blocks shall be machine-made, solid segments not less than eight inches width.
 - (3) Cement concrete blocks shall be laid on the prepared concrete base by a mason and in a workmanlike manner.
 - (4) Prior to laying, the blocks shall be wet with water.

- (5) All joints shall be completely filled with mortar, and no joint shall be greater than 1/2 inch in thickness.
 - (6) Joints on the inside of the structure shall be neatly tooled.
 - (7) Mortar composition shall be two parts sand to one part portland cement.
 - (8) Precast portland cement catch basins and manholes shall be in conformance with dimensions and specifications described in MDOT standards.
 - (a) Concrete blocks or equivalent shall be used for the course or layers around inlet and outlet pipes.
 - (b) Concrete block may be used for the remaining upper section of the structure.
- F. Metal frames and traps.
- (1) Manholes. Metal frames and traps shall be set in a full mortar bed, and tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASSHTO M 105, Class 30 for gray iron castings or AAHTO M 183 (ASTM A 283, Grade B or better) for structural steel.
 - (2) Catch basins. Metal frames and traps shall be set in a full mortar bed and tops shall conform to the requirements of AASHTO M 183 (ASTM A 283 Grade B or better) for structural steel.
 - (3) Gratings. Castings shall be sized for the particular inlet condition with the gratings set perpendicular to the curblines or travel portion of the road.
- G. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Town's consulting engineer.
- H. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of four-hundred-foot intervals.
- I. Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris, or foreign matter. Maintenance of catch basins and manholes shall be the responsibility of the developer until such time maintenance becomes the responsibility of a homeowners' association or until final acceptance of the road by the Town.

ARTICLE XVIII

Provisions for Cluster Development

User's Guide: This article allows innovative approaches to housing and environmental design by authorizing the Planning Board to reduce certain requirements of this chapter for applications proposing clustered development.

§ 45-95. Purpose.

- A. The purpose of these provisions is to allow for innovative concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted by this chapter or Chapter 125, Land Use.
- B. In addition, the purpose of allowing cluster development shall be to encourage housing development which will result in:
 - (1) Additional open space and recreation areas;
 - (2) A pattern of development that preserves trees, outstanding natural topography and geologic features, that reduces soil erosion; and
 - (3) An efficient use of land resulting in small networks of utilities and streets.

§ 45-96. Allowable reduction in requirements.

To accomplish the purposes above, the layout and dimensional requirements of this chapter may be reduced.

- A. The Board may reduce the layout and dimensional requirements of this chapter for single-family, two-family, and multiple-family residential developments, provided that such reductions do not increase net residential density and the resulting undeveloped area is maintained as common land.
- B. The Board shall not increase building height limitations.
- C. The modification of requirements permitted in this article shall not require a variance, and no finding of undue hardship shall be required.

§ 45-97. Performance standards.

All cluster developments approved by the Board shall meet all of the following requirements:

- A. All the requirements and standards of these regulations, except those dealing with road frontage, lot layout, and dimensions, shall be met.
 - (1) Each cluster shall have a minimum of 200 feet of road frontage.
 - (2) Driveways to and from each cluster shall be designed to permit access to each building in the cluster by emergency equipment.
- B. The minimum area of land in a cluster development shall be 10 acres and shall consist of not fewer than five lots.
 - (1) The total area of open space within the development shall be a minimum of 25% of the total development.

- (2) The total area of open space shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area required by this chapter or Chapter 125, Land Use.
- (3) Areas designated as open space shall be protected by deed covenants or easements.

Note: For the purposes of this article, "open space" shall mean undeveloped land that shall be left in its natural state. Open space may be utilized, when appropriate, for nonintensive recreational use, including construction of paths, playgrounds, and playing fields.

- C. No building shall be constructed on soil types that are poorly drained.
- D. Distance between buildings shall not be less than 20 feet.
- E. Where a cluster development abuts a water body:
 - (1) A portion of the shoreline, as well as reasonable access to it, shall be part of the common land.
 - (2) A usable portion of the land along the shore, as well as reasonable access to it, shall be part of the open space land. This open space land shall have a minimum depth of 100 feet from the normal high-water line.
 - (3) In no case shall the shore frontage and setback be reduced below the minimum required for each dwelling unit by Chapter 125, Land Use.
- F. In cluster developments all dwelling units within each cluster shall be connected to a common water supply and distribution system, either public or private. The Board may waive this requirement for clusters where the dwelling units are located on lots of not less than one acre in area.
- G. In cluster developments all dwelling units within each cluster shall be connected to a common sewer system or to a central collection and treatment system. The Board may waive this requirement for clusters where the dwelling units are located on lots of not less than one acre in area, provided that not fewer than two dwelling units are connected to each sewage treatment system.
- H. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south-facing slopes, and natural drainage areas in accordance with an overall plan for site development and landscaping.

**ARTICLE XIX
Required Improvements**

User's Guide: This article contains specific information regarding site improvements required of all developments approved under this chapter.

§ 45-98. General.

The following improvements are required for all developments unless waived by the Board in accordance with provisions of this chapter.

§ 45-99. Monuments.

- A. Stone or current standard steel rod monuments shall be set at all road intersections and points of curvature.
- B. Stone or current standard steel rod monuments shall be set at all corners and angle points of the development boundaries where the interior angle of the subdivision boundaries is 135° or less.
- C. Stone monuments shall be a minimum of four inches square at the top and four feet in length. After they are set, drill holes 1/2 inch deep shall locate the point or points described above.
- D. All lot boundary corners and angle points shall be marked with stone or current standard steel rod monuments.
- E. All other development boundary corners and angle points shall be marked by suitable monumentation.

§ 45-100. Water supply.

- A. Except as otherwise prohibited, the Board may allow the use of individual wells or a private central water supply system.
- B. Dug wells are prohibited.
- C. When a development is to be served by a central water supply system, the complete supply system, including any required fire ponds and dry hydrants, shall be installed at the expense of the subdivider.
- D. If a central water supply system is provided by the developer, the location and protection of the source as well as the design, construction, and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144 CMR 231).

§ 45-101. Fire ponds and hydrants.

- A. The developer shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes.
- B. An easement shall be granted to the Town granting access to the dry hydrants where necessary.

- C. The Board may waive the requirement for fire ponds only upon the submittal of evidence that the soil types in the development will not permit their construction or upon certification from the Fire Chief that a sufficient water supply exists in the area.

§ 45-102. Sewage disposal.

- A. The developer shall submit evidence of soil suitability for each lot for subsurface sewage disposal prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
- (1) On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area.
 - (2) The reserve area shall be shown on the plan and restricted from any building thereon.
- B. In no instance shall a disposal area be permitted on soils or on a lot which requires a new system variance from the Subsurface Wastewater Disposal Rules.

§ 45-103. Surface drainage.

- A. Where a development is traversed by a stream, river, or surface water drainageway, or where the Board deems that surface water runoff to be created by the development should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. This stormwater management system shall be designed by a registered professional engineer.
- B. Drainage easements for existing watercourses or proposed drainageways at least 30 feet wide, conforming substantially with the lines of existing natural drainage, shall be provided and indicated on the plan.
- C. The developer shall provide a statement from a qualified professional engineer that the proposed development will not create erosion, drainage or runoff problems either in the development or in other properties.
- D. Where the peak runoff from the development onto other properties is increased either in volume or duration, easements from the abutting property owners allowing such additional discharge shall be obtained.
- E. A stormwater drainage plan, showing ditching, culverts, storm drains, easements, and other proposed improvements, meeting the standards of Article XVII shall be submitted.

ARTICLE XX

Dedication and Maintenance of Common Open Space and Services

User's Guide: This article contains specific provisions regarding the dedication and maintenance of common open space and common services.

§ 45-104. Dedication.

- A. All common land or open space shall be owned jointly or in common by the owners of the dwelling units. This shall be accomplished by one of the following:
- (1) By means of a homeowners' association;
 - (2) By an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition.
- B. Further subdivision of the common land or open space or its use for other than agriculture, forestry, noncommercial recreation, or conservation purposes shall be prohibited.
- (1) Easements for public utilities may be granted.
 - (2) Structures and buildings accessory to noncommercial recreational or conservation uses may be erected on the common land not designated as open space.
 - (3) Common land or open space may be leased, but not conveyed, to a third party for agriculture or forestry purposes.
 - (4) Common land or open space may be conveyed to an association which has as its principal purpose the conservation or preservation of land in its essentially natural condition.
 - (5) Common land or open space may be conveyed to the Town for nonintensive recreational uses such as hunting, fishing and hiking.
- C. The common open space shall be shown on the final plan with appropriate notation on the plan to indicate that:
- (1) It shall not be used for future building lots; and
 - (2) A part or all of the common open space may be dedicated for acceptance by the municipality or other organization acceptable to the Board.

§ 45-105. Maintenance.

- A. If any or all of the common open space and services are to be reserved for use by the residents, the bylaws of the proposed homeowners' association shall specify maintenance responsibilities and shall be submitted to the Board prior to final plan approval.

- B. Covenants for mandatory membership in the homeowners' association setting forth the owners' right, interests, and privileges in the association and the common property shall be reviewed by the Board and shall be included in the deed for each lot or dwelling.
- C. The homeowners' association shall have the responsibility of maintaining the common property unless or until the dedication is accepted by the municipality or other organization acceptable to the Board.
- D. The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.
- E. The developer or subdivider shall maintain control of the common property and be responsible for its maintenance until development sufficient to support the association has taken place.

ARTICLE XXI Performance Guarantees

User's Guide: This article contains specific provisions relating to required performance guarantees and how they will be administered.

§ 45-106. Types of guarantees.

- A. With submittal of the application for final plan approval, the developer shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction costs:
 - (1) A certified check payable to the Town or a savings account passbook or certificate of deposit both naming the Town as owner, for the establishment of an escrow account;
 - (2) A performance bond payable to the Town issued by a surety company approved by the Board of Selectmen or Town Attorney;
 - (3) An irrevocable letter of credit from a financial institution establishing funding for the construction of the development, from which the Town may draw if construction is inadequate, approved by the Board of Selectmen or Town Attorney; or
 - (4) An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.
- B. The conditions and the amount of the performance guarantee shall be determined by the Board with the advice of the Town Engineer, Road Commissioner, Board of Selectmen and/or Town Attorney.

§ 45-107. Contents of guarantee.

- A. The performance guarantee shall contain the following:
- (1) A construction schedule;
 - (2) Cost estimates for each major phase of construction taking into account inflation;
 - (3) Provisions for inspections of each phase of construction;
 - (4) Provisions for the release of part or all of the performance guarantee to the developer; and
 - (5) A date after which the developer will be in default and the Town shall have access to the funds to finish construction.
- B. The performance guarantee shall be held by the Town Manager.

§ 45-108. Escrow account.

- A. A cash contribution to the establishment of an escrow account shall be made by:
- (1) A certified check made out to the Town;
 - (2) The direct deposit into a savings account; or
 - (3) The purchase of a certificate of deposit.
- B. For any account opened by the developer, the Town shall be named as owner or co-owner, and the consent of the Town shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer.

§ 45-109. Performance bond.

- A. A performance bond shall detail:
- (1) The conditions of the bond;
 - (2) The method for release of the bond or portions of the bond to the developer; and
 - (3) The procedures for collection by the Town.
- B. The bond documents shall specifically reference the development for which approval is sought.

§ 45-110. Letter of credit.

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the development and may not be used for any other project or loan.

§ 45-111. Conditional agreement.

- A. The Board, at its discretion, may provide for the developer to enter into a binding agreement with the Town in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the final plan on the condition that only up to four lots may be sold or built upon until either:
- (1) It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with this chapter and the regulations of the appropriate utilities; or
 - (2) A performance guarantee acceptable to the Town is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.
- B. Notice of the agreement and any conditions shall be on the final plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in § 45-113.

§ 45-112. Phasing of development.

- A. The Board may approve plans to develop a major subdivision in separate and distinct phases.
- B. This may be accomplished by limiting final approval to those lots or buildings abutting that section of the proposed development's road which is covered by a performance guarantee.
- C. When development is phased, road construction shall commence from an existing public way.
- D. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

§ 45-113. Release of guarantee.

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Town's consulting engineer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

§ 45-114. Default.

- A. If, upon inspection, the Town's consulting engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the consulting engineer shall so report in writing to the

Codes Enforcement Officer, the Board of Selectmen, the Board, and the subdivider or developer.

B. The Board of Selectmen shall take any steps necessary to preserve the Town's rights.

§ 45-115. Private roads.

Where the development roads are to remain private roads, the following words shall appear on the recorded plan: "All roads in this development shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town."

§ 45-116. All required improvements to be guaranteed.

Performance guarantees shall be tendered for all improvements required by Article XIX of this chapter, as well as any other improvements required by the Board.

ARTICLE XXII

Impact on Public Facilities and Services

User's Guide: This article contains specific provisions relating to imposing fees on developers for fiscal impacts on public facilities and services.

§ 45-117. Purpose.

The purpose of this article is to provide a means for the Town of Islesboro to impose impact fees on a developer; to require construction of public facilities by a developer; and/or require a developer to provide for personnel or services needed as a result of projects developed or constructed under the provisions of this chapter. Note: The word "project(s)" used in this chapter shall include any development, subdivision, enterprise, or activity subject to the provisions of this chapter. The word "developer" shall include applicant, developer, subdivider, entrepreneur, or other person or entity subject to the provisions of this chapter.

§ 45-118. Authority.

The provisions of this article are authorized by 30-A M.R.S.A. § 4354.

§ 45-119. Applicability.

A. The provisions of this article will apply to all uses regulated by this chapter when any of the following conditions occur:

- (1) Access to the proposed project is from a road or a way maintained by the Town, or a public way not maintained by the Town, or access over land owned by the Town, that is inadequate or unsafe.

- (2) Treatment of sewage from the project is by means of public sewage treatment facilities and the volume of sewage from the project would cause the treatment facility to operate above its current capacity.
 - (3) Stormwater runoff or drainage from the project cannot adequately be handled by existing drainage facilities.
 - (4) The volume or type of solid waste generated by the project creates an undue burden on municipal solid waste disposal facilities. For the purpose of this chapter, "undue burden on municipal solid waste facilities" shall mean:
 - (a) An increase of not less than 2.5% in the solid waste stream of the solid waste facility as measured by weight or volume; or
 - (b) The need to construct or obtain special facilities to dispose of the type of waste generated by the project.
 - (5) The size or type of project would create an undue burden on the public school facilities of the Town. For the purpose of this chapter "undue burden on the public school facilities" shall mean:
 - (a) A project of a size or type that would increase, or would be likely to increase, the current pupil population of the public school facilities not less than 10% in a five-year period; or
 - (b) Would require the construction of or the obtaining of facilities or services to manage the increase in the number of students in the public school system generated by the project.
 - (6) Any other undue burden on municipal facilities or services. For the purpose of this chapter the term "other undue burden on municipal facilities or services" shall mean any increase in municipal facilities, personnel, or services required as a direct result of the project, whether such project is accomplished at one time or in phases.
- B. The provisions of this article shall apply to projects providing low- or moderate-income housing (as defined by the Federal Department of Housing and Urban Development), except under the following conditions:
- (1) When the legislative body of the Town appropriates monies specifically to fund all or part of the costs of the impacts. In the event that only part of the costs of impacts is thus funded, the developer shall provide the balance of the fees; or
 - (2) If such costs of impacts can be funded by county, state, or federal grants. Nothing in this chapter shall require the Board of Selectmen to apply for such grants.

§ 45-120. Calculation of fees.

- A. The amount of the fee shall be reasonably related to the cost of the impact.

- (1) The developer shall provide the Board with the capital and operating cost estimates set forth in § 45-58H of this chapter.
 - (2) The developer shall provide the Board with the assessment of financial impacts set forth in § 45-58I of this chapter.
- B. The Board shall determine the validity of the estimates and assessment of the financial impacts supplied by the developer and shall impose the amount of the fee in accordance with statutory requirements.
- C. The Board may, in lieu of the fee, permit construction of public facilities by the developer to standards required by the Board.
- (1) Construction of public facilities shall meet, at the minimum, the standards of this chapter.
 - (2) The Board may require that construction of public facilities meet the standards of the current BOCA Code, Department of Education requirements for construction of schools, and/or other codes or standards deemed necessary by the Board.
- D. The Board shall determine the proportion of the total fee required to be paid for each phase of phased projects prior to approval of the application.
- (1) The proportion of the total fee for each phase of development shall be paid by the developer prior to commencement of each phase for which a fee is required.
 - (2) The Board shall require the total fee be paid in advance for phased projects when the public facility, personnel, and/or service must be provided prior to the completion of all or some of the phases of the project.
- E. The Board shall require the developer to pay the costs of all capital improvements set forth in the Town of Islesboro Capital Improvements Plan when the size or nature of the project is such that those capital improvements are required to be implemented as a result of the project.
- F. The costs of the capital improvements shall be imposed on the developer in proportion to the direct benefit to the project of the capital improvement. For the purposes of this chapter "direct benefit to the project" shall mean one or more of the following:
- (1) The capital improvement is implemented or will be implemented solely because of the project;
 - (2) The capital improvement is implemented or will be implemented because of the cumulative requirements of that project, previous projects, and/or future projects; or
 - (3) The capital improvement is implemented or will be implemented as a requirement of law and which otherwise would not be required to be implemented if the project were not to take place.
- G. Proportionate fees for implementing capital improvements shall be imposed by the Board using either of the following methods:

- (1) The Board shall calculate the proportion of the cost of the capital improvement attributable to each project according to the size and nature of each project; or
- (2) The Board shall appoint, at the developer's expense, a certified public accountant to determine the proportion of the capital improvement cost attributable to the project. The certified public accountant shall:
 - (a) Analyze the cost of the capital improvements;
 - (b) Examine any other past, current, or future projects requiring the same capital improvements;
 - (c) Analyze the data supplied by the developer under the provisions of Subsection A;
 - (d) Validate those data; and
 - (e) Report to the Board the proportion of capital improvement cost attributable to the project.

§ 45-121. Payment and segregation of fees.

- A. All fees, except as provided for in § 45-120D(1), shall be paid to the Treasurer, Town of Islesboro, prior to approval of the application by the Board.
- B. The Treasurer shall segregate such fees in a separate account and expend them solely for the purposes for which they were intended.
- C. The Treasurer shall report to the Board of Selectmen, upon receipt of such fees, the amount of the funds and the purpose for which they were imposed.

§ 45-122. Schedule of work.

- A. The Board of Selectmen shall, upon receipt of the report of the Treasurer, expend the funds not intended for public school purposes within a period of time not to exceed five years unless otherwise required by the Comprehensive Plan then in effect.
- B. The Board of Selectmen shall notify the Town of Islesboro School Committee upon receipt of fees for public school purposes and shall disburse those funds to the School Committee by warrant as required by the School Committee.
 - (1) The School Committee shall then expend those funds for the purpose for which the fees were imposed within a period of time not to exceed five years unless otherwise required by the Comprehensive Plan then in effect or by any school capital improvements plan then in effect.
 - (2) The School Committee shall inform the Board of Selectmen of the schedule of work.
 - (3) The School Committee shall request and the Board of Selectmen shall disburse to it those funds required by the School Committee to comply with its schedule.

§ 45-123. Refund of fees.

- A. All or part of the impact fees paid by a developer may be refunded to the developer under the following conditions:
- (1) The developer cancels the project and no funds were expended according to the schedules above;
 - (2) The developer amends the project in a manner, approved by the Board, so that the impact is eliminated or reduced;
 - (3) The impact fees received exceed the Town's actual costs;
 - (4) The impact fees were not expended according to the schedules for the use of the funds.
- B. In the event the developer is eligible for a refund of the fees under the provisions of Subsection A, the developer may request a refund, in writing, directed to the Board of Selectmen stating the amount of refund requested and setting forth the reasons therefor.
- (1) The Board of Selectmen shall determine if a refund of fees is due and, if so, the amount of the refund to be paid, deducting therefrom any costs to the Town of administering the funds and adding thereto any interest earned.
 - (2) If a refund is determined to be due to the developer, the Board of Selectmen shall issue warrants to the Treasurer for such a refund in the amount it determines.
- C. The Board of Selectmen shall notify the developer of eligibility for a refund if the events set forth in Subsection A(3) or (4) occur.

ARTICLE XXIII
Waivers

User's Guide: This article authorizes the Board, under special circumstances, to waive portions of the submission requirements, performance standards and required improvements required by this chapter and requires that such waiver be granted with conditions.

§ 45-124. Waiver of submission requirements.

Where the Board makes written findings of fact that there are special circumstances of a particular site proposed to be subdivided or developed, it may waive portions of the submission requirements, provided that the public health, safety and welfare are protected and provided that the waivers do not have the effect of nullifying the intent and purpose of the Protection Districts Map, the Comprehensive Plan, or any ordinance.

§ 45-125. Waiver of performance standards.

Where the Board makes written findings of fact that there are special circumstances of a particular site proposed to be subdivided or developed, it may waive portions of the performance standards, unless otherwise indicated in this chapter, to permit a more practical and economical development, provided that the public health, safety and welfare are protected, and provided that the waivers do not have the effect of nullifying the intent and purpose of the Protection Districts Map, the Comprehensive Plan, or any ordinance.

§ 45-126. Waivers of required improvements.

Where the Board makes written findings of fact that due to special circumstances of a particular site proposed to be subdivided or developed, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirements for such improvements, subject to appropriate conditions.

§ 45-127. Waivers conditionally granted.

In granting waivers to any of the provisions of this chapter in accordance with §§ 45-124, 45-125 and 45-126, the Board shall require such conditions that will assure the purposes and objectives of this chapter are met.

ARTICLE XXIV
Definitions

User's Guide: This article contains specific definitions for words and phrases used in this chapter.

§ 45-128. Construction of language.

- A. In this chapter, certain terms and words shall be interpreted as follows:
- (1) The words "persons" and "applicant" include individuals, firms, associations, corporations, organization, and similar entities;
 - (2) Words used or defined in one tense or form shall include other tenses or derivative forms;
 - (3) Words in the singular number shall include the plural number, and words in the plural shall include the singular number;
 - (4) The word "shall" is mandatory;
 - (5) The word "may" is permissive;

- (6) The word "used" or "occupied" includes the words "intended," "designed" or "arranged" to be used or occupied;
- (7) The word "building" includes the word "structure" or "facility";
- (8) The word "dwelling" includes the word "residence";
- (9) The word "lot" includes the words "plot" or "parcel"; and
- (10) The word "Town" means Town of Islesboro, Maine.

B. In case of difference of meaning or implication between the text of this chapter and any map, illustration, or table, the text shall control.

§ 45-129. Definitions.

For the purpose of interpreting this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein:

ABUTTER — The owner of a property immediately adjacent to or across any road from the property of the applicant or developer.

ACCESSORY USE OR STRUCTURE — A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

AGRICULTURAL LAND MANAGEMENT PRACTICES — Those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

ALTERATION — Structural changes, rearrangement, change of location, or addition to a building or structure, other than repairs and modification in building equipment, involving an increase in the overall floor space or volume of the building or structure.

BED-AND-BREAKFAST FACILITY — A lodging facility that is based in the permanent dwelling of the person or family acting as proprietor that accommodates for a fee transient guests, that has fewer than seven sleeping rooms offered for rent; and that does not provide full-service dining, but may serve meals to guests only.

BUILDING — A structure for the support, shelter or enclosure of persons, animals, goods or property of any kind.

CABINS — A group of buildings that is available for transient lodging for a fee, each containing eating, sleeping, and bathing facilities; that are designed for seasonal use by the lodgers; and that consist of no more than two dwelling units per building.

CERTIFICATE OF COMPLIANCE — A document issued by the Codes Enforcement Officer which verifies that all conditions of approved permits have been met, to the best of his knowledge.

CLUSTER DEVELOPMENT — A subdivision or development in which the lot sizes are reduced below those normally required in return for the provision of permanent open space owned in common by lot and/or unit owners, the Town, or a land conservation organization.

COMMERCIAL — The use of lands, buildings, or structures, other than a home occupation, defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

COMPLETE APPLICATION — An application shall be considered complete upon submission of the required fee and all information required by this chapter for a final plan, or by a vote by the Board to waive the submission of required information.

COMPREHENSIVE PLAN OR POLICY STATEMENT — Any part or element of the overall plan or policy for development of the Town as defined in 30-A M.R.S.A. § 4326.

CONGREGATE LIVING FACILITY — A building designed to house persons not related to each other (except spouses) who use that building as their primary residence; that contains separate sleeping facilities and communal eating facilities limited to the use of the residents and staff; and that is not a nursing or convalescent home.

CONTIGUOUS LOTS — Lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate tract or parcel unless such road was established by the owner of land on both sides thereof.

CUSTOMARY HOME OCCUPATION — An occupation or profession which is customarily conducted on or in a residential structure or property and which is clearly incidental to and compatible with the residential use of the property and surrounding residential uses and which employs no more than two persons other than family members residing in the home.

DEVELOPED AREA — Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, roads, and other areas not revegetated.

DEVELOPER — Any person contemplating a project or applying for approval of a project or subdivision under the provisions of this chapter. As used in this chapter, "developer" includes applicant, subdivider, contractor, owner, agent, and representative.

DEVELOPMENT — Includes project, subdivision, or any activity regulated by the provisions of this chapter.

DIMENSIONAL REQUIREMENTS — Numerical standards relating to spatial relationships, including but not limited to setback, lot area, shore frontage and height.

DISTRICT — A specified portion of the municipality, delineated on the Protection Districts Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of Chapter 125, Land Use.

DRIVEWAY — A vehicular accessway, not a road, accessing no more than four lots.

DWELLING — A fixed structure containing one or more dwelling units.

DWELLING, MULTIPLE-FAMILY — One or more buildings used for residential occupancy by more than two families, each living independently of each other. This includes apartments, condominiums, and cluster housing.

DWELLING, TWO-FAMILY — A building used for residential occupancy by two families, each living independently of each other. This includes apartments, two-family condominiums, and two-family dwellings in cluster housing.

DWELLING UNIT — A room or group of rooms designed and equipped or used as living quarters for only one family. The term shall include guesthouses, apartments, and mobile homes but not recreational vehicles.

EMERGENCY OPERATIONS — Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

EMERGENCY VEHICLES — Vehicles such as fire-suppression vehicles, ambulances, power company vehicles, and other vehicles used for emergency operations.

ENVIRONMENTALLY SENSITIVE AREAS — Those significant natural, scenic, historic, and archaeological areas identified as environmentally sensitive areas on the Protection Districts Map.

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

EXPANSION OF USE — The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

FACILITY — That which is designed, built, or installed to serve a specific function affording a convenience or service. Facilities may include, but are not limited to, buildings, structures, and fences.

FAMILY — One or more persons, related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.³⁰

FINAL PLAN — The final drawings on which the applicant's plan of subdivision or development is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

FLOOR AREA —

- A. The sum of the horizontal areas of the floor of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

30. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. The footprint of a structure.

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 land management roads.

FRONTAGE, ROAD — The length of the boundary of a lot or parcel which abuts a road.³¹

HEIGHT OF A STRUCTURE — The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

HIGH-INTENSITY SOIL SURVEY — A soil survey conducted by a certified soil scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation shall not be considered to constitute high-intensity soil surveys.

INDUSTRIAL — The assembling, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals.

INSTITUTIONAL — That which is devoted to some public, governmental, education, charitable, medical or similar purpose.

LOT — All contiguous land in the same ownership, provided that lands located on opposite sides of a state, Town, or approved subdivision road shall be considered each a separate lot unless such road was established by the owner of land on both sides thereof.

LOT AREA — The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

MARKET VALUE — The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

MOTEL, HOTEL AND INN — A commercial building or group of buildings catering for a fee to transient guests that has sleeping rooms that do not contain and shall not contain cooking facilities; that may or may not serve meals to guests and to the general public; and that may or may not have accessory public function rooms or recreational facilities.

MULTIPLE-FAMILY DWELLING — See "dwelling, multiple-family."

NET RESIDENTIAL ACREAGE — The total acreage available for the subdivision or development and shown on the proposed subdivision or development plan, minus the area for roads or access and the areas which are unsuitable for development.

31. Editor's Note: The definition of "frontage, shore", which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See definition of "shore frontage."

NET RESIDENTIAL DENSITY — The average number of dwelling units per net residential acre.

NGVD — National Geodetic Vertical Datum.

NORMAL HIGH-WATER LINE — That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to great ponds, the normal high-water line is the upland edge of the wetlands and not the edge of the open water.

NURSING OR CONVALESCENT HOME — A building or buildings used to house persons requiring nursing care or supervision and licensed by the State of Maine as a nursing home, assisted living facility, or other state-licensed facility similar in nature or purpose.

OFFICIAL SUBMITTAL DATE — The date upon which the Board issues a receipt indicating that a complete application has been submitted.

ONE-HUNDRED-YEAR FLOOD — The highest level of flood that, on the average, is likely to occur once every 100 years (that has a one-percent chance of occurring in any year).

PERSON — An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

PLANNING BOARD — The Planning Board of the Town of Islesboro, Maine, as created by an ordinance dated March 14, 1985.

POND — A man-made facility created for the collection of water covering more than 2,000 square feet.

PRELIMINARY SUBDIVISION PLAN — The Preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

PRINCIPAL STRUCTURE — A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

PRINCIPAL USE — A use other than one which is wholly incidental or accessory to another use on the same premises.

PRIVATE RIGHT-OF-WAY — A way that the general public has no right to pass over by foot or by vehicle and for which the Town has no maintenance responsibility.

PUBLIC FACILITY — Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which is owned, leased, or otherwise operated or funded by a governmental body or public entity.

PUBLIC RIGHT-OF-WAY — An easement held by the Town for purposes of public access to land or water not otherwise connected to a public way, for which the Town has a maintenance responsibility.

PUBLIC UTILITY — A company, corporation, or association which supplies utilities such as water, sewage disposal, electricity, telephone, and cable television to the public or to a specific group of users.

RECORDING PLAN — A copy of the final plan which is recorded at the Registry of Deeds.

RECREATIONAL FACILITY — A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

RECREATIONAL VEHICLE — A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pickup camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground and must be registered with the Bureau of Motor Vehicles.

RESUBDIVISION — The division of an existing subdivision or development which affects the lot lines, including land transactions by the subdivider or developer not indicated on the approved plan.

RETAIL — The sale of goods to the ultimate consumer for direct use and consumption and not for trade.

ROAD — A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles; includes all ways maintained by the state or Town, commonly referred to as state roads or Town roads; a way built to Town specifications, whether or not approved by the Planning Board. "Road" does not include other rights-of-way, driveways, or abandoned public or private ways not in use on the effective date of this chapter.

ROOMING HOUSE — A building of residential character in which three or more rooms are rented to guests usually staying more than two weeks for the purpose of lodging and/or taking meals. The renting of one or two bedrooms in a dwelling otherwise used as living quarters for one family shall not be considered a rooming house.

SETBACK — The nearest horizontal distance from the normal high-water line and/or lot line to the nearest part of a structure, road, parking space or other regulated object or area.

SHORE FRONTAGE — The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

SIGN — Any structure, display, logo, device, or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and is visible from any public way. It does not include the flag, pennant, or other insignia of any nation, state, or Town. Whichever dimensions of a sign are specified, they shall include frames.

SITE PLAN — A plan showing the proposed layout of lots, buildings, roads, parking, landscaping, and other site improvements.

SOLAR COLLECTOR — A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy and that contributes to a building's energy supply.

SOLAR ENERGY SYSTEM — A complete design or assembly consisting of a solar energy collector, an energy storage facility (when one is used), and components for the distribution of transformed energy.

STREAM — A free-flowing body of water from the outlet of a great pond or any perennial stream as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map or, if not available, a fifteen-minute series topographic map to the point where the body of water flows to another water body or wetland within the Protection Sector.

STREAM, TRIBUTARY — A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.³²

STRUCTURE — Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

SUBDIVIDER — The person or persons proposing a subdivision as defined in this chapter.

SUBDIVISION — As defined in 30-A M.R.S.A. § 4401, but generally is the division of a tract or parcel of land into three or more lots, each less than 40 acres, within any five-year period, whether accomplished by sale, lease, development, building, or otherwise, except when the division is accomplished by inheritance, or order of the court, or a gift to a relative, unless the intent of such gift is to avoid the objectives of this chapter.

SUBDIVISION, MAJOR — Any subdivision containing more than four lots or dwelling units.

SUBDIVISION, MINOR — Any subdivision containing not more than four lots or dwelling units.

SUBSTANTIAL CHANGE — An expansion of the land area of the development site by more than 20% at any one time or in total since the effective date of this chapter.

SUBSTANTIAL START — Completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

SUBSURFACE SEWAGE DISPOSAL SYSTEM — A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspools, well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to

32. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. § 414, any surface wastewater disposal system licensed under 38 M.R.S.A. § 413, Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Chapter 13, Subchapter 1.

TOWN OFFICIALS — Includes the following individuals acting in their official capacities: Town Manager; Road Commissioner; Codes Enforcement Officer; Plumbing Inspector; Electrical Inspector; Fire Chief; Emergency Services Director; Sewage Treatment Plant Operator; School Superintendent.³³

TOWN WAY — Area or strip of land designated and held by the Town for the passage and use of the general public by motor vehicle.

TRACT OR PARCEL OF LAND — All contiguous land in the same ownership, whether or not the tract is separated at any point by an intermittent or nonnavigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting landowners.

VARIANCE — Permission granted to an applicant by the Board of Appeals to depart from the literal requirements of this chapter by virtue of unique and undue hardship as defined in 30-A M.R.S.A. § 4353.

VEGETATION — All live trees, shrubs, ground cover, and other plants.

VOLUME OF A STRUCTURE — The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

WATER BODY — Any great pond, stream or tidal area.

33. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 62

FIRE DEPARTMENT

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| § 62-1. Authority. | § 62-6. Municipal firefighters. |
| § 62-2. Title. | § 62-7. Fire Department association. |
| § 62-3. Purpose. | § 62-8. Mutual aid. |
| § 62-4. Establishment of Department;
appointment of Fire Chief. | § 62-9. Effect on comparable ordinances
and decisions. |
| § 62-5. Duties of Fire Chief. | § 62-10. Amendments. |

[HISTORY: Adopted by the Town of Islesboro 6-6-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Association exemption from certain licensing requirements — See Ch. 257, Arts. II and III.

§ 62-1. Authority.

This chapter is enacted in accordance with 30-A M.R.S.A. §§ 3001 and 3151.

§ 62-2. Title.

This chapter shall be titled "Town of Islesboro Fire Department Ordinance" and shall be cited herein as "this chapter."

§ 62-3. Purpose.

The purpose of this chapter is to establish and organize a municipal Fire Department as required by 30-A M.R.S.A. § 3151, as amended.

§ 62-4. Establishment of Department; appointment of Fire Chief.

The Fire Department shall be established as a department of the Town of Islesboro. The Town Manager shall appoint, subject to conformation from the Board of Selectmen, a Fire Chief who shall be responsible for the day-to-day operation of the Fire Department.

- A. The Fire Chief shall be an employee of the Town of Islesboro.
- B. The Fire Chief may be removed from position for cause as set forth in the Town of Islesboro Personnel Policies and Procedures Manual.

§ 62-5. Duties of Fire Chief.

The Fire Chief shall be responsible for the immediate supervision and operation of the Fire Department and the conduct of the Fire Department membership as generally defined in 30-A M.R.S.A. § 3153, as amended.

A. The Fire Chief shall:

- (1) Supervise members of the Fire Department in their duties;
- (2) Maintain a roster of members of the Fire Department and recruit new members, as necessary, to fulfill the mission of the Fire Department;
- (3) Provide for training of members of the Fire Department;
- (4) Be responsible for the maintenance of all vehicles, equipment, and turn-out gear in a safe and fire-fighting readiness mode;
- (5) Assist the Town Manager in the preparation of an annual operational budget and capital equipment budget;
- (6) Prepare and maintain standard operating guidelines for the Fire Department;
- (7) Be responsible for the preparation and maintenance of records of the Fire Department, including but not limited to duty hours and training hours of the members of the Fire Department, personnel files and such other records as directed by the Town Manager;
- (8) Be responsible for the issuance of burning permits in accordance with the rules and regulations of the Maine State Forest Service and the Town of Islesboro;
- (9) Provide the public with firesafety programs and firesafety materials from time to time; and
- (10) Perform such other related Fire Department duties as the Town Manager may direct.

B. The Fire Chief shall appoint Deputy Chiefs and supervisors as needed.**§ 62-6. Municipal firefighters.**

- A. Members of the Fire Department, except for the Fire Chief, shall be considered municipal firefighters.
- B. Municipal firefighters of the Town of Islesboro Fire Department will receive remuneration as per Department guidelines and approved budget.

§ 62-7. Fire Department association.

- A. Establishment. The municipal firefighters of the Fire Department may establish an independent association pursuant to 13 M.R.S.A. § 901 et seq. or Title 13-B.

- (1) An association formed by municipal firefighters may include nonfirefighters.
- (2) Such an association may raise funds from the public on behalf of the Fire Department for training, education, equipment, vehicles, facilities and other Fire-Department-related purposes.
- (3) Funds raised by such an association shall remain the property of the association but shall revert to the Town of Islesboro to be used for Fire Department purposes in the event the association disbands.
- (4) Equipment, vehicles, or facilities purchased by the association shall remain property of the association unless donated to and accepted by the Town of Islesboro by a vote of the Board of Selectmen.
- (5) Equipment, vehicles, or facilities owned by an association shall be clearly marked as association property.
- (6) This association is not a department or part of a department of the Town of Islesboro, but is recognized as an association.

B. Gifts, donations, and bequests.

- (1) Gifts, donations, and bequests made to the Fire Department, whether conditional or unconditional, shall be treated as public funds and only to be accepted and used in accordance with the provisions established in 30-A M.R.S.A. §§ 5652 to 5654.
- (2) Gifts, donations, and bequests made to independent organizations or associations associated with the Fire Department, but not part of the Department, may be treated as private funds, to be disposed of as determined by the independent organization or association.

§ 62-8. Mutual aid.

The Fire Department shall provide mutual aid fire protection to those municipalities with which the Town has approved agreements. All mutual aid agreements shall be in writing and shall be subject to review and approval by the Board of Selectmen.

§ 62-9. Effect on comparable ordinances and decisions.

This chapter supersedes and replaces any or all like or comparable ordinances, policies or decisions previously enacted or adopted by the Town of Islesboro. This chapter shall remain in effect unless or until it is revoked or superseded in accordance with 30-A M.R.S.A. § 3002.

§ 62-10. Amendments.

This chapter may be amended from time to time in accordance with the provisions of 30-A M.R.S.A. § 3002.

Chapter 70

FLOODPLAIN MANAGEMENT

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[HISTORY: Adopted by the Town of Islesboro April 1991; amended 10-8-1997; 4-28-2001. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Board of Appeals — See Ch. 15, Art. I.
Development review — See Ch. 45.

Land use — See Ch. 125.

ARTICLE I General Provisions

§ 70-1. Title.

This chapter is titled "Town of Islesboro Floodplain Management Ordinance."

§ 70-2. Purpose.

- A. Certain areas of the Town of Islesboro, Maine, are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968.
- B. The Town of Islesboro, Maine, has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this chapter.
- C. It is the intent of the Town of Islesboro, Maine, to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

§ 70-3. Authority.

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

§ 70-4. Establishment.

- A. The Town of Islesboro, Maine elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).
- B. The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Islesboro having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas.

- C. This chapter establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the Town of Islesboro, Maine.

§ 70-5. Adoption by reference.¹

The areas of special flood hazard, Zones A, AE and VE, are identified by the Federal Emergency Management Agency in a report titled "Flood Insurance Study - Town of Islesboro, Maine, Waldo County," dated May 15, 1991, which report and Flood Insurance Rate Maps dated May 15, 1991, and July 15, 1992, are hereby adopted by reference and declared to be a part of this chapter.

**ARTICLE II
Permits**

§ 70-6. Permits required.

- A. Before any construction or other development (as defined in Article IX), including the placement of manufactured homes, begins within any areas of special flood hazard established in § 70-5, a flood hazard development permit shall be obtained from the Planning Board.
- B. This permit shall be in addition to any other land use, development, or building permits which may be required pursuant to the codes and ordinances of the Town of Islesboro, Maine.

§ 70-7. Permit application.

The application for a flood hazard development permit shall be submitted to the Planning Board and shall include:

- A. The name and address of the applicant;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure;
- E. A statement as to the type of sewage system proposed;
- F. Specification of dimensions of the proposed structure;
- G. The elevation in relation to the National Geodetic Vertical Datum (NGVD) or to a locally established datum in Zone A only of the:

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) Base flood at the proposed site of all new or substantially improved structures, which is determined:
 - (a) In Zones AE and VE from data contained in the Flood Insurance Study - Town of Islesboro, Maine, as described in § 70-5; or
 - (b) In Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
 - (2) Highest and lowest grades at the site adjacent to the walls of the proposed building;
 - (3) Lowest floor, including basement, and whether or not such structures contain a basement; and
 - (4) Level, in the case of nonresidential structures only, to which the structure will be floodproofed;
- H. A description of a base flood elevation reference point established on the site of all new or substantially improved structures;
- I. A written certification by a registered land surveyor that the elevations shown on the application are accurate;
- J. Certification by a registered professional engineer or architect that floodproofing methods for any nonresidential structures will meet the floodproofing criteria of Subsection G(4) of this section, § 70-12, and other applicable standards in Article III;
- K. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and
- L. A statement of construction plans describing in detail how each applicable development standard in Article III will be met.

§ 70-8. Fees.

- A. A nonrefundable application fee of \$30 shall be paid to the Treasurer, Town of Islesboro, or designee, and a copy of a receipt for the same shall accompany the application.²
- B. An additional fee may be charged if the Planning Board and/or Board of Appeals needs the assistance of a professional engineer or other expert.
- (1) The expert's fee shall be paid in full by the applicant within 10 days after the Town submits a bill to the applicant.
 - (2) Failure to pay the bill shall constitute a violation of this chapter and be grounds for the issuance of a stop-work order.

2. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

- (3) An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject.
- (4) An applicant who is dissatisfied with a decision of the Planning Board may appeal that decision to the Board of Appeals.

§ 70-9. Review of flood hazard development permit applications.

- A. The Planning Board shall review all applications for the flood hazard development permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of Article III (Development Standards) have been or will be met.
- B. The Planning Board shall utilize, in the review of all flood hazard development permit applications, the base flood data contained in the Flood Insurance Study - Town of Islesboro, Maine, as described in § 70-5. In special flood hazard areas where base flood elevation data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to §§ 70-7G(1)(b), 70-15 and 70-19D, in order to administer Article III of this chapter.
- C. The Planning Board shall make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in § 70-5 of this chapter.
- D. The Planning Board shall determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1334.
- E. The Planning Board shall notify the Department of Environmental Protection and the Maine State Planning Office prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency.
- F. The Planning Board shall issue a two-part flood hazard development permit for elevated structures.
 - (1) Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Codes Enforcement Officer with an application for Part II of the flood hazard development permit and shall include an elevation certificate completed by a registered Maine surveyor for compliance with the elevation requirements of §§ 70-11, 70-12, 70-13 and 70-17.
 - (2) Following review of the application, which review shall take place within 72 hours of receipt of the application, or as soon thereafter as practical, the Codes Enforcement Officer shall issue Part II of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project.

- G. The Planning Board shall maintain as a permanent record copies of all flood hazard development permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article VI of this chapter, and copies of elevation certificates and certificates of compliance required under the provisions of Article IV of this chapter.

ARTICLE III Development Standards

§ 70-10. Standards.

All developments in areas of special flood hazard shall meet the applicable standards listed below.

- A. New construction or substantial improvement of any structure shall:
- (1) Be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (2) Use construction materials that are resistant to flood damage;
 - (3) Use construction methods and practices that will minimize flood damage; and
 - (4) Use electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- C. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into floodwaters.
- D. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. All development shall be constructed and maintained in such a manner that no reduction occurs in the flood-carrying capacity of any watercourse.

§ 70-11. Residential structures.

- A. New construction or substantial improvement of any residential structure located within Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
- B. New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot

above the base flood elevation utilizing information obtained pursuant to § 70-7G(1)(b), 70-9B or 70-19D.

- C. New construction or substantial improvement of any residential structure located within Zone VE shall meet the requirements of § 70-17.

§ 70-12. Nonresidential structures.

- A. New construction or substantial improvement of any nonresidential structure located within Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:

- (1) Be floodproofed to at least one foot above the base flood level so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by § 70-7J and shall include a record of the elevation above mean sea level of the lowest floor including basement.

- B. New construction or substantial improvement of any nonresidential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to § 70-7G(1)(b), 70-9B or 70-19D.

- C. New construction or substantial improvement of any nonresidential structure located within Zone VE shall meet the requirements of § 70-17.

§ 70-13. Manufactured homes.

- A. New or substantially improved manufactured homes located within Zone AE shall:

- (1) Be elevated on a permanent foundation such that the lowest floor is at least one foot above the base flood elevation; and
- (2) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement.
 - (a) Methods of anchoring may include but are not limited to:

- [1] Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate

points (manufactured homes less than 50 feet long require one additional tie per side); or

- [2] Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

(b) All components of the anchoring system described in Subsection A(2)(a)[1] and [2] shall be capable of carrying a force of 4,800 pounds.

- B. New or substantially improved manufactured homes located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to § 70-7G(1)(b), 70-9B or 70-19D.
- C. New or substantially improved manufactured homes located within Zone VE shall meet the requirements of § 70-17.

§ 70-14. Recreational vehicles.

Recreational vehicles located within Zone AE shall meet at least one of the following requirements:

- A. Be on the site for fewer than 180 consecutive days.
- B. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system or is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.
- C. Meet elevation and anchoring requirements for manufactured homes in § 70-13A(1) and (2).³

§ 70-15. Floodways.

- A. In Zone AE, encroachments, including fill, new construction, substantial improvement, and other development, shall not be permitted in riverine areas for which a regulatory floodway is designated on the community's Flood Boundary and Floodway Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- B. In Zone AE riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development, shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and
 - (2) Is consistent with the technical criteria contained in Section 2-7 titled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, FEMA 37 (March 1993, as amended).
- C. In Zone A riverine areas in which the regulatory floodway is determined to be the channel of the river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain as measured from the normal high-water mark to the upland limit of the floodplain, encroachments, including fill, new construction, substantial improvement, and other development, shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of Subsection B.

§ 70-16. Enclosures.

New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of this article, including the elevation requirements of § 70-11, 70-12 or 70-13, and is elevated on posts, columns, piers, piles, stilts, or crawl spaces less than three feet in height may be enclosed below the elevation requirements, provided that all the following criteria are met or exceeded:

- A. Enclosed areas are not basements as defined in Article IX.
- B. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:
 - (1) Be certified by a registered professional engineer or architect; or
 - (2) Meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area shall be provided;
 - (b) The bottom of all openings shall be no higher than one foot above the lowest grade; and
 - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the entry and exit of floodwaters automatically without any external influence or control such as human intervention, including the use of electrical and other nonautomatic mechanical means.
- C. The enclosed area shall not be used for human habitation.
- D. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

§ 70-17. Coastal floodplains.

- A. All new construction located within Zone VE shall be located landward of the reach of the highest annual spring tide.
- B. New construction or substantial improvement of any structure located within Zone VE shall:
 - (1) Be prohibited unless the area is in the Shoreland Protection District, Rural Protection District or Maritime Activities District as defined in Chapter 125, Land Use.
 - (2) Be elevated on posts or columns so that the bottom of the lowest structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood level; the pile or column foundation and the elevated portion of the structure attached thereto are anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
 - (3) Have the space below the lowest floor free of obstructions or constructed with open wood latticework or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns or constructed with nonsupporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
- C. A registered professional engineer or architect shall develop or review the structural design, specifications, and plans for the construction which must meet or exceed the technical criteria contained in the Coastal Construction Manual (FEMA 55, February 1986) and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Subsection B.
- D. The use of fill for structural support in Zone VE is prohibited.
- E. The enclosed areas may be used solely for parking vehicles, building access, and storage.

ARTICLE IV
Certificate of Compliance

§ 70-18. Certificate of compliance required.

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a certificate of compliance is issued by the Codes Enforcement Officer subject to the provisions listed below.

- A. The applicant shall submit an elevation certificate completed by a registered Maine surveyor for compliance with § 70-11, 70-12, 70-13 or 70-17.

- B. The applicant shall submit an elevation certificate completed by a registered professional engineer or architect, in the case of floodproofed nonresidential structures, for compliance with § 70-12 and construction of structures in the coastal floodplains for compliance with § 70-17C.
- C. The application for a certificate of compliance shall be submitted by the applicant in writing along with a completed elevation certificate to the Codes Enforcement Officer.
- D. The Codes Enforcement Officer shall review the application within 10 working days of receipt of the application and shall issue a certificate of compliance, provided that the building conforms to the provisions of this chapter.

ARTICLE V

Review of Subdivision and Development Proposals

§ 70-19. Subdivision and development review.

When reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations as well as all projects on five or more acres, or in the case of manufactured home parks, lots divided into two or more lots, the Planning Board shall assure that the following conditions are met:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevation and, in a riverine floodplain, floodway data.

§ 70-20. Construction requirements certification.

- A. Any proposed development plan shall include a statement certifying that the developer will require that structures on lots in the development be constructed in accordance with Article III of this chapter and that such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest.
- B. The statement shall clearly articulate that the Town of Islesboro may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described.
- C. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE VI
Appeals and Variances

§ 70-21. Board of Appeals.

The Board of Appeals of the Town of Islesboro may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Planning Board in the administration of the provisions of this chapter. The Board of Appeals may grant a variance from the requirements of this chapter consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon a finding that all of the following requirements have been met:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, or public expense or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances;
 - (3) A showing that the granting of the variance will not cause a conflict with other state, federal or local laws or ordinances; and
 - (4) A determination that failure to grant the variance would result in undue hardship, which in this subsection means that:
 - (a) The land in question cannot yield a reasonable return unless a variance is granted;
 - (b) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - (c) The granting of a variance will not alter the essential character of the locality; and
 - (d) The hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances may be issued by the Board of Appeals for new construction, substantial improvements, or other development for the conduct of a functionally dependent use, provided that:
 - (1) Other criteria of this article and § 70-15 are met; and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

- E. Variances may be issued by the Board of Appeals for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places without regard to the procedures set forth in Subsections A through D.

§ 70-22. Notification and disclaimer.

The Board of Appeals shall notify any applicant for a variance who meets the requirements of § 70-21A through E of the consequences of granting a variance.

- A. Prior to granting a variance, the Board of Appeals shall provide the following statement, signed by the Chair of the Board of Appeals:
1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 2. Such construction below the base flood level increases risks to life and property; and
 3. You (the applicant) agree in writing that you are fully aware of all the risks inherent in the use of land subject to flooding, you assume those risks and agree to indemnify and defend this municipality and the inhabitants of the Town of Islesboro against any claims filed against it that are related to your decision to use land located in a floodplain and that you individually release the municipality and the inhabitants of the Town of Islesboro from any claims you may have against the municipality and the inhabitants of the Town of Islesboro that are related to the use of land located in a floodplain.
- B. The Board of Appeals shall not grant approval of any application for a variance under the provisions of this chapter until a notarized copy of the agreement set forth in Subsection A is provided to the Board of Appeals by the applicant for a variance.
- C. The Board of Appeals shall submit to the Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

**ARTICLE VII
Enforcement and Penalties**

§ 70-23. Enforcement.

It shall be the duty of the Codes Enforcement Officer to enforce the provisions of this chapter pursuant to 30-A M.R.S.A. § 4452.

§ 70-24. Violations and penalties.

- A. The penalties contained in 30-A M.R.S.A. § 4452 shall apply to any violation of this chapter.
- B. In addition to any other actions, the Codes Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall include the following information:
- (1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 - (2) A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;
 - (3) A clear statement that the Codes Enforcement Officer making the declaration has authority to do so and a citation to that authority;
 - (4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
 - (5) A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE VIII**Conflict with Other Ordinances and Abrogation****§ 70-25. Conflict with other ordinances.**

This chapter shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this chapter imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this chapter shall control.

§ 70-26. Abrogation.

This chapter repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

ARTICLE IX**Definitions****§ 70-27. Word usage and definitions.**

- A. Unless specifically defined below, words and phrases used in this chapter shall have the same meaning as they have at common law and to give this chapter its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is

permissive; "shall" is mandatory and not discretionary. If any definition in this chapter is in conflict with a definition of the same word or term in another ordinance of the Town of Islesboro, the definition herein shall apply to this chapter alone.

B. As used in this chapter, the following terms shall have the meanings indicated:

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

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain having a one-percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in § 70-5 of this chapter.

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year, commonly called the one-hundred-year flood.

BASEMENT — Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

BUILDING — See "structure."

CERTIFICATE OF COMPLIANCE — A document signed by the Codes Enforcement Officer stating that a structure is in compliance with all of the provisions of this chapter.

CODES ENFORCEMENT OFFICER — Any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

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

ELEVATED BUILDING —

- (1) A nonbasement building built, in the case of a building in Zones AE and A, to have the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or stilts, and adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.
- (2) In the case of Zone AE or A, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of floodwaters. In

the case of Zone VE, "elevated building" also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of § 70-17B(3).

ELEVATION CERTIFICATE — An official form (FEMA Form 81-31, 05/93, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program and is required for purchasing flood insurance.

FLOOD ELEVATION STUDY — An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of the Town of Islesboro on which the Administrator of the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — See Flood Elevation Study.

FLOOD or FLOODING —

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1) of this definition.

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

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

FLOODPLAIN or FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source. (See "flood.")

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

FLOODWAY — See "regulatory floodway."

FLOODWAY ENCROACHMENT LINES — The lines marking the limits of floodways on federal, state, and local floodplain maps.

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

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

HISTORIC STRUCTURE OR AREA — ⁴ Any structure or area that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

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

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to

4. **Editor's Note:** Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

render the structure in violation of the applicable nonelevation design requirements described in Article III of this chapter.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

ONE-HUNDRED-YEAR FLOOD — See "base flood."

RECREATIONAL VEHICLE — A vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light-duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and in riverine areas is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain, as measured from the normal high-water mark to the upland limit of the floodplain.

RIVERINE — Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA — See "area of special flood hazard."

START OF CONSTRUCTION — The date the building permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basements, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied

as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE — For floodplain management purposes and this chapter only, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT —

- (1) Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed.
- (2) The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

VARIANCE — A grant of relief by the Board of Appeals from the terms of a floodplain management regulation.

VIOLATION — The failure of a structure or development to comply with the Town of Islesboro's floodplain management regulations.

Chapter 83

GENERAL ASSISTANCE

[The General Assistance Ordinance is on file in the Town Clerk's office. On October 20, 2010, the Town adopted the Maine Municipal Association (MMA) Model Ordinance GA Appendices (A to C) for the period of October 1, 2010, to October 1, 2011. These appendices are filed with the Department of Health and Human Services in compliance with 22 M.R.S.A. § 4305, Subsection 4.]

Chapter 91

GROUNDWATER PROTECTION

ARTICLE I Groundwater Protection Committee

§ 91-1. Purpose and title.

§ 91-2. Authority.

§ 91-3. Appointment; terms of office; officers.

§ 91-4. Meetings and attendance.

§ 91-5. Duties and responsibilities.

§ 91-6. Copy to be filed.

§ 91-7. Amendments.

[HISTORY: Adopted by the Town of Islesboro as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Development review — See Ch. 45.

Land use — See Ch. 125.

ARTICLE I Groundwater Protection Committee [Adopted 4-29-2000]

§ 91-1. Purpose and title.

This article is enacted for the health and welfare of the inhabitants of the Town of Islesboro and to conserve and to protect the groundwater supply of the Town. This article is titled "Groundwater Protection Ordinance."

§ 91-2. Authority.

This article is enacted under the authority of 30-A M.R.S.A. § 3001.

§ 91-3. Appointment; terms of office; officers.

- A. Within 30 days after the enactment of this article, the Board of Selectmen shall appoint at least five persons registered to vote in the Town of Islesboro to the Groundwater Protection Committee and may further appoint up to two persons to the Committee who need not be registered voters in the Town of Islesboro.
- B. Of the initial five registered voter members, one person shall be appointed for an initial term of one year; two people shall be appointed for an initial term of two years; and two people shall be appointed for a term of three years. Additional members shall be appointed for three years. All reappointments shall be for a term of three years.
- C. The Committee shall annually elect a Chairman, a Vice Chairman and a secretary.

§ 91-4. Meetings and attendance.

- A. The Committee shall meet at least six times a year.
- B. The Board of Selectmen may remove any member of the Committee who has more than three unexcused absences per year.

§ 91-5. Duties and responsibilities.

- A. The Committee shall develop and maintain programs to monitor the quantity and quality of the Town's groundwater resource. These programs shall use the voluntary cooperation of householders and businesses (unless otherwise required by law) in their implementation.
- B. The Committee shall, in an advisory capacity and in cooperation with the Codes Enforcement Officer and local Plumbing Inspector, recommend corrective action to identified sources or potential sources of groundwater pollution.
- C. The Committee shall develop and publicize educational and informational materials and programs from time to time regarding groundwater protection and conservation for year-round and seasonal residents.
- D. The Committee shall be responsible for requiring adherence to the provisions of the "sole-source aquifer" designation by the Environmental Protection Agency.
- E. The Committee may apply for grants and donations for its purposes in addition to any funds appropriated to it by the Town.
- F. The Committee shall prepare an annual budget in cooperation with the Town Manager.
- G. The Committee shall prepare an annual report for the inclusion in the Town's Annual Report as well as such other reports as the Board of Selectmen may require.
- H. The Committee shall cooperate with the Town of Islesboro Planning Board, all other boards and committees and the Town Manager with regard to procedures, rules, or ordinances that may affect groundwater protection. This cooperation includes but is not limited to suggesting new rules or ordinances or amendments to existing rules and ordinances as well as changes in procedures. This cooperation shall be advisory in nature.

§ 91-6. Copy to be filed.

A certified copy of this article shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be available to the public at the Town Office at reasonable cost at the expense of the person making the request.

§ 91-7. Amendments.

This article may be amended from time to time in the manner provided for by law.

Chapter 116

JUNKYARDS AND AUTOMOBILE GRAVEYARDS

[Junkyards and automobile graveyards, as defined in 30-A M.R.S.A. § 3752, are subject to the requirements of 30-A M.R.S.A. §§ 3751 through 3760, as amended. Junkyards shall be screened in compliance with regulations established by the Commissioner of the State Department of Transportation.]

Chapter 125

LAND USE

ARTICLE I Land Use Regulation

- § 125-1. Title.
- § 125-2. Purposes.
- § 125-3. Authority.
- § 125-4. Applicability.
- § 125-5. Effective date; repealer.
- § 125-6. Availability.
- § 125-7. Conflicts with other ordinances.
- § 125-8. Amendments.
- § 125-9. Protection Districts Map.
- § 125-10. Interpretation of district boundaries.

ARTICLE II Administration

- § 125-11. Conformity to regulations required.
- § 125-12. Land use permit.
- § 125-13. Application.
- § 125-14. Notice of public hearing.
- § 125-15. Issuance of permit.
- § 125-16. Notice of decision.
- § 125-17. Planning Board rules and policies.
- § 125-18. Codes Enforcement Officer.
- § 125-19. Revocation of permit.
- § 125-20. Appeals and variances.
- § 125-21. Enforcement.

ARTICLE III Districts

- § 125-22. Establishment of districts.

- § 125-23. Resource Protection District.
- § 125-24. Inclusions of buildable land in Resource Protection District.
- § 125-25. Limited Development District.
- § 125-26. Meadow Pond District.
- § 125-27. Shoreland Protection District.
- § 125-28. Maritime Activities District.
- § 125-29. Rural Protection District.
- § 125-30. Permitted and prohibited uses.
- § 125-31. Natural Resources Protection Act.
- § 125-32. Setback and height.
- § 125-33. Minimum lot size in all districts.
- § 125-34. Floodplain.
- § 125-35. Piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

ARTICLE IV Nonconforming Structures, Lots and Uses

- § 125-36. Preexisting structures, lots and uses in all districts.
- § 125-37. Relocation of nonconforming structures.
- § 125-38. Reconstruction or replacement of nonconforming structures.
- § 125-39. Change in use of nonconforming structures.
- § 125-40. Expansion, resumption and change of nonconforming uses.
- § 125-41. Contiguous, vacant or partially built lots.

§ 125-42. Contiguous built lots.

§ 125-53. Essential services.

§ 125-43. Nonconforming lots.

§ 125-54. Mineral exploration and extraction.

§ 125-44. Accessory structures on nonconforming lots.

§ 125-55. Agriculture.

§ 125-56. Erosion and sedimentation control.

ARTICLE V
Standards

§ 125-57. Soils.

§ 125-45. All districts.

§ 125-58. Water quality.

§ 125-46. Campgrounds.

§ 125-59. Ponds.

§ 125-47. Individual private campsites.

§ 125-60. Archaeological sites.

§ 125-48. Timber harvesting and removal of vegetation.

ARTICLE VI
Definitions

§ 125-49. Parking areas.

§ 125-61. Word usage and definitions.

§ 125-50. Roads and driveways.

Table of Land Uses

§ 125-51. Stormwater runoff.

§ 125-52. Septic waste disposal.

[HISTORY: Adopted by the Town of Islesboro 6-15-1992, as amended through 6-25-2009. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Camping — See Ch. 23.

Junkyards and automobile graveyards — See Ch. 116.

Development review — See Ch. 45.

Pollution control — See Ch. 167.

Floodplain management — See Ch. 70.

ARTICLE I
Land Use Regulation

§ 125-1. Title.

This chapter shall be titled "Town of Islesboro Land Use Ordinance."

§ 125-2. Purposes.

The purposes of this chapter are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; to anticipate and respond to the impacts of development in all areas; to preserve the Town's character; and to prevent offensive use of land.

§ 125-3. Authority.

This chapter has been prepared in accordance with the following provisions of the Maine Revised Statutes Annotated: Title 30-A, § 3001 (Home Rule Powers); Title 30-A, § 4352 (Land Use Regulation); and Title 38, §§ 435 to 449 (Mandatory Shoreland Zoning) and §§ 480-A to 480-U (Natural Resources Protection Act).

§ 125-4. Applicability.

- A. This chapter applies to all land areas in the Town of Islesboro. It applies specifically to:
- (1) All offshore islands within the Town's jurisdiction;
 - (2) Coastal and freshwater wetlands;
 - (3) All land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or saltwater body;
 - (4) All areas of land within 250 feet, horizontal distance, from the upland edge of a coastal or nonforested wetland; and
 - (5) All land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.
- B. This chapter also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending beyond the normal high-water line of a water body or within a wetland.¹

§ 125-5. Effective date; repealer.

- A. This chapter, which was adopted by the legislative body of the Town of Islesboro on June 15, 1992, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection.
- B. A certified copy of the ordinance, attested and signed by the Town Clerk, shall be forwarded to the Commissioner of the Department of Environmental Protection for approval. If the Department of Environmental Protection fails to act on the ordinance within 45 days of its receipt of the ordinance, it shall be deemed approved. Upon approval of the ordinance, the Shoreland Districting Ordinance previously adopted on 30 May 1973 and as amended from time to time is hereby repealed.
- C. Any application for a permit submitted to the Planning Board within the forty-five-day period shall be governed by the terms of the ordinance if the ordinance is approved by the Commissioner of the Department of Environmental Protection.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 125-6. Availability.

A certified copy of this chapter shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at the Town Office at reasonable cost at the expense of the person making the request. Notice of availability of this chapter shall be posted.

§ 125-7. Conflicts with other ordinances.

Whenever a provision of this chapter conflicts with or is inconsistent with another provision of the chapter or of any other ordinance, regulation or statute, the more restrictive provision as deemed by the Planning Board shall control.

§ 125-8. Amendments.

This chapter may be amended by majority vote of the legislative body as provided by law. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within 45 days of the Department's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the Town within the forty-five-day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

§ 125-9. Protection Districts Map.

- A. For the purposes of this chapter, the Town of Islesboro is divided into districts as set forth in Article III of this chapter and as shown on the Protection Districts Map titled "Town of Islesboro, Protection Districts Map." The Protection Districts Map shall be drawn at a scale of not less than one inch equals 2,000 feet. District boundaries shall be clearly delineated, and a legend indicating the symbols for each district shall be placed on the map.
- B. The Protection Districts Map shall be certified by the attested signatures of the Board of Selectmen and shall be located in the Town Office.
- C. If amendments, in accordance with § 125-8, are made in the district boundaries or other matter portrayed on the Protection Districts Map, such changes shall be made on the Protection Districts Map within 30 days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.²

§ 125-10. Interpretation of district boundaries.

Unless otherwise set forth on the Protection Districts Map or in this chapter, district boundary lines are property lines, the center lines of the paved or traveled portion of streets and roads

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

and the center lines of rights-of-way, and the boundaries of the Protection Sector as defined herein. The depiction of districts on the Protection Districts Map is merely illustrative of their general location. The boundaries of the districts shall be determined by measurement of the distance on the ground from the normal high-water line or the upland edge of wetland vegetation, regardless of the location of the boundary shown on the map. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

ARTICLE II Administration

§ 125-11. Conformity to regulations required.

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered, and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance by the Islesboro Board of Appeals is granted or by order of the court.

§ 125-12. Land use permit.

- A. Any person, corporation, or other legal entity planning any change to the existing use of land; or planning the construction or relocation of any building, structure, or facility that is greater than 120 square feet or has a completed fair market value of \$3,000 or more; or planning conversion from seasonal residential use to year-round residential use; or planning any alteration that would alter substantially the existing use as determined by the Codes Enforcement Officer and the Planning Board, or when such alteration increases the height of any part of the building, structure, or facility, or increases the floor area of the existing building, structure, or facility by 120 square feet or more, shall apply for a permit in the form required by the Planning Board. Conversion of attic areas is exempt from this provision, provided that the converted space is not used as a bedroom.

Note: Many activities, particularly those involving the shoreland, the surface area of water bodies, streams, and wetlands, are regulated by state and federal agencies as well as by this chapter and other ordinances of the Town. Applicants should consult with the appropriate authorities or the Codes Enforcement Officer prior to applying for a land use permit to ensure compliance with state or federal regulations.

- B. Except as noted in Subsection B(1), any locating or relocating of a mobile dwelling unit, structure, or facility of any kind requires a land use permit.
- (1) Mobile dwelling units used for camping purposes are subject to the provisions of Chapter 23, Camping, and do not require a land use permit, provided that they meet all the following criteria:

- (a) They are placed temporarily and removed or vacated after not more than 30 days.
 - (b) They are not occupied on a lot for more than 30 days in one calendar year.
 - (c) They do not have an external power supply, a well, nor a subsurface sewage disposal system not connected to a permanent dwelling unit.
- (2) Mobile dwelling units, whether for dwelling, camping, or storage, shall be subject to all the provisions of the district in which they are placed, including, but not limited to, setbacks.
- C. Applications for the following shall be submitted under the provisions of Chapter 45, Development Review, but shall be subject to the regulations of this chapter governing land use:
- (1) Industrial, commercial, municipal, office, institutional, fraternal, utility, recreational, or multiple dwelling uses, facilities, structures, or buildings.
 - (2) Subdivisions or resubdivisions.
 - (3) Small-scale customary home occupations and workshop operations.
- D. Applications for the following shall be submitted under the provisions of this chapter:
- (1) Detached single- and two-family dwelling units, including accessory structures (when not part of a new subdivision or development proposal).
 - (2) Agriculture, timber harvesting, and ponds.

§ 125-13. Application.

- A. An application for a land use permit shall be made by the property owner or his duly authorized agent and submitted to the Planning Board or the Codes Enforcement Officer for review and approval prior to the commencement of any work. The application shall be made on a form provided by the Planning Board and shall include payment of a filing fee as specified in the following fee schedule:
- (1) Dwellings and additions thereto: \$0.10 per square foot of living area (minimum fee of \$30). Note: Dwellings include single- and two-family houses as well as mobile or modular homes and guesthouses. This rate also applies to porch areas.
 - (2) Other structures, including decks, basements, garages, and outbuildings (barns, sheds, etc.): \$0.05 per square foot of floor area (minimum fee of \$30).
 - (3) Expansion of existing structures:
 - (a) Same as Fee No. 1 with a minimum of \$60.
 - (b) Same as Fee No. 2 with a minimum of \$30.
 - (4) Flat fees for work requiring permits:

- (a) Alterations or renovations/upgrades to existing buildings or structures.
 - [1] With no change to existing floor plan or footprint: \$30.
 - [2] With changes to existing floor plan but none to footprint: \$60.
- (b) Docks: \$75.
- (c) Earthwork (filling, moving, driveways, etc.): \$30.
- (d) Fences and plantings (hedges) when permit required: \$30.
- (e) Forest management and/or timber harvesting: \$30.
- (f) Blasting: \$30.
- (g) Amendments or extensions of an existing permit: \$30.
- (h) Amendments or extensions of an existing permit requiring another site review: \$60.

Note: An administrative penalty of a minimum of \$100, in addition to any applicable fees, shall be charged if any activity requiring a permit under this chapter has begun prior to the issuance of the permit.

- B. All applications for land use permits shall include a full and complete disclosure of the nature and type of change planned and the estimated cost of the completed project.
- C. All applications for land use permits shall include the location and dimensions of the proposed building or alteration and the proposed sewage disposal system as certified by a person licensed by the state to design such systems.
- D. In all districts, the approval of land use permit applications, when applicable shall be subject to evidence of satisfactory subsurface soils conditions for drainage and sewage disposal.
- E. Approval of land use permit applications shall be subject to all applicable state and local statutes, regulations and codes for health, plumbing, sanitation, conservation, and pollution abatement.
- F. The Planning Board may, in addition, require any of the following to be included in the application:
 - (1) Maps, plans or blueprints of the proposed use.
 - (2) A statement setting forth the impact the proposed activity will have on the environment.
 - (3) A statement certifying that the proposed use is consistent with the need to minimize flood damage and exposure to flood hazard.

- (4) The applicant's agreement to pay all costs and fees for engineering or other professional advice furnished to the Planning Board, if the activity or the impact on the environment is of a substantial nature and such advice is required in order to determine whether approval shall be granted or denied. The Planning Board may require advance payment of costs and fees.
 - (5) The applicant's agreement to supply data on any new well dug or drilled, including depth and flow rate, to the Codes Enforcement Officer at the Town Office, to aid the monitoring of the Town's water supply.
- G. Within 30 days after receiving an application, the Planning Board shall notify the applicant in writing either that the application is complete or, if the application is incomplete, that specific additional material is needed to complete it. Upon determining that an application is complete, the Board shall record its determination in the record and begin its full evaluation of the application. Notwithstanding the time limits set forth in § 125-16B, if the Board determines during its evaluation that specific additional material is needed to make a decision, it shall so notify the applicant in writing, and the time limits shall be suspended until such additional material is received.
- H. An applicant shall be notified in writing when an application is deficient or incomplete. The applicant shall remedy the deficiencies or complete the application within one calendar year of that notification or the application shall be considered void. An applicant shall submit a new application and fee to have the Planning Board reconsider such application after said calendar year.

§ 125-14. Notice of public hearing.

Upon the receipt of the completed application, the Planning Board may, in its discretion, order a public hearing by posting the date, time, and place of the hearing at least seven days prior to the public hearing in a conspicuous public place in the Town.

§ 125-15. Issuance of permit.

After receipt of the completed application or, in case a public hearing is held, after public hearing, the Planning Board shall, after due deliberation, approve, approve with conditions, or deny the application.

- A. All decisions of the Planning Board and Codes Enforcement Officer shall be based on the following criteria:
- (1) Applicant's compliance with both the letter and the spirit of this chapter.
 - (2) The determination that the proposed activity can be performed by the applicant without undue adverse impact on the environment, with no resulting unsafe or unhealthy conditions, no erosion or sedimentation, no water pollution and no adverse impact to spawning grounds, fish and aquatic life, bird and other wildlife habitat.

- (3) The determination that the applicant has ensured that shoreland vegetation, areas of natural beauty, visual access to bodies of water viewed from public facilities and points of public access to the shore have been conserved to the fullest extent possible and that all requirements of Chapter 70, Floodplain Management, have been met.
 - (4) The determination that the proposed activity will not cause an unreasonable or excessive financial burden on the Town.
 - (5) The determination that the proposed activity will comply with all existing municipal ordinances, state and federal laws, regulations, codes and rules.
 - (6) The determination that all necessary permits and approvals required by law have been applied for or have been obtained by the applicant.
 - (7) The determination that the proposed activity is consistent with Islesboro Comprehensive Plan current at the time of application, as well as any flood control measures undertaken or to be undertaken by the Town, state, or federal government.
- B. A permit shall expire 24 months after its issuance, or after one year after the date of its issuance if no substantial start (as defined in this chapter) is made in the activity covered by the permit.
- C. An unexpired permit may be extended one time for up to 24 months from the date of the extension granted by the original issuing authority. Extensions will be subject to all provisions of this chapter in effect at the time the extension is granted. An expired permit may not be extended.
- D. Approved permits issued after April 28, 2001, for dwelling units require a certificate of compliance issued by the Codes Enforcement Officer prior to occupancy.

§ 125-16. Notice of decision.

- A. Written notice of the decision of the Codes Enforcement Officer shall be furnished to the applicant within 30 calendar days from the date of receipt of the completed application by the Codes Enforcement Officer.
- B. Written notice of the decision of the Planning Board shall be furnished to the applicant not later than 60 days after receipt of the completed application or, in case a public hearing is held, not later than 30 days after the public hearing. If the notice of the decision is not furnished within these time limits, the applicant may request the Planning Board to set forth the reason in writing to the applicant not later than 10 days after the next regular meeting of the Planning Board convened after receipt of the request. Upon approval of the application, the Planning Board shall issue a permit which may be conditional and may contain stipulations. Within 21 days after disapproval of the application, the Planning Board shall issue written findings of fact setting forth the reason(s) why the permit was denied.

§ 125-17. Planning Board rules and policies.

- A. The Planning Board shall conduct public hearings according to such reasonable rules as it shall adopt from time to time. Minutes of the hearing shall be taken, and after approval of the minutes by the Planning Board, the minutes shall be a public record. Participation in a public hearing shall not be limited to registered voters in the Town of Islesboro, but shall be open to any interested person.
- B. The Planning Board shall adopt written policies and procedures governing the conduct of its meetings, interpretations of ordinances, duties of its officers, and policies governing the day-to-day work of the Board. These policies and procedures, which may be amended by the Planning Board, shall be available for public inspection at the Town Office during normal business hours.

§ 125-18. Codes Enforcement Officer.

The Board of Selectmen shall appoint and the Town Manager shall supervise a qualified Codes Enforcement Officer. Except as otherwise set forth below, all directives by the Planning Board regarding the administration of this chapter by the Codes Enforcement Officer (as set forth in Subsection A) shall be directed to the Town Manager by the Chair of the Planning Board.

- A. Powers and duties under this chapter.
 - (1) The Codes Enforcement Officer shall enforce the provisions of this chapter.
 - (2) The Codes Enforcement Officer shall, with the approval of the Planning Board, receive and act upon the following land use or construction applications and shall issue permits therefor, if the proposed uses are consistent with the requirements of this chapter. A copy of each permit issued shall be given to the Planning Board.
 - (a) Outside additions to structures such as decks, porches, steps, stairs, breezeways, carports, dormers, and other additions not involving additional interior dwelling space, or changes to other than residential use.
 - (b) Outside structures or additions to such structures as garages, storage buildings, workshops, satellite antennas, utility poles, gazebos, and other structures and additions not constituting interior dwelling space.
 - (c) Earthmoving projects including driveways, paths, landscaping, subsurface disposal systems, drainage systems, and other earthmoving projects not involving construction of dwelling areas or ponds.
 - (d) Tree cutting and removal of vegetation projects not incidental to other projects listed above in the Resource Protection and Meadow Pond Districts. Note: Tree cutting and removal of vegetation in the buffer strip defined in § 125-48D(7) requires a permit from the Codes Enforcement Officer.
 - (3) The Codes Enforcement Officer shall inspect all ongoing work under permits issued by the Codes Enforcement Officer or the Planning Board for compliance with this chapter and the terms of the permit.

- (4) The Codes Enforcement Officer shall have the authority to enter any property, at reasonable hours, with the consent of the owner, occupant, or agent, to inspect the property or building for compliance with this chapter.
 - (5) Application for a permit under this chapter grants implied consent to the Codes Enforcement Officer and the Planning Board to inspect the property, area, building, or facility specified in said application, before issuance of the permit; during construction and work under the terms of the permit; and subsequent to the completion of the construction or work to ensure compliance with the provisions of this chapter.
 - (6) The Codes Enforcement Officer shall investigate complaints and reported and observed violations of this chapter or of any permit issued under the provisions of this chapter. The Codes Enforcement officer shall carry out the following duties:
 - (a) Shall issue violation notices and stop-work orders if a violation of this chapter or a permit is determined by the Codes Enforcement Officer;
 - (b) Shall keep written records of all complaints, violations and inspections;
 - (c) Shall participate in the appeals procedure and shall appear in court when necessary;
 - (d) Shall assist the public in the administration and enforcement of this chapter;
 - (e) Shall revoke any permit issued by the Codes Enforcement Officer in error or based on erroneous information after notifying the permit holder and providing for a hearing before the Planning Board.
 - (f) Shall report all permits, variances, violations, and other activities in the Resource Protection District, Limited Development District, Meadow Pond District, and Shoreland Protection District once every two years to the Department of Environmental Protection as required by law.
 - (7) The Codes Enforcement Officer shall keep copies of all permits issued and shall keep a written record of all "prior approvals" as required by this chapter and as defined in Article VI of this chapter.
- B. The Planning Board shall have the authority to add to or subtract from the types of applications for which the Codes Enforcement Officer is authorized to issue permits as set forth in Subsection A(2)(a) to (d).
- C. In the event the office of Codes Enforcement Officer is vacant, or the Codes Enforcement Officer is unable to serve, the Planning Board shall accept the applications and issue the permits as set forth in Subsection A(2)(a) to (d). In that event, the Town Manager shall be responsible for the enforcement of this chapter.

§ 125-19. Revocation of permit.

A permit issued by the Planning Board or a permit issued by the Codes Enforcement Officer may be revoked.

- A. Grounds for revocation shall include the following:
- (1) Fraudulent or erroneous information on the application or permit issued in error.
 - (2) Violation of the terms of the permit.
 - (3) Violation of state or federal statutes or regulations or Town ordinances resulting from work done under the terms of the permit.
 - (4) Unsafe or hazardous work conditions or conditions which would damage the environment or endanger public safety.
- B. The Planning Board may revoke a permit issued by the Board on the grounds contained in Subsection A of this section. A permit shall be revoked at a regular meeting of the Board or a special meeting of the Board. The permittee shall be notified in writing, by certified mail, of the Board's intention to consider revocation of the permit. Notice shall be mailed not less than 10 days prior to the meeting considering the revocation.
- C. The Codes Enforcement Officer may revoke a permit issued by the officer on the grounds contained in Subsection A of this section. Revocation of the permit shall be in writing and sent by certified mail to the permittee.
- D. Persons whose permits have been revoked may appeal to the Board of Appeals as provided for in § 125-20 of this chapter. Revocation of the permit shall not be stayed during the period of appeal.

§ 125-20. Appeals and variances.

Appeals from the decisions of the Planning Board and Codes Enforcement Officer and requests for variances from the provisions of this chapter shall be made within 45 days and in accordance with the provisions of Chapter 15, Article II, Board of Appeals and Assessment Review.

§ 125-21. Enforcement.

- A. Any violation of this chapter shall be deemed to be a nuisance.
- B. When efforts by the Codes Enforcement Officer, as outlined above in § 125-18A, do not result in the correction or abatement of a violation or nuisance condition, the Board of Selectmen, upon receipt of written notice from the Codes Enforcement Officer, is hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this chapter in the name of the inhabitants of the Town of Islesboro.
- C. The Board of Selectmen, or its authorized agent, is hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this chapter and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous

advice given by an authorized municipal official and there is no evidence that the owner, owner's agent, or contractor acted in bad faith, or unless the removal of the structure or use will result in substantial environmental damage.

- D. Any person, including but not limited to a landowner, a landowner's agent, or a contractor, who orders or conducts any activity in violation of this chapter shall be penalized in accordance with 30-A M.R.S.A. § 4452. Note: Current penalties include fines of not less than \$100 nor more than \$2,500 per violation for each day that the violation continues.

ARTICLE III

Districts

§ 125-22. Establishment of districts.

For the purpose of this chapter, the Town of Islesboro is divided into districts. These districts, outlined below, are shown on the Protection Districts Map titled "Town of Islesboro Protection Districts Map," signed by the Board of Selectmen, Town of Islesboro; this map is on file at the Town Office. This map which may be amended from time to time, in the same manner as this chapter, is made a part of this chapter and is hereby incorporated by reference. As noted in § 125-10 of this chapter the depiction of districts on this map is merely illustrative of their general location.

Resource Protection District
 Limited Development District
 Meadow Pond District
 Shoreland Protection District
 Maritime Activities District
 Rural Protection District

§ 125-23. Resource Protection District.

- A. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district includes coastal and nonforested wetlands as defined in this chapter and areas of significant wildlife habitat as defined in the following subsection and designated as "Sensitive Areas" on the Protection Districts Map.
- B. Areas that contain significant wildlife habitat include habitat for species appearing on the official state or federal lists of endangered or threatened species; high- and moderate-value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high- and moderate-value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and sea bird nesting islands as defined by the Department of Inland Fisheries and Wildlife. Also, those areas classified "A" on pages 24 and 25 of the

Penobscot Bay Conservation Plan, dated December 1986, prepared by the State of Maine Department of Inland Fisheries and Wildlife, are areas of significant wildlife habitat.

- C. In addition, this district shall include the following areas when they occur within the limits of the Protection Sector, except that areas which are currently developed as defined in § 125-25 and areas which are in the Maritime Activities District shall not be included in the Resource Protection District.
- (1) Floodplains. The one-hundred-year floodplains adjacent to tidal waters as shown on Federal Emergency Management Agency (FEMA) Floodplain Insurance Rate Maps or Flood Hazard Boundary Maps, copies of which are on file at the Town Office for inspection by the public.
 - (2) Steep slopes. Areas consisting of two or more contiguous acres with sustained slopes of 20% or greater.
 - (3) Isolated wetlands. Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during normal spring high water.
 - (4) Erosion areas. Land areas along streams subject to severe bank erosion, undercutting, or stream bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
- D. If any of these areas is proven by evaluation of the site not to have sustained slopes of 20% or greater, or not to have hydric soils and wetland vegetation, or not to be in a floodplain, or not to be subject to extreme erosion, the area in question shall be considered the underlying district shown in parentheses on the Town of Islesboro, Protection Districts Map. This provision shall exclude any area identified as a Resource Protection District due to significant wildlife.

§ 125-24. Inclusions of buildable land in Resource Protection District.

Except in an area designated as a Sensitive Area on the Protection Districts Map, any area of land located within a Resource Protection District which contains soils and slopes suitable for a single-family structure as determined by a state-certified professional as defined in § 125-57B of this chapter shall be subject to the provisions of this chapter governing the Limited Development District, provided that the applicant demonstrates that all of the following conditions are met:

- A. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- B. The lot on which the structure is proposed is undeveloped and was established and recorded in the Waldo County Registry of Deeds before the adoption of the Resource Protection District.
- C. The proposed location of all buildings, sewage disposal systems and other improvements is:

- (1) Located on natural ground slopes of less than 20%; and
 - (2) Located outside the velocity zone, in areas subject to tides, of the floodplain as delineated on FEMA's Flood Insurance Rate Maps.
- D. The total combined ground floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet.
- E. All structures, except functionally water-dependent structures, are set back from the normal high-water line or upland edge of a wetland to the greatest practical extent, but not less than 75 feet. In considering the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, and the proposed building site's elevation in regard to the floodplain.

§ 125-25. Limited Development District.

The Limited Development District includes those areas within the Protection Sector of a saltwater body or a coastal or a freshwater wetland which may require that development be limited to protect water quality, productive marine, fish, and wildlife habitats or intertidal ecological environments, but are considered less critical in this respect than those areas qualifying for the Resource Protection District. Such areas may already be developed, i.e., they contain at least two principal structures per 1,000 feet of shoreline or wetland boundary and are considered suitable for single- or two-family residential use or for nonintensive recreational use. Those areas classified "B" on pages 24 and 25 of the Penobscot Bay Conservation Plan referred to in § 125-23 above and those areas beginning at the upland edge of the salt marsh and estuarine systems of Turtle Head Cove, Ryder Cove, The Narrows, and Mill Creek, identified on pages 51 and 52 of the 1994 Islesboro Comprehensive Plan as having critically important ecological value, shall be included in the Limited Development District.

§ 125-26. Meadow Pond District.

The Meadow Pond District is a unique district comprised of the Protection Sector surrounding the Meadow Pond and any wetlands connected to the Meadow Pond surficially during normal spring high water.

§ 125-27. Shoreland Protection District.

The Shoreland Protection District shall include those areas of the Protection Sectors of any saltwater body or coastal or freshwater wetlands, as defined herein, which are not in another district.

§ 125-28. Maritime Activities District.

The Maritime Activities District includes those areas within the Protection Sector of a saltwater body where the existing predominant pattern of development is functionally water

dependent, including, but not limited to, commercial fishing, ferry services, boat repair yards, yacht clubs, and boat launching and hauling areas. Permitted uses in this district are accessory to the principal water-dependent uses.

A. The following are included in the Maritime Activities District:

- (1) Grindle Point. That portion of the Protection Sector bordering the northern entrance of Gilkey Harbor owned by the Town of Islesboro and the State of Maine.
- (2) Dark Harbor Boat Yard. That portion of the Protection Sector on 700 Acre Island bordering Gilkey Harbor designated as Map 8, Lot 3, Tax Maps, Town of Islesboro.
- (3) Pendleton Yacht Yard. That portion of the Protection Sector bordering Ames Cove designated as Map 38, Lot 5A, Tax Maps, Town of Islesboro.
- (4) Islesboro Marine Enterprises. That portion of the Protection Sector bordering Marshall Cove, at the terminus of Camp Road appearing on Map 31 on the Tax Maps, Town of Islesboro.
- (5) Tarratine Yacht Club. That portion of the Protection Sector bordering the southeast side of Ames Cove designated as Map 11, Lot 35, Tax Maps, Town of Islesboro.
- (6) Pripet Wharf. That portion of the Protection Sector bordering the old Town Pier (Pripet Wharf) and designated as Map 36, Lot 19A, Tax Maps, Town of Islesboro.
- (7) Seal Harbor. That portion of the Protection Sector north of property owned by Randlett and east of the Harbor designated as Map 22, Lot 3, Tax Maps, Town of Islesboro.

B. When maritime activities or uses are discontinued in any area designated as a Maritime Activities District for a period of greater than one year, that area shall be designated as a Shoreland Protection District and shall be subject to the provisions of that district alone.

C. Application to have an area designated as a Marine Activities District may be made to the Planning Board. The Planning Board shall take into consideration the following factors before recommending to a Town Meeting an area to be changed from a Shoreland Protection District to a Maritime Activities Area:

- (1) Shelter from prevailing wind and waves;
- (2) Slope of the land within the Protection Sector;
- (3) Depth of the water within 150 feet, horizontal distance, offshore from the normal high-water line;
- (4) Availability of support facilities, including utilities, transportation facilities, and parking facilities; and
- (5) Compatibility with adjacent upland uses.

- D. Upon recommendation of the Planning Board to change the district to a Maritime Activities District, the Board of Selectmen shall call a Town Meeting for that purpose in the manner used to amend ordinances.

§ 125-29. Rural Protection District.

The Rural Protection District shall be all areas of land in the Town of Islesboro not in any Protection Sector or other district.

§ 125-30. Permitted and prohibited uses.³

The Table of Land Uses lists the permitted and prohibited uses and activities in each district. The table specifies whether the application for a permit should be submitted to the Codes Enforcement Officer or to the Planning Board. Uses, structures, or facilities that are permitted within a district that are commercial, industrial, municipal, institutional, utility, fraternal, or public recreation require a permit from the Planning Board under the provisions of Chapter 45, Development Review.

§ 125-31. Natural Resources Protection Act.

A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, if the activity occurs in, on, over or adjacent to any freshwater wetland, forested wetland, or coastal wetland, stream or brook, or the Meadow Pond and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation and other materials;
- B. Draining or other dewatering;
- C. Filling, including adding sand and other material to sand dune; or
- D. Any construction or alteration of any permanent structure.

§ 125-32. Setback and height.

The following shall apply to all districts in the Town of Islesboro:

- A. Except as otherwise permitted in this chapter, no building, structure, or facility of any kind shall be located closer than 100 feet, horizontal distance, to the normal high-water line of the Meadow Pond; 75 feet, horizontal distance, to the upland edge of a nonforested wetland or to the normal high-water line of any body of water (other than the Meadow Pond); 75 feet, horizontal distance, to the normal high-water line of a stream or tributary stream; 75 feet horizontal distance, to the top of the bank of such body of water or stream where the bank is six feet or more, vertical distance, above the shore or the top of the stream, unless a land surveyor registered by the State of Maine or a

3. **Editor's Note: The Table of Land Uses is included at the end of this chapter.**

certified civil engineer shall indicate by stakes set on the land the 75 feet horizontal distance from the normal high-water line.⁴

- (1) This section shall not apply to structures or facilities which require direct access to the water as an operational necessity, such as piers, docks, or retaining walls, nor to principal and accessory structures in the Maritime Activities District for which there shall be no minimum setback from the normal high-water line.
 - (2) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on coastal bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent coastal bluff map. If the applicant and the permitting officials are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense employ a Maine registered professional engineer, a Maine certified soil scientist, a Maine state geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.
 - (3) Notwithstanding the requirements stated above, stairways or similar structures shall be allowed with a permit from the Codes Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils, provided that:
 - (a) The structure is limited to a maximum of four feet in width;
 - (b) The structure does not extend below or over the normal high-water line of a water body or the upland edge of a wetland; and⁵
 - (c) The applicant demonstrates that no reasonable access alternative exists on the property.
- B. Except as otherwise permitted by this chapter, no building, structure, or facility of any kind shall be built or located closer than 50 feet to the center of the travel portion of a state or Town road, approved subdivision road, private road, or other road.
- C. Lot lines; sewage disposal systems; burial sites.
- (1) No building, structure, or facility of any kind shall be built or located within 15 feet of any lot line, except that common driveways serving no more than four abutting lots may be permitted closer than 15 feet to a lot line, provided that an easement is filed with the Waldo County Register of Deeds by the property owner or owners on whose land the driveway is to be constructed. Turnoff from such driveways shall be no closer than 50 feet to the edge of the travel portion of the road. The Planning Board may approve applications for other driveways closer than 15 feet to the side lot line if it determines that safe access to the property is not otherwise possible.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) Subsurface sewage disposal systems may be constructed up to five feet from any lot line, provided that the average increase to the elevation of the existing grade within 15 feet of the lot line does not exceed two feet and provided that no part of the system including any cover material is any closer than five feet to any lot line.
- (3) No aboveground structure higher than four feet above mean grade level shall be permitted within 10 feet of a subsurface sewage disposal system.
- (4) No excavation of earth and no building, structure (except fences) or facility of any kind shall be located within 40 feet of any burial site which contains human remains. This site needs to be delineated during construction.

D. Fences, plantings and riprap.

- (1) A permit is required only for fences located within 50 feet of the center line of the travel portion of any road or within 75 feet of normal high water.
- (2) Fences, plantings, and riprap shall be exempt from side lot setback requirements.
- (3) Fences and plantings may not be placed closer than 25 feet to the center of the travel portion of a Town road or approved subdivision road or within 40 feet of the intersection of the center line of intersecting roads, except that fences and plantings may be placed up to five feet from a road right-of-way where an applicant can demonstrate to the Codes Enforcement Officer that the placing of a fence or planting closer than 25 feet to the center of a Town road or approved subdivision road (but not a state road) or within 40 feet of the intersection of the center line of intersecting roads will not cause diminution of sight lines, be subject to damage from snow plowing, or interfere with drainage or ditches.
- (4) Fences and plantings on land abutting a state road shall not be placed closer than 33 feet to the center of the road nor within 50 feet of the intersection of the center line of intersecting roads.

Note: For the purpose of this chapter "plantings" shall mean any growing object which when mature shall reach the height of three feet or more.

E. Height.

- (1) No part of a building or structure (except a church or education building or institution) in the Rural Protection and Maritime Activities Districts shall exceed a height of 38 feet from the original mean grade level to the peak of the roof except as permitted below.
- (2) In the Rural Protection District only, accessories to structures such as solar collectors, domes, cupolas, and other ornamental features, chimneys, ventilators, skylights, tanks, bulkheads, machinery, antennas, communication towers, and other accessory features which are required above roofs, or stand alone, may exceed the height limitation, provided that no structure or accessory to that structure exceeds

75 feet above original mean grade level and that the structure is not used for habitation or human occupation.

- (3) No structure shall exceed a height of 35 feet in the Resource Protection, Limited Development, Shoreland Protection, or Meadow Pond Districts, except that structures such as transmission towers and antennas not having a floor area and which do not exceed 75 feet in height may be permitted in all districts except the Resource Protection District.

F. Signs. Except as noted, the following shall apply to all districts in the Town of Islesboro:

- (1) Freestanding signs relating to goods and/or services sold on the premises shall be permitted, provided that such signs shall not exceed six square feet each in area and shall not exceed two such signs per premises. Signs relating to goods or services not sold or rendered on the premises are prohibited.
- (2) Residential names signs shall be permitted. Such signs shall not exceed the area limitation stipulated in Subsection F(1) and shall be limited to two signs per premises.
- (3) Residential or commercial users may display a single sign not over three square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be permitted without restriction as to the number but the area of each sign shall not exceed two square feet.
- (5) Signs affixed to buildings and signs identifying public buildings shall be exempt from the size limitation stipulated in Subsection F(1) unless such signs are located in the Shoreland Protection, Limited Development, Meadow Pond, or Resource Protection Districts. Signs located in the Maritime Activities District shall also be exempt from the size limitation stipulated in Subsection F(1) when facing the water side of the premises but shall not exceed 40 square feet in area.
- (6) No freestanding sign shall be located more than 20 feet above the ground.
- (7) Signs shall be located no less than six feet from the shoulder of the road and shall not impair the sight lines of, to, or from the road.
- (8) Signs relating to public safety shall be permitted without restriction.
- (9) Signs may be illuminated only by shielded, nonflashing lights.

§ 125-33. Minimum lot size in all districts.

- A. Each lot that is not an "excepted lot" as provided for by this chapter and is established after March 23, 1985, in the Resource, Shoreland or Rural Protection Districts or, after the effective date of this chapter, in the Limited Development, Meadow Pond, and Maritime Activities Districts, shall have not less than 65,340 square feet (1.5 acres) in area.

- B. After the effective date of this chapter, except in the Maritime Activities District, each waterfront lot adjacent to the Meadow Pond shall have a minimum of 200 feet of shore frontage per dwelling unit and not less than 150 feet of continuous frontage on a road, and no lot adjacent or not adjacent to tidal areas shall have less than 150 feet of frontage on the shore per dwelling unit nor less than 150 feet of continuous frontage on a road, except that up to four waterfront lots, adjacent to a tidal or nontidal area not in a subdivision, may be served by a right-of-way of not less than 25 feet in width built and maintained at all times to allow access to all lots by emergency vehicles. Winter maintenance, plowing and sanding, is required only to those lots during the time those lots are occupied. When required by the Planning Board, turnouts shall be provided. Responsibility for maintaining the right-of-way shall be determined by the Planning Board at the time of approval.
- C. A lot of less than 1.5 acres established at any time prior to March 23, 1985, but not in existence on the effective date of this chapter may not be reestablished after the effective date of this chapter.
- D. A lot of less than 1.5 acres may be enlarged by the acquisition of abutting property, even if the effect is to create a new, larger lot of less than 1.5 acres. Such change in property boundaries shall not create any additional lots of less than 1.5 acres or reduce the size of any lot of less than 1.5 acres.
- E. Each lot established in a Maritime Activities District after the effective date of this chapter shall have not less than 200 feet of shore frontage when such lot is adjacent to tidal areas and not less than 300 feet of shore frontage adjacent to nontidal areas. No lot established in a Maritime Activities District after the effective date of this chapter shall have less than 150 feet of continuous road frontage. Lots that are state or municipally owned, established solely for the purpose of shore access by the public, shall not be subject to these shore frontage and road frontage requirements.
- F. Land below the normal high-water line of a water body or the upland edge of a wetland and land beneath roads serving more than two lots shall not be included in calculating minimum lot area.
- G. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was built by the owner of land on both sides thereof after September 22, 1971.
- H. The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high-water line of a water body or from the upland edge of a nonforested wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- I. Except in a Maritime Activities District, if more than one dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements, other than road frontage, shall be met for each additional dwelling unit or principal structure.
- J. Except in the Maritime Activities District, the total area of structures, parking lots and other nonvegetated surfaces shall not exceed 20% of the lot, including land area

previously developed. In the Maritime Activities District lot coverage shall not exceed 70%.

Note: Structures, facilities and uses on lots that do not meet the dimensional requirements of this § 125-33, including frontage and area, shall not be considered nonconforming, provided that they meet all setback requirements and permitted uses of the district in which they are located.

- K. Excepted lots. An excepted lot, as defined by this chapter, may be established to have an area of less than 65,340 square feet (1.5 acres) if the Planning Board determines that establishment of such a lot is consistent with the purposes of this chapter, and is appropriate to its proposed use, and meets all of the following criteria:
- (1) Establishment of the excepted lot shall be by deed after approval by the Planning Board after public hearing.
 - (2) The permitted use of the excepted lot shall meet all setback requirements of this chapter.
 - (3) The deed shall restrict the use of the excepted lot to the purpose for which it was approved.
 - (4) The deed shall specify that the excepted lot shall not be used for placement on or construction of any dwelling unit.
 - (5) The new deed shall be filed with the Waldo County Registry of Deeds and specify whether the excepted lot shall revert to a specified abutting property or to the Town of Islesboro if the excepted lot ceases to be used for the purpose for which it was established and change of use is not approved as set forth above.

§ 125-34. Floodplain.

- A. Lots in the floodplains shall not be less than the minimum size required for the district in which the floodplain lies.
- B. Those uses permitted in the floodplains shall be those applying to the district in which the floodplain lies subject to all other applicable ordinances.
- C. Those uses prohibited in the floodplains shall be those prohibited in the district in which the floodplain lies subject to all other applicable ordinances.

§ 125-35. Piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

- A. Except in the Maritime Activities District, no more than one pier, dock, wharf, or bridge shall be allowed per lot.

- B. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- C. The location of piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line of a water body or within a wetland shall not interfere with existing developed or natural beach areas.
- D. The facility shall be located so as to minimize adverse effects on fisheries and marine life.
- E. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
- F. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
- G. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to dwelling units in any district.
- H. Except in the Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed 10 feet in height above the pier, wharf, dock or other structure, except that navigation aids, straight pole antennas, and flagpoles shall not exceed 20 feet in height.
- I. Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480C, prior to approval of a land use application by the Planning Board or Codes Enforcement Officer.

ARTICLE IV

Nonconforming Structures, Lots and Uses

§ 125-36. Preexisting structures, lots and uses in all districts.

- A. Notwithstanding the provisions of § 125-32 of this chapter, structures not in conformance with the setback provisions of this chapter, and built on or before 7 August 1980 on lots in existence on or before that date, shall not be required to meet the setback provisions of this chapter, when adding to the nonconforming portion(s) of those structures, providing all of the following conditions are met.
 - (1) It is not possible to make the addition to the structure within the setback required by this chapter because of the existing nonconformity.
 - (2) The addition will not cause hazardous diminution of traffic sight lines; will not cause erosion or drainage problems; will not block the light of a neighboring property; will be in conformity with § 125-15 of this chapter.

- (3) The applicant shall notify abutting property owners by certified mail, at least seven days before the application is to be considered by the Planning Board, of the applicant's intentions by sending a letter providing a brief description of the project, along with time, date, and place of the Planning Board hearing and that a complete application is on file at the Town Office for review. The applicant shall provide the Planning Board with an exact copy of the letter that was sent by certified mail to the abutters, along with a copy of the certified mail receipts.⁶
- (4) Additions or expansions to the nonconforming portion(s) of a nonconforming structure or facility located less than 75 feet, horizontal distance, from the normal high-water line of a body of water, tributary stream or from the upland edge of a nonforested wetland, or 100 feet from the normal high-water line of the Meadow Pond, or less than 15 feet from a lot line, or less than 50 feet from the center of a road may be made, provided that such additions or expansions shall not, during the lifetime of the structure or facility, exceed 30% of the ground floor area or volume of the nonconforming portion of the structure or facility at the time it became nonconforming and shall not decrease the existing setback of said portion(s).⁷
- (a) The term "ground floor area" in this context shall mean only the area of the nonconforming portion of the ground floor, i.e., the footprint of the nonconforming structure or facility including decks and porches, but not stairs or steps.
- (b) The addition or expansion may not infringe on any additional setback not already encroached nor may the addition or expansion be expanded toward the water or a wetland.
- (c) In cases where the structure is nonconforming because it does not meet two or more setback requirements, the addition or expansion within each setback shall be limited to 30% of the nonconforming area or volume with respect to that setback.
- (5) Construction or expansion of a foundation of an existing structure shall not constitute an extension of the structure, provided that the completed foundation does not extend beyond the exterior dimensions of the structure and does not cause the structure to be elevated more than three feet.
- B. Notwithstanding the provisions of § 125-32 of this chapter, uses, structures, buildings, and facilities which, as a result of operational necessity, cannot meet the setback requirements of this chapter may be permitted. Such operational necessities include, but are not limited to, driveways, utility poles and underground utilities, surface drainage facilities, steps and walkways. Handicap access facilities are considered operational necessities for the purpose of this chapter; provided, however, that they shall be removed or modified so as to comply within one year with applicable setback requirements after the disability ceases or the person with the disability ceases to use or occupy the structure on a regular basis.

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Note: A structure or use which otherwise conforms to the provisions of this chapter, located on a nonconforming lot, shall be considered a conforming structure or use.

- C. Additions or expansions to the conforming portion(s) of a nonconforming structure or facility shall comply with the provisions of § 125-32 and shall not be subject to the provisions of Subsection A of this section.

§ 125-37. Relocation of nonconforming structures.

Nonconforming structures may be relocated within the parcel on which they are located, provided that they meet the following criteria:

- A. The relocated structure can use an existing subsurface sewage disposal system or replacement system which will not increase the nonconformity of the existing system.
- B. The relocation will not increase the potential for soil erosion or require excess removal of vegetation.
- C. The area from which the structure was removed will be revegetated with vegetation appropriate to the parcel.
- D. The degree of nonconformity is not increased. For the purposes of this chapter the degrees of nonconformity from greatest to least are as follows:
 - (1) Setback from the shore or wetland.
 - (2) Setback from the road.
 - (3) Setback from side lot lines.
 - (4) Setback from the rear lot line.

§ 125-38. Reconstruction or replacement of nonconforming structures.

- A. Nonconforming structures located in the Rural Protection District which are damaged or destroyed may be repaired or replaced if application for a permit is submitted to the Planning Board within two years of the date of the damage or destruction, provided that the following provisions are met:
 - (1) Replacement or reconstruction will not increase the nonconformity that existed prior to the damage or destruction.
 - (2) If the damage or destruction is such that the structure is not capable of being rebuilt on the existing foundations, the applicant shall relocate or reconstruct the structure to meet the setback requirements or to reduce the previous nonconformity to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this chapter.
- B. Nonconforming structures located in all districts other than the Rural Protection District which are damaged or destroyed by more than 50% of their assessed value before being

damaged or destroyed may be replaced or reconstructed, provided that application for a permit is submitted to the Planning Board within one year of the date of the damage or destruction subject to the following provisions:

- (1) The reconstruction or replacement is in compliance with all setback requirements to the greatest practical extent as determined by the Planning Board. The Planning Board will consider the following criteria to determine compliance of the setback requirements to the greatest practical extent:
 - (a) The size of the lot;
 - (b) The slope of the land;
 - (c) The potential for soil erosion and sedimentation;
 - (d) The location of other structures on the lot and adjacent lots;
 - (e) The location of the existing subsurface sewage disposal system and other on-site soils suitable for subsurface sewage disposal systems;
 - (f) The type and amount of vegetation to be removed to accomplish replacement or reconstruction;
 - (g) The physical condition and type of foundation present, if any.
 - (2) There is no increase in nonconformity.
- C. Nonconforming structures in any district other than the Rural Protection District which are damaged or destroyed by less than 50% of market value before such damage or destruction may be repaired or reconstructed in place upon approval and issuance of a permit by the Planning Board.
- D. A nonconforming structure that conforms to the setback from the shore or a wetland which is damaged or destroyed and is capable of being rebuilt on the existing foundations may be repaired or reconstructed in place, upon approval and issuance of a permit by the Planning Board.

§ 125-39. Change in use of nonconforming structures.

- A. Change of use of nonconforming structures in all districts is prohibited without a permit from the Planning Board.
- B. The Planning Board shall grant a permit for change of use of a nonconforming structure if it determines that change will:
 - (1) Meet all the requirements of the ordinances of the Town of Islesboro and laws and regulations of the State of Maine;
 - (2) Not have an adverse effect on public health and safety;
 - (3) Not cause erosion and sedimentation;

- (4) Not degrade water quality;
 - (5) Not harm fish and wildlife habitat;
 - (6) Not cause degrading of air quality;
 - (7) Not cause undue noise;
 - (8) Not interfere with visual and actual points of public access to waters or adversely affect areas of natural beauty.
- C. Before issuing a permit the Planning Board will also consider the effect of change of use on the following:
- (1) Floodplain management;
 - (2) Archaeological and historic resources;
 - (3) Commercial fishing, maritime activities, and other functionally dependent water uses.

§ 125-40. Expansion, resumption and change of nonconforming uses.

- A. Expansion of nonconforming uses is prohibited, except that nonconforming residential uses may be expanded within residential structures or as provided for in § 125-36A.
- B. Resumption of a nonconforming use which has been discontinued for more than one year is prohibited except that, on good cause shown by the applicant, the Planning Board may grant an extension of up to one year to that time. This prohibition shall not apply to the resumption of use of a residential structure, provided that structure had been maintained or used for residential purposes during the preceding five years.
- C. A nonconforming use may not be changed to another nonconforming use.

§ 125-41. Contiguous, vacant or partially built lots. ⁸

If two or more contiguous lots or parcels were in single or joint ownership of record on March 25, 1985, and if any of these lots is less than one acre in size, and if one or more of the lots is vacant or contains no principal structure, the lots shall be combined to the extent necessary to create a lot of at least one acre.

§ 125-42. Contiguous built lots.

- A. If two or more contiguous lots or parcels were in single or joint ownership of record on March 25, 1985, and if all or part of the lots do not meet the dimensional requirements of this chapter, and if a principal use or structure exists on each lot, the nonconforming lots

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

may be conveyed separately or together, provided that the State Subsurface Wastewater Disposal Rules are complied with and the minimum lot size is not less than one acre.⁹

- B. If two or more principal uses or structures existed on a single lot of record on March 23, 1985, each may be sold on a separate lot, provided that the above-referenced rules and minimum lot size are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this chapter.

§ 125-43. Nonconforming lots.

A nonconforming lot of record as of March 23, 1985, may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this chapter except lot size and frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.

§ 125-44. Accessory structures on nonconforming lots.

On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Codes Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed 80 square feet in area nor eight feet in height and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation-clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

ARTICLE V
Standards

§ 125-45. All districts.

- A. The following standards apply to all districts unless otherwise prohibited by this chapter.
- B. Where these standards conflict or are at variance with those standards set forth in Chapter 145, Development Review, the standard that creates the greatest protection to water quality, soils, vegetation, preservation of wildlife, and scenic beauty shall be used.

§ 125-46. Campgrounds.

There shall be no commercial campgrounds in the Town of Islesboro.

⁹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 125-47. Individual private campsites.

Individual, private campsites not associated with campgrounds are permitted subject to Chapter 23, Camping, and provided that the following conditions are met:

- A. One campsite per lot existing on the effective date of this chapter or 1.5 acres of lot area within the Shoreland Protection District, whichever is less, may be permitted.
- B. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet from the normal high-water line of the Meadow Pond, and 75 feet from the normal high-water line of other water bodies, tributary streams or from the upland edge of a nonforested wetland.¹⁰
- C. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structures except canopies shall be attached to the recreational vehicle.
- D. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter permitted in a Resource Protection District shall be limited to 1,000 square feet.
- E. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the local Plumbing Inspector. Where disposal is off site, written authorization from the receiving facility or landowner is required.
- F. When a recreational vehicle, tent or similar shelter is placed on site for more than 90 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. Recreational vehicles, tents, or similar shelters that are placed on a lot for storage shall not be attached to an in-ground water supply, subsurface sewage disposal system, or an outside electrical supply.

§ 125-48. Timber harvesting and removal of vegetation.

Except for Subsection D(2) and (3) and within a strip of land extending 75 feet horizontal distance from the normal high-water line of a stream located in the Rural Protection District, the provisions of this section shall not apply to activities in the Rural Protection Districts.

- A. Clearing of trees and other vegetation is permitted for construction and landscaping as permitted by this chapter.
- B. The building of approved structures, roads, driveways, subsurface disposal areas, and other approved activities are exempt from this section, provided that the activity will not violate the provisions of § 125-15 of this chapter.

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- C. Except in the Maritime Activities District, openings for activities permitted in Subsection B shall not exceed, in the aggregate, 25% of the lot area within the Protection Sector or 10,000 square feet, whichever is greater, including land previously developed.
- D. Except as described in Subsections A through C above, timber harvesting shall conform to the following:
- (1) Selective cutting of no more than 40% of the total volume of trees four inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten-year period is permitted.
 - (2) No accumulation of slash shall be left within 50 feet of the top of the slope to the shore of any body of water or the normal high-water line of any stream. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground in a manner which will not constitute a fire or safety hazard. In no case shall any slash extend more than four feet above the ground. Any debris that falls below the top of the slope to the shore of any body of water or onto the bed of any stream shall be removed.
 - (3) Timber harvesting equipment shall not use stream channels as travel routes unless the surface waters are frozen to an extent which will support the equipment and so that the activity will not result in any ground disturbance.
 - (4) All crossings of flowing water shall require use of a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which will not be eroded or cause silting or other damage.
 - (5) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering any water body or the upland edge of any wetland. Upon completion of any timber harvesting, any temporary bridges and culverts shall be removed and any areas of exposed soils shall be revegetated.
 - (6) Except for water crossings, where timber harvesting operation results in the exposure of mineral soil, an unscarified strip of vegetation of at least 75 feet in width for slopes up to 10% shall be maintained between the exposed mineral soil and top of the slope to the shore of a body of water or from the upland edge of a wetland. For each percent increase of slope over 10%, an additional two feet of unscarified vegetation shall be maintained. The provisions of this subsection shall apply only to slopes facing the shore of a body of water or upland edge of a wetland; provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet to the top of the slope to the shore of a water body or to the upland edge of a wetland.
 - (7) Except as otherwise specifically permitted by this chapter, a buffer strip of vegetation measuring 75 feet, horizontal distance, from the normal high-water line of any tidal body of water, stream or tributary stream, or the upland edge of a nonforested wetland, and 100 feet, horizontal distance, from the normal high-water line of the Meadow Pond shall be preserved so that no cleared opening greater

than 250 square feet shall be created in the forest canopy as measured from the outer limits of the tree crown.¹¹

- (8) Selective cutting of trees within the buffer strip shall require a permit from the Codes Enforcement Officer. A well distributed stand of trees or other vegetation shall be maintained. For the purposes of determining if an area has a well distributed stand of trees or other vegetation, the following rating score in any square 25 feet by 25 feet (625 square feet) shall be followed:
 - (a) Each tree measuring two to four inches in diameter 4.5 feet above ground level shall have a rating score of one.
 - (b) Each tree measuring 4.1 to 12 inches in diameter 4.5 feet above ground level shall have a rating score of two.
 - (c) Each tree measuring more than 12 inches in diameter 4.5 feet above ground level shall have a rating score of four.
 - (d) A well distributed stand of trees and other vegetation in the buffer strip shall have a rating score of not less than eight, except that a rating score of not less than 12 shall be maintained for the buffer strip of the Meadow Pond.
- (9) Notwithstanding the provisions of Subsection D(7) and (8), no cleared openings may be created in the buffer strip and no more than 40% of the total volume of trees four or more inches in diameter measured 4.5 feet above ground level may be removed in any ten-year period.
- (10) A footpath not wider than six feet in width as measured between tree trunks is permitted in the buffer strip. In no case shall any footpath provide a clear line of sight to the water through the buffer strip.¹²
- (11) Existing vegetation under three feet in height shall not be removed from the buffer strip around Meadow Pond and the streams flowing to the pond except to provide for a footpath or other uses specifically permitted by this chapter.
- (12) Clear-cut openings are prohibited, and a well distributed stand of trees and other vegetation, including existing ground cover, shall be maintained within 100 feet, horizontal distance, from the normal high-water line of the Meadow Pond and within 75 feet, horizontal distance, from:¹³
 - (a) The top of the slope to the shore of any tidal body of water or, in the absence of any slope, from the normal high-water line of that body of water;
 - (b) The normal high-water line of streams; or
 - (c) The upland edge of a nonforested wetland.

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (13) Cleared openings legally in existence on the effective date of this chapter may be maintained but shall not be enlarged.
- (14) In the area between the buffer strip and the limits of the Protection Sector in all districts other than the Maritime Activities District and the Rural Protection District, timber harvesting operations shall not create single clear-cut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet, they shall be at least 100 feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered to be equivalent to the basal area.
- (15) Within the buffer strip the pruning of tree branches on the bottom third of the tree is permitted.
- (16) When the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in the buffer strip, these openings shall be replanted with native tree species unless existing new tree growth is present.
- (17) Timber harvesting in accordance with the provisions of this Subsection D is permitted within the Resource Protection District, except that no timber harvesting operations shall take place from July 10 through September 10 in those portions of this district designated on the Protection Districts Map as "Sensitive Areas."

Note: The restrictions on openings in Subsection D(7), (10), (11), and (14) are cumulative for the district irrespective of the location of lot lines.

- (18) Timber harvesting operations exceeding the forty-percent limitation 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 chapter. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within 14 days of the Planning Board's decision.
- (19) In the shoreland buffer zone, other vegetation shall not be removed that is under three feet in height and shall retain at least three saplings less than two inches in diameter at 4 1/2 feet above ground level for each rectangular area 25 feet by 25 feet. If three saplings do not exist, no woody stems less than two inches in diameter can be removed until three saplings have been recruited into the plot, except to provide for a footpath or other uses specifically permitted by this chapter.¹⁴

14. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 125-49. Parking areas.

- A. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located, except that in the Maritime Activities District parking areas shall be set back at least 25 feet from the normal high-water line or the upland edge of a wetland. The setback requirement for parking areas serving public boat launching facilities in districts other than the Maritime Activities District may be reduced to no less than 50 feet from the normal high-water line or from the upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
- B. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body and, where feasible, to retain all runoff on-site.
- C. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (1) Typical parking space: approximately 10 feet wide and 20 feet long, except that parking spaces for a vehicle and boat trailer shall be 40 feet long.
 - (2) Internal travel aisles: approximately 20 feet wide.

§ 125-50. Roads and driveways.

- A. All new dwelling units shall include provisions for off-road parking.
- B. Roads and driveways shall be set back at least 100 feet from the normal high-water line of the Meadow Pond, and 75 feet from the normal high-water line of other water bodies, or from the upland edge of a nonforested wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body or wetland.
 - (1) On slopes of greater than 20% the road and/or driveway setback shall be increased by 10 feet for each five-percent increase in slope above 20%.
 - (2) This section shall not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline due to an operational necessity.
- C. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
- D. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside

the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body or the upland edge of a wetland.

- E. Road banks shall be no steeper than a slope of two horizontal to one vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in § 125-56.
- F. Road and driveway grades shall be no greater than 10% except that for short segments of less than 200 feet the grade may be as steep as 20%.
- G. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least 50 feet in width. For each one-percent increase in slope, the unscarified strip shall be increased by two feet between the outflow point of the ditch or culvert and the normal high-water line of a water body or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channeled flow of the drainage through the buffer strip.
- H. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

- (1) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road Grade	Spacing (feet)
0% to 2%	250
3% to 5%	200 to 135
6% to 10%	100 to 80
11% to 15%	80 to 60
16% to 20%	60 to 45
21%+	40

- (2) Drainage dips may be used in place of ditch relief culverts only where the road grade is 10% or less.
- (3) On road sections having slopes greater than 10%, ditch relief culverts shall be placed across the road at approximately a thirty-degree angle downslope from a line perpendicular to the center line of the road.
- (4) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

- I. Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning. Any new culverts installed at the intersection with Town roads must have prior approval from the Town of Islesboro Road Commissioner.
- J. All new roads and driveways shall intersect Town, state, or private roads at right angles or as near to that angle as site conditions permit, but in no case less than 60°. The grade of the new road or driveway shall not exceed 5% within 30 feet of the edge of the travel portion of the thoroughfare onto which it enters, except that if the grade is negative, i.e., downhill to the thoroughfare, it shall not exceed 10%. The intersection shall be located so as to afford maximum safety for traffic, to provide for safe and convenient ingress and egress to and from the thoroughfare, and to minimize any interruption of the flow of traffic on the thoroughfare. The location of the entrance onto the thoroughfare shall, to the maximum extent possible, provide sight distances consistent with Table 7 in § 45-88A(2) of Chapter 45, Development Review.

§ 125-51. Stormwater runoff.

- A. All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- B. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

§ 125-52. Septic waste disposal.

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules.

§ 125-53. Essential services.

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

§ 125-54. Mineral exploration and extraction.

- A. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal

disturbance of less than 100 square feet of ground surface. A permit from the Planning Board shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

B. Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Subsections C and D below.
- (2) Unless authorized pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, no part of any extraction operation, including drainage and runoff control features, shall be permitted within 100 feet of the normal high-water line of the Meadow Pond, and within 75 feet of the normal high-water line of any other water body or stream or from the upland edge of a wetland. Extraction operations shall not be permitted within 75 feet of any property line, without written permission of the owner of such adjacent property.

C. Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive twelve-month period, ground levels and grades shall be established in accordance with the following:

- (1) All debris, stumps, and similar material shall be removed for disposal in an approved location or shall be buried on site. Only materials generated on site may be buried or covered on site.
- (2) The final graded slope shall be a slope of two to one (2:1) or flatter.
- (3) Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

D. In keeping with the purposes of this chapter, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

E. Filling or other earthmoving activity of more than 10 cubic yards within 250 feet, horizontal distance, of the upland edge of a wetland or the normal high-water line of any tidal body of water or the Meadow Pond will require a land use permit.

F. Any blasting requires a permit from the Codes Enforcement Officer. Applicants must notify all property owners within a five-hundred-foot radius of the blast site by certified mail. No blasting shall take place until abutters are notified.¹⁵

15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 125-55. Agriculture.

- A. All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine Soil and Water Conservation Commission in July 1972.
- B. Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of the Meadow Pond or within 75 feet, horizontal distance, of other water bodies or streams or from the upland edge of a wetland. Within five years of the effective date of this chapter all manure storage areas within the Protection Sector must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater. Existing facilities which do not meet the setback requirement may remain but must meet the no-discharge provision within the above five-year period.
- C. Except in the Rural Protection District, agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, or the spreading, disposal or storage of manure, shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this chapter.
- D. There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of the Meadow Pond, within 75 feet from other water bodies, nor within 25 feet, horizontal distance, of streams and from the upland edge of a wetland. Operations in existence on the effective date of this chapter and not in conformance with this provision may be maintained.
- E. After the effective date of this chapter, newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the normal high-water line of the Meadow Pond; within 75 feet, horizontal distance, of other water bodies nor within 25 feet, horizontal distance, of streams and from the upland edge of a wetland. Livestock grazing associated with ongoing farm activities and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

§ 125-56. Erosion and sedimentation control.

- A. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (1) Mulching and revegetation of disturbed soil.
 - (2) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (3) Permanent stabilization structures such as retaining walls or riprap.
- B. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may

be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

- C. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- D. Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine months of the initial date of exposure. In addition:
 - (1) Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
 - (2) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- E. Natural and man-made drainageways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five-year storm or greater and shall be stabilized with vegetation or lined with riprap.

§ 125-57. Soils.

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

§ 125-58. Water quality.

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

§ 125-59. Ponds.

Any proposed construction of a pond shall require the submission of a design which will include the dimensions of the pond including square footage, volume in gallons, and range in depths. The design will also include slope of the bottom, type of soil, and outflow.

§ 125-60. Archaeological sites.

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

ARTICLE VI**Definitions****§ 125-61. Word usage and definitions.**

- A. Words used and not otherwise defined in this chapter shall have their customary definitions as defined in the Random House Dictionary of the English Language, Second Edition, Random House, New York, 1987. For purposes of this chapter the singular use of a word or phrase shall include the plural.
- B. As used in this chapter, the following terms shall have the meanings indicated:

ABUTTER — The owner of a property immediately adjacent to or across the road from the property of the applicant or developer.

ACCESSORY STRUCTURE OR USE — A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

AGGRIEVED PARTY — An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this chapter; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

AGRICULTURE — The production, keeping or maintenance for sale or lease of plants and/or animals, including but not limited to forage and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. "Agriculture" does not include forest management and timber-harvesting activities.

AQUICULTURE — The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

AUTOMOBILE GRAVEYARD — As defined in 30-A M.R.S.A. § 3752.¹⁶

BED-AND-BREAKFAST FACILITY — A lodging facility that is based in the permanent dwelling of the person or family acting as the proprietor that accommodates for a fee transient guests; that has fewer than seven sleeping rooms offered for rent; and that does not provide full-service dining, but may serve meals to guests only.

BOAT LAUNCHING FACILITY — A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

BUILDING — A structure for the support, shelter or enclosure of persons, animals, goods or property of any kind.

CABINS — A group of buildings that is available for transient lodging for a fee, each containing eating, sleeping, and bathing facilities; that are designed for seasonal use by the lodgers; and that consist of no more than two dwelling units per building.

CAMPGROUND — Any area or tract of land to accommodate two or more parties in temporary living quarters, including but not limited to tents, recreational vehicles or other shelters.

CERTIFICATE OF COMPLIANCE — A document issued by the Codes Enforcement Officer which verifies that all conditions of approved permits have been met to the best of his knowledge.

COASTAL WETLAND — All tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; 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 which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

COMMERCIAL USE — The use of lands, buildings, or structures, other than a home occupation, defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

CONGREGATE LIVING FACILITY — A building designed to house persons not related to each other (except spouses) who use that building as their primary residence;

16. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

that contains separate sleeping facilities and communal eating facilities limited to the use of the residents and staff; and that is not a nursing or convalescent home.

CONVALESCENT HOME — See "nursing or convalescent home."

CUSTOMARY HOME OCCUPATION — An occupation or profession which is customarily conducted on or in a residential structure or property and which is clearly incidental to and compatible with the residential use of the property and surrounding residential uses and which employs no more than two persons other than family members residing in the home.

DIMENSIONAL REQUIREMENTS — Numerical standards relating to spatial relationships, including but not limited to setback, lot area, shore frontage and height.

DISTRICT — A specified portion of the municipality, delineated on the Protection Districts Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

DRIVEWAY — Vehicular accessway, not a road, accessing no more than four lots.

DUMP — A place where refuse, garbage, debris or the like is placed on or in the ground.

DWELLING — A fixed structure containing one or more dwelling units.

DWELLING, MULTIPLE-FAMILY — One or more buildings used for residential occupancy by more than two families, each living independently of each other. This includes apartments, condominiums, and cluster housing.

DWELLING UNIT — A room or group of rooms designed and equipped or used as living quarters for only one family. The term shall include guesthouses, apartments, and mobile homes, but not recreational vehicles.

EARTH — Topsoil, loam, sand, gravel, clay, peat, rock, or other minerals.

EMERGENCY OPERATIONS — Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

EROSION CONTROL FACILITIES — Structures and facilities intended to limit erosion from tidal forces or storm surge. They include but are not limited to retaining walls, riprap, and bulkheads.

ESSENTIAL SERVICES — Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

EXCAVATION — Any removal of earth or earth material from its original position.

EXCEPTED LOT — A lot established for a specific use in any district that is appropriate by virtue of its specific use to be less than 65,340 square feet in area and that is subject to all the provisions of § 125-33K of this chapter. Specific permitted uses may include, but are not limited to, parking lots, boat launching ramps, tennis courts, public recreation fields, private or municipal garages and storage buildings and the like. Prohibited uses include, but are not limited to, dwelling units, commercial structures, and other uses appropriate to lots having a minimum area of 65,340 square feet.

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

EXPANSION OF USE — The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

FACILITY — That which is designed, built, or installed to serve a specific function affording a convenience or service. Facilities may include but are not limited to buildings and structures.

FAMILY — One or more persons, related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.¹⁷

FILLING — Depositing or dumping any matter on or into the ground or water.

FIRE PREVENTION ACTIVITIES — The disposal of fallen trees and branches, the removal of thickets of dead brush and small dead trees, the creation of fire breaks, and other similar activities designed to reduce or eliminate fire hazards. (See Note 14 in the Table of Land Uses.¹⁸)

FLOOR AREA —

- (1) The sum of the horizontal areas of the floors of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.
- (2) The footprint of a structure.

FORESTED WETLAND — A freshwater wetland dominated by woody vegetation that is six meters (approximately 19.7 feet) or taller.

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

17. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

18. Editor's Note: The Table of Land Uses is included at the end of this chapter.

associated activities, exclusive of timber harvesting and the construction, creation or maintenance of land management roads.¹⁹

FOUNDATION — The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost walls.

FRESHWATER WETLAND — Freshwater swamps, marshes, bogs and similar areas other than forested wetlands which are:

- (1) Of 10 or more contiguous acres, or of less than 10 contiguous acres and adjacent to a surface water body, excluding any stream or brook, such that in a natural state the combined surface area is in excess of 10 acres; and
- (2) Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Note: Wetlands are classed as coastal, forested or nonforested and each class may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

FRONTAGE, ROAD — The length of the boundary of a lot or parcel which abuts a road, right-of-way, or private way.²⁰

FUNCTIONALLY WATER-DEPENDENT USES — Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include but are not limited to commercial and recreational fishing and boating facilities, fish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat-building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon waterborne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.²¹

GREAT POND — Any inland body of water which in a natural state has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres, except for the purposes of this chapter, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

GREAT POND CLASSIFIED GPA — Any great pond classified GPA pursuant to 38 M.R.S.A. § 465-A. This classification includes all natural great ponds.

19. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

20. Editor's Note: The definition of "frontage, shore", which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See definition of "shore frontage."

21. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

HEIGHT OF A STRUCTURE — The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

HOTEL — See "motel, hotel and inn."

INDIVIDUAL PRIVATE CAMPSITE — An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed 10 individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fireplaces, or tent platforms.

INDUSTRIAL — The assembling, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals.

JUNKYARD — A place where discarded items and other materials are stored for recycling, reuse, repair and/or resale and that requires a municipal license for its operation.

LANDFILL — A place where refuse, garbage, debris or the like is buried or covered with earth.

LIVING AREA — The square footage of each floor of the dwelling excluding the areas of basements, garages, decks, and attics but including porches.

LOT — All contiguous land in the same ownership, provided that lands located on opposite sides of a state, Town, or approved subdivision road shall be considered each a separate lot unless such road was established by the owner of land on both sides thereof.

LOT AREA — The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

MARINA — A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.²²

MARKET VALUE — The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

MINERAL EXPLORATION — Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

MINERAL EXTRACTION — Any operation within any twelve-month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat,

22. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

or other like material from its natural location and to transport the product removed away from the extraction site.²³

MINIMUM LOT WIDTH — The closest distance between the side lot lines of a lot.

MOBILE/MODULAR HOME — A detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels, or on a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, such as locating on jacks or other foundation or connection to utilities.

MOTEL, HOTEL and INN — A commercial building or group of buildings catering for a fee to transient guests that has sleeping rooms that do not contain and shall not contain cooking facilities; that may or may not serve meals to guests and to the general public; and that may or may not have accessory public function rooms or recreational facilities.

MULTIPLE-FAMILY DWELLING — See "dwelling, multiple-family."

NONCONFORMING LOT — A single lot of record which, at the effective date of adoption or amendment of this chapter, does not meet the area, frontage, or width requirements of the district in which it is located.

NONCONFORMING STRUCTURE/FACILITY — A structure or facility which does not meet any one or more of the following dimensional requirements but which is allowed solely because it was in lawful existence at the time this chapter or subsequent amendments took effect: setback, height, or lot coverage.

NONCONFORMING USE — Use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated but which is allowed to remain solely because it was in lawful existence at the time this chapter or subsequent amendments took effect.

NONFORESTED WETLAND — A freshwater wetland that is not dominated by woody vegetation that is six meters (approximately 19.7 feet) or taller.

NORMAL HIGH-WATER LINE — That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to great ponds, the normal high-water line is the upland edge of the wetlands and not the edge of the open water, and in the case of land adjacent to tidal waters, the normal high-water line is the maximum spring tide level based upon data from tide tables published by the National Ocean Service, i.e., 7.5 feet NGVD. (See "coastal wetland.")

NURSING OR CONVALESCENT HOME — A building or buildings used to house persons requiring nursing care or supervision and licensed by the State of Maine as a

23. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

nursing home, assisted living facility or other state-licensed facility similar in nature or purpose.

PERSON — An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

PIERS, DOCKS, WHARFS, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND —

- (1) Temporary: structures which remain in or over the water for less than seven months in any period of 12 consecutive months.
- (2) Permanent: structures which remain in or over the water for seven months or more in any period of 12 consecutive months.

POND — A man-made facility created for the collection of water covering more than 2,000 square feet.

PRINCIPAL STRUCTURE — A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

PRINCIPAL USE — A use other than one which is wholly incidental or accessory to another use on the same premises.

PRIOR APPROVAL — A process by which an applicant notifies the Codes Enforcement Officer of the details of a proposed permitted use and receives verbal approval for that use from the Codes Enforcement Officer when such proposed use does not require a fee or permit. The purpose of prior approval is to assist the applicant to avoid inadvertent violation of this chapter.

PRIVATE ROAD — A road that is wholly owned by one or more of the abutting property owners, that serves five or more lots that are not owned by persons related by blood, marriage or adoption, and that are not in a subdivision.

PROTECTION SECTOR — The land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond or saltwater body; within 250 feet of the upland edge of a coastal or nonforested wetland; or within 75 feet of the normal high-water line of a stream.

PUBLIC FACILITY — Any facility, including but not limited to buildings, property, recreation areas, and roads, which is owned, leased, or otherwise operated or funded by a governmental body or public entity.

RECENT FLOODPLAIN SOILS — The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial Cornish Charles

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

RECREATIONAL FACILITY — A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

RECREATIONAL VEHICLE — A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pickup camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground and must be registered with the Bureau of Motor Vehicles.

REPLACEMENT SYSTEM — A system intended to replace:

- (1) An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or
- (2) Any existing overboard wastewater discharge.

RIPRAP — Rocks, irregularly shaped, and at least six inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less.

ROAD — A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles; includes all ways maintained by the state or Town, commonly referred to as state roads or Town roads; a way built to Town specifications, whether or not approved by the Planning Board. "Road" does not include other rights-of-way, driveways, or abandoned public or private ways not in use on the effective date of this chapter.

ROOMING HOUSE — A building of residential character in which three or more rooms are rented to guests usually staying more than two weeks for the purpose of lodging and/or taking meals. The renting of one or two bedrooms in a dwelling otherwise used as living quarters for one family shall not be considered a rooming house.

SALT MARSH — Areas along coastal waters (most often along coastal bays) which support salt tolerant species, and where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is salt marsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

SALT MEADOW — Areas which support salt-tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species

include salt meadow cordgrass (*Spartina patens*) and black rush; common three-square occurs in fresher areas.

SERVICE DROP — Any utility line extension which does not cross or run beneath any portion of a water body, provided that:

- (1) In the case of electric service:
 - (a) The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - (b) The total length of the extension is less than 1,000 feet.
- (2) In the case of telephone service:
 - (a) The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
 - (b) The extension requiring the installation of new utility poles or placement underground is less than 1,000 feet in length.

SETBACK — The nearest horizontal distance from the normal high-water line and/or lot line to the nearest part of a structure, road, parking space or other regulated object or area.

SHORE FRONTAGE — The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

SIGN — Any structure, display, logo, device, or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and is visible from any public way. It does not include the flag, pennant, or other insignia of any nation, state, or Town. Whichever dimensions of a sign are specified, they shall include frames.

STREAM — A free-flowing body of water from the outlet of a great pond or any perennial stream as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map or, if not available, a fifteen-minute series topographic map to the point where the body of water flows to another water body or wetland within the Protection Sector.

STREAM, TRIBUTARY — A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.²⁴

24. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

STRUCTURE — Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

SUBDIVISION — As defined in 30 M.R.S.A. § 4401, but generally is the division of a tract or parcel of land into three or more lots within any five-year period, whether accomplished by sale, lease, development, building, or otherwise, except when the division is accomplished by inheritance, or order of the court, or a gift to a relative, unless the intent of such gift is to avoid the objectives of this chapter.²⁵

SUBDIVISION ROAD — A road that is not a state or Town road that serves as access to, within, or through a subdivision.

SUBSTANTIAL START — Completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

SUBSURFACE SEWAGE DISPOSAL SYSTEM — A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspools, well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. § 414, any surface wastewater disposal system licensed under 38 M.R.S.A. § 413, Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Chapter 13, Subchapter 1.

SUSTAINED SLOPE — A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

TIMBER HARVESTING — The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. "Timber harvesting" does not include the clearing of land for approved construction.

UPLAND EDGE — The boundary between upland and wetlands.

VEGETATION — All live trees, shrubs, ground cover, and other plants, including, without limitation, trees both over and under four inches in diameter, measured at 4 1/2 above ground level.

VOLUME OF A STRUCTURE — The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

WATER BODY — Any great pond, stream or tidal area.

WATER CROSSING — Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the watercourse. Such projects include

25. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

but may not be limited to roads, fords, bridges, culverts, waterlines, sewer lines, and cables as well as maintenance work on these crossings.

WETLAND — A freshwater, forested or nonforested or coastal wetland (See "freshwater wetland," "forested wetland" and "coastal wetland.")

WETLANDS ASSOCIATED WITH GREAT PONDS — Wetlands contiguous with or adjacent to a great pond and which during normal high water are connected by surface water to the great pond. Also included are wetlands which are separated from the great pond by a berm, causeway, or similar feature less than 100 feet in width and which have a surface elevation at or below the normal high-water line of the great pond. Wetlands associated with great ponds are considered to be part of that great pond.

LAND USE

125 Attachment 1

Town of Islesboro

Table of Land Uses

Key to Table of Land Uses:

- RU Rural Protection District
- RP Resource Protection District
- LD Limited Development District
- MP Meadow Pond District
- SP Shoreland Protection District
- MA Maritime Activities District
- CEO Apply to Codes Enforcement Officer for permit
- [CEO] Prior approval of Codes Enforcement Officer is required, but no permit or fee is required
- PB Planning Board approval is required
- Y Activity, use, or facility is permitted; no permit required
- N Activity, use, or facility is prohibited
- N/A Not applicable

Land Use or Activity	RP	LD	MP	SP	MA	RU
Agriculture (1)(3)	PB	Y	PB	Y	N	Y
Aquiculture (1)	N	N	N	PB	PB	PB
Automobile graveyards and junkyards (1)	N	N	N	N	N	CEO
Boatyards, boat storage, and boat building activities (commercial)	N	N	N	PB	PB	PB
Campgrounds, commercial (1)	N	N	N	N	N	N
Camping, individual private camp sites (9)	CEO	CEO	CEO	CEO	CEO	CEO
Camping, public (other than on Warren's Island) (15)	N	N	N	N	N	N

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Land Use or Activity	RP	LD	MP	SP	MA	RU
Clearing of vegetation for approved construction (3)(4)	CEO	CEO	CEO	CEO	Y	Y
Clearing of vegetation for other than approved construction (4)	CEO	CEO	CEO	CEO	Y	Y
Commercial activities and structures associated with such activities, except customary home occupations and small workshops	N	N	N	PB	PB	PB
Communication and navigation facilities	N	N	N	CEO	CEO	CEO
Conversion of seasonal residence to year-round residence (8)	N	PB	PB	PB	PB	PB
Customary home occupations and small workshops	N	PB	PB	PB	N/A	PB
Driveways (12)	N	CEO	CEO	CEO	CEO	CEO
Dumps and landfills, commercial or private	N	N	N	N	N	N
Dumps and landfills, municipal	N	N	N	PB	N	PB
Emergency operations (1)	Y	Y	Y	Y	Y	Y
Erosion control (1)	CEO	CEO	CEO	CEO	CEO	CEO
Essential services (1)(11)	PB	PB	PB	PB	PB	PB
Fences	CEO	CEO	CEO	CEO	CEO	CEO
Filling and earth moving of less than 10 cubic yards	[CEO]	Y	[CEO]	Y	Y	Y
Filling and earth moving of more than 10 cubic yards	PB	PB	PB	CEO	CEO	Y
Fire ponds/ponds (14)	PB	PB	PB	PB	PB	PB
Food service facilities and activities	N	N	N	PB	PB	PB
Forest management activities, except timber harvesting (13)	Y	Y	Y	Y	Y	Y
Hotels, motels, cabins and inns (1)	N	N	N	PB	N	PB
Manufacturing, industrial fabrication and other industrial uses (other than boat building)	N	N	N	N	N	PB
Marinas (1)	N	N	N	PB	PB	N/A

LAND USE

Land Use or Activity	RP	LD	MP	SP	MA	RU
Mineral exploration (10)	Y	Y	Y	Y	Y	Y
Mineral extraction including sand and gravel (1)(3)(5)	PB	PB	PB	PB	PB	PB
Mobile home, modular home and manufactured home parks (18)	N	N	N	PB	N	PB
Oil and fuel storage facilities (commercial) (17)	N	N	N	PB	PB	PB
Parking facilities	N	CEO	CEO	CEO	CEO	CEO
Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high waterline or within a wetland (16)						
A. Temporary (fewer than 7 months per calendar year) (7)	CEO	CEO	CEO	CEO	CEO	N/A
B. Permanent	PB	PB	PB	PB	PB	N/A
Recreational activities and structures associated with those activities (commercial)	N	N	N	PB	PB	PB
Recreational uses, nonintensive, not requiring structures, such as hunting, fishing, and hiking	Y	Y	Y	Y	Y	Y
Refineries, oil or chemical	N	N	N	N	N	N
Retail establishments not related to maritime activities	N	PB	PB	PB	PB	PB
Retail establishments related to maritime activities	N	PB	N	PB	PB	PB
Road construction (12)	N	PB	N	PB	PB	PB
Rooming houses, congregate living and bed-and-breakfast (1)(21)	PB	PB	PB	PB	N	PB
Nursing and convalescent homes (1)	N	N	N	PB	N	PB
Service drops to allowed uses (1)	Y	Y	Y	Y	Y	Y
Sewage disposal systems, private, for existing or allowed uses (8)	[CEO]	[CEO]	[CEO]	[CEO]	[CEO]	[CEO]
Shore access including steps, stairways, and ramps (16)	CEO	CEO	CEO	CEO	PB	N/A
Signs	[CEO]	[CEO]	[CEO]	[CEO]	[CEO]	[CEO]
Signs, flashing, moving, or animated	N	N	N	N	N	N

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Land Use or Activity	RP	LD	MP	SP	MA	RU
Slaughterhouses	N	N	N	N	N	PB
Soil and water conservation practices	Y	Y	Y	Y	Y	Y
Structures, accessory structures for allowed uses	CEO	CEO	CEO	CEO	PB	CEO
Structures, principal structures and uses: (22)						
A. One- and two-family residential	PB	PB	PB	PB	N	PB
B. Multi-unit residential (6)(20)	N	N	N	PB	N	PB
C. Commercial, industrial, municipal, institutional, utility, fraternal, or recreational [other than "recreational activities and structures associated with those activities (commercial)" above] (6)	N	N	N	PB	PB	PB
Structures and facilities associated with fishing, mollusk, crustacean, or shellfish cultivation or harvesting (16)						
A. Commercial	N	PB	PB	PB	PB	PB
B. Private	N	CEO	CEO	CEO	CEO	CEO
Structures, facilities, or activities not meeting the criteria of § 125-15A(1) through (7)	N	N	N	N	N	N
Structures and facilities, existing, repair and maintenance of (19)	Y	Y	Y	Y	Y	Y
Surveying and resource analysis	Y	Y	Y	Y	Y	Y
Timber harvesting (2)(3)	CEO	CEO	CEO	CEO	N	Y
Uses or activities which would adversely affect or injure significant wildlife habitat	N	N	N	N	N	N
Uses similar to uses requiring permit from CEO	CEO	CEO	CEO	CEO	CEO	CEO
Uses similar to uses requiring permit from Planning Board	PB	PB	PB	PB	PB	PB
Utility poles	CEO	CEO	CEO	CEO	CEO	CEO
Vehicle use on existing roads and trails	Y	Y	Y	Y	Y	Y

LAND USE

Land Use or Activity	RP	LD	MP	SP	MA	RU
Wildlife management practices	Y	Y	Y	Y	Y	Y

NOTES:

1. See definition in Article VI.
2. See § 125-48B.
3. Not permitted within 100 feet of the normal high waterline of the Meadow Pond.
4. Not including timber harvesting. Permit required from CEO for operations in the buffer strip. [See § 125-48D(8)].
5. Commercial operations only. Noncommercial: Prior approval required from CEO except in Rural Protection District where operations do not require approval. The excavation area in all operations requiring a permit shall be no greater than five acres and a suitable cover crop shall be planted after the completion of operations.
6. Provisions of Chapter 45, Development Review, apply.
7. Commercial only. Noncommercial temporary floats and docks do not require a permit.
8. A permit from the local Plumbing Inspector is required prior to Planning Board or CEO approval.
9. See also Chapter 23, Camping.
10. Requires Planning Board approval if more than 100 square feet of surface area, in total, is disturbed.
11. See § 125-53B for limitations in Resource Protection District.
12. For exception, see § 125-50C.
13. Forest management activities that involve cutting or removal of living vegetation, including timber harvesting, are prohibited in those areas described in §§ 125-23C(1), (2) and (4) and 125-48D(17) of this chapter.
14. No fire break shall be created within the buffer strip of any body of water.
15. Public camping on Warren's Island does not require a permit from the Town of Islesboro.
16. Facilities extending beyond the normal high waterline require permission of the Department of Environmental Protection.
17. Oil and fuel storage facilities shall have a maximum storage capacity of 75,000 gallons. In all districts where permitted, other than the Rural Protection District, no oil or fuel storage facility shall be located closer than 2,500 feet, horizontal distance, to any other oil or fuel storage facility.
18. Parks providing space for more than four units shall have all interior roads paved.
19. Repair includes replacement if destroyed; if a structure or facility is nonconforming and is damaged or destroyed, the provisions of § 125-38 apply.
20. Includes apartment houses. Multiple-family dwellings shall be on a lot not smaller than 65,340 square feet per dwelling unit.
21. Only conversion of a residence existing on or prior to the effective date of this chapter as specified in § 125-5 is permitted in the Resource Protection District.

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22. In the Resource Protection District single-family residential structures may be allowed by special exception only according to the provisions of § 125-24, but two-family residential structures are prohibited.

Note: Uses requiring local permits may also require permits from the Department of Environmental Protection (DEP) and/or the Corps of Engineers.

Chapter 142

MUNICIPAL SHORE AREAS, PIER AND FLOAT USE

ARTICLE I General Provisions

- § 142-1. Title.
- § 142-2. Authority.
- § 142-3. Purpose; supersession of certain ordinances.
- § 142-4. Definitions and abbreviations.

ARTICLE II Harbor Committee

- § 142-5. Membership; terms of office.
- § 142-6. Purpose.
- § 142-7. Meetings.
- § 142-8. Officers.
- § 142-9. Duties of officers.
- § 142-10. Elections.
- § 142-11. Duties of members.
- § 142-12. Subcommittees.

ARTICLE III Harbor Master

- § 142-13. Appointment.

- § 142-14. Law enforcement officers.
- § 142-15. Compensation.
- § 142-16. Duties.
- § 142-17. Absence of Harbor Master.
- § 142-18. Supervision.

ARTICLE IV Intent; Rules and Regulations

- § 142-19. Intent.
- § 142-20. Rules and regulations.
- § 142-21. Moorings in Town anchorages.
- § 142-22. Seal Harbor swimming area.
- § 142-23. Appeals to Harbor Committee.

ARTICLE V Enforcement and Penalties

- § 142-24. Enforcement.
- § 142-25. Violations and penalties.

Islesboro Public Landing and Seal Harbor Dock

[HISTORY: Adopted by the Town of Islesboro 7-25-1990, as amended through 5-1-2010. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Piers, docks, wharfs and bridges — See Ch. 125,
§ 125-35.

Parking at Grindle Point — See Ch. 248, Art. II.

ARTICLE I
General Provisions

§ 142-1. Title.

This chapter shall be known and cited as the "Municipal Shore Areas, Pier and Float Use Ordinance of the Town of Islesboro."

§ 142-2. Authority.

This chapter is enacted under the provisions of 38 M.R.S.A. § 2 et seq. as amended and 30-A M.R.S.A. §§ 2691 and 4353.

§ 142-3. Purpose; supersession of certain ordinances.

This chapter is enacted to provide for the establishment of uniform rules governing the types of activities permitted or prohibited on all municipal shore areas, piers, and floats. It supersedes the ordinance with the same title adopted April 5, 1986, and any amendments thereto, excluding zoning and parking ordinances, adopted since then.

§ 142-4. Definitions and abbreviations.

A. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ANCHORAGE — Any mooring site within the coastal waters of Islesboro which may be designated by the municipal officials in accordance with 38 M.R.S.A. § 3 as having mooring locations under the jurisdiction of the Harbor Master. (Note: The term "shoreline" as used in the following descriptions refers to mean lower low water as depicted on Nautical Chart No. 13309.)

- (1) Grindle Point Anchorage: bounded on the west by a line starting at the junction of the Town pier and the road serving the ferry ramp and extending due south approximately 500 feet to the north side of the North Entrance Channel [see Subsection (1) of the definition of "channel"] in line with the southeastern tip of Warren Island; bounded on the south by the north side of the North Entrance Channel and its extension to the Lobster Rock; bounded on the east by a line bearing north 36° west from Lobster Rock approximately 2,000 feet to a point on the shoreline on Grindle Point approximately 250 feet southwest of the pier located on Lot 4, Map 14, Tax Maps, Town of Islesboro; and bounded on the north by the shoreline of Grindle Point back around to the junction of the pier and the road to the ferry ramp. (Note: All bearings are true.)
- (2) Seal Harbor Anchorage: bounded on the southwest by a line bearing north 65° west and extending 1,300 feet into Seal Harbor toward the southern tip of Keller Point from a point on the shoreline located a straight-line distance of 1,000 feet southwest of the intersection of the center line of the pier and the shoreline; bounded on the northwest by a line bearing north 546° east and extending

approximately 2,000 feet from the northwest end of the southwest boundary to the shoreline and thence along that shoreline to the north end of the delineated swimming area off Big Tree Beach; bounded on the northeast by the delineated Big Tree Beach swimming area; and bounded on the southeast by the shoreline running generally southwest adjacent to the Main Road from the south end of the Big Tree Beach swimming area to the southeast end of the southwest boundary of the anchorage. (Note: All bearings are true.)

CHANNEL — Any water passage within the coastal waters of Islesboro whose boundaries are established by the Board of Selectmen in accordance with 38 M.R.S.A § 2 for the purpose of facilitating the passage of vessels in the harbors and waterways of Islesboro. Channels shall be kept clear of any and all obstructions.

- (1) Gilkey Harbor North Entrance Channel, a channel 200 feet wide commencing at bell R "2" and running on a line to green can C "7" and thence on a line to nun N "6."
- (2) Gilkey Harbor South Entrance Channel, a channel 200 feet wide commencing at bell G "1" off the Ensign Islands and proceeding northeast on a line with red nun N "2" located off Minot Ledge and thence 500 feet into the waters of Gilkey Harbor.
- (3) Bracketts Channel, a channel of varying width paralleling the northwestern side of the southern tip of Islesboro between Minot and Middle Islands as shown on Chart No. 13305.

RESIDENT — A person whose primary residence is the Town of Islesboro as evidenced by the address used on his/her tax return to the Internal Revenue Service.

SHORE AREAS — All municipal property located within the shoreland zone (250 feet inland of the normal high-water line), including, but not restricted to, at Grindle Point: the Memorial Museum grounds, parking areas, pier, and launching ramp; at Pendleton Point: the Town beach and picnic area; at Seal Harbor: the pier and adjacent parking area, and the proposed parking area across the Main Road from Big Tree Beach; the Becket Landing area; and the Hewes Point boat launching ramp.

TOWN FLOAT — A floating platform associated with a pier to facilitate the movement of pedestrians and goods between the pier and vessels tied to the float. The Town floats are designated as follows:

- (1) Float GP-A: located at the south end of the Grindle Point Pier and supports the incline from the south end of the pier;
- (2) Float GP-B: located south of and connected to Float GP-A by a bridge;
- (3) Float GP-C: located on the east side of Grindle Point Pier and supports the incline from the east side of the pier.
- (4) Float GP-D: located east of and connected to Float GP-C by a bridge;
- (5) Float GP-C1: attached to the northwest corner of Float GP-C by a bridge;

- (6) Float GP-D1: attached to Float GP-C or Float GP-D and used for mooring dinghies;
- (7) Float SH-A: located at the outboard end of the Seal Harbor Pier and supports the incline from the end of the pier;
- (8) Float SH-B: located northwest of and connected to Float SH-A by a bridge;
- (9) Floats SH-A1, SH-A2, SH-A3 and SH-A4: attached to the southeast corner of Float SH-A and used for mooring dinghies.

TOWN PIER — A structure extending into the waters of a harbor to facilitate receiving or discharging persons or things to or from a vessel. The Town piers are designated and located as follows:

- (1) Grindle Point Pier located adjacent to and east of the Maine State Ferry Terminal.
- (2) Seal Harbor Pier located at the Moseley Landing adjacent to the Main Road at the southern end of Seal Harbor.

VESSEL — Watercraft of any type or size.

WATERCRAFT — Any type of vessel, boat, float, dinghy or craft used or capable of being used as a means of transportation on water other than a seaplane.

- B. Abbreviations. Throughout this ordinance, the abbreviation "HM" shall mean "Harbor Master" and the abbreviation "AHM" shall mean "Assistant Harbor Master."

ARTICLE II Harbor Committee

§ 142-5. Membership; terms of office.

There shall be a Harbor Committee, appointed by the Board of Selectmen, and consisting of a member of the Board of Selectmen, a member of the Planning Board, the Harbor Master, the Assistant Harbor Master and three members who are citizens at large.

- A. Citizen-at-large members shall represent as many diverse interests in Islesboro's shoreland as possible, i.e., commercial boat owners, recreational boat owners, abutting land and business owners, members of Town boards and committees, etc.
- B. Initially one citizen-at-large member is to be appointed for one year and two for two years, and thereafter each term of office shall be for three years. Each year, prior to the Board of Selectmen's annual organizational meeting, the Harbor Committee shall meet for the purpose of making recommendations to the Board of Selectmen for the appointment of new members for a term of three years to fill the vacancies created by the terms expiring on that anniversary. Current members shall be eligible for reappointment.
- C. A member of the Harbor Committee who is absent from three consecutive regular meetings without reasons acceptable to the Chairman of the Committee shall be subject to dismissal from the Committee. A member who develops an inability to serve on the

Committee shall be asked to resign. The Committee shall, at its next regular meeting, make recommendations to the Board of Selectmen for a replacement for any vacancy resulting from these actions or caused by the death or resignation of a Committee member.

§ 142-6. Purpose.

The Purpose of the Harbor Committee shall include harbor planning and recommending operational and regulatory procedures for the navigable waters of the Town of Islesboro, including its channels and anchorages. The Committee shall make recommendations to the Board of Selectmen, the Town Manager, the Planning Board, and other state agencies concerning actions it deems advisable to enhance the Town's harbor facilities for the long-range benefit of the users of these facilities and the Town. Such recommendations shall include, but not necessarily be limited to, policy, operational procedures and regulations, fees, public access, long-range planning, proposed dock, pier, incline and float construction permitting, and an operational and capital budget for the waterfront facilities belonging to the Town.

§ 142-7. Meetings.

- A. A regularly scheduled meeting shall be held four times a year, December, April, July and October, on the third Thursday of each month. The December meeting of each year will be used for the preparation and approval of the budget recommendations for the coming fiscal year.
- B. Special meetings may be called by the Chair, or requested through the Chair by the Harbor Master, the Board of Selectmen, or the Town Manager, or upon the request of at least three members of the Committee.
- C. The first regular meeting held after the annual organizational meeting of the Board of Selectmen shall be known as the "Harbor Committee organizational meeting." The purpose of this meeting shall be the election and installation of officers for the coming year, the presentation of the annual report of the Committee, and any other business that may come before the meeting.
- D. Four members constitute a quorum at any regular or special meeting, provided that at least one of the members present is either the Chair or Vice Chair.

§ 142-8. Officers.

The officers of the Harbor Committee shall be a Chair, a Vice Chair, and a secretary, each of whom shall be elected at the annual organizational meeting of the Harbor Committee (see § 142-7C) for a term of one year. If any officer is unable for any reason to serve the full term of office, the Chair or the Vice Chair shall call a special meeting of the Committee for the purpose of electing a successor for the unexpired portion of the term of that office.

§ 142-9. Duties of officers.

- A. The Chair shall preside at all meetings of the Committee; appoint all subcommittees; represent the Committee at public affairs; and shall maintain the dignity and efficiency of the Committee in all possible ways.
- B. The Vice Chair shall perform the duties of the Chair in the Chair's absence.
- C. The secretary shall be responsible for the Committee's compliance with its obligations under this chapter with respect to its official correspondence. The actual preparation of such correspondence, as well as the minutes of the Committee's meetings, shall be done by a paid professional hired by the Town to serve as secretary to the Committee. The secretary to the Committee shall also maintain the Committee's files of correspondence and minutes of its meetings.

§ 142-10. Elections.

- A. Nominations for officers of the Committee shall be made from the floor at either a regular or a special meeting of the Committee. The candidate for each office receiving a majority vote of those present at the meeting shall be elected.
- B. If more than one candidate is nominated for a particular office, voting shall be by written ballot.
- C. Neither the Harbor Master nor the Assistant Harbor Master may serve as Chair or Vice Chair.

§ 142-11. Duties of members.

- A. It shall be the duty of each member of the Committee to take an active part in the Committee's deliberations and to act in whatever capacity he or she may be called upon to assist the Committee to achieve its purposes as outlined above in § 142-6.
- B. All members shall serve without remuneration.
- C. Any member may inspect the equipment of the Town's harbor facilities at any time and report his or her findings to the Committee.

§ 142-12. Subcommittees.

- A. Subcommittees may be appointed by the Chair to assist the Harbor Committee in achieving its purpose as outline in § 142-6 of this chapter.
- B. Members of a subcommittee need not be members of the Harbor Committee.
- C. A subcommittee established for the purpose of issuing comments to state and federal agencies for pier, dock, float, and wharf applications shall consist of the Committee Chair, either the Harbor Master or the Assistant Harbor Master, and one other Committee member, both of the Chair's choosing.

- D. Both residents and nonresidents may serve as members of subcommittees, provided that they possess the requisite skills and knowledge to contribute to the subcommittee's assignment.
- E. The Chair of a subcommittee shall be a member of the Harbor Committee.

ARTICLE III Harbor Master

§ 142-13. Appointment.

The Harbor Master (HM) and Assistant Harbor Master (AHM) shall be appointed by the Board of Selectmen, upon recommendation by the Harbor Committee, for a term of three years. Certain duties and responsibilities of this office are prescribed by Title 38 of the Maine Revised Statutes Annotated, and the approved Harbor Master job description. The Harbor Master and the Assistant Harbor Master shall have the additional duty of administering and enforcing the provisions of this chapter.

§ 142-14. Law enforcement officers.

The Town's law enforcement officer(s) shall be appointed annually by the Board of Selectmen to either be directly responsible for or to assist the Assistant Harbor Master and to assist the Harbor Master in his/her enforcement duties.

§ 142-15. Compensation.

Compensation for the Harbor Master and for the Assistant Harbor Master shall be established by the Board of Selectmen.

§ 142-16. Duties.

In addition to the duties prescribed under Title 38 of the Maine Revised Statutes Annotated, the Harbor Master and Assistant Harbor Master shall serve as the overseer of the Town's waterfront facilities, including piers, floats, docks, inclines, and any other waterfront facility the Town may acquire. The HM and AHM shall make recommendations to the Harbor Committee for the maintenance of and improvements to all Town-owned waterfront facilities. The Harbor Master and Assistant Harbor Master shall have full authority to enforce, to the full extent permitted by law, all harbor regulations affecting the waterfront.

§ 142-17. Absence of Harbor Master.

Where prior permission is required by this chapter from the Harbor Master, such permission may, in the Harbor Master's absence, be granted by one of the Assistant Harbor Masters or, in their absence, the Chair of the Harbor Committee or the Vice Chair of the Harbor Committee.

§ 142-18. Supervision.

Following the accepted job description, both the HM and the AHM positions shall be directly supervised by the Town Manager and/or the Board of Selectmen.

ARTICLE IV
Intent; Rules and Regulations

§ 142-19. Intent.

It is the intent of the Town of Islesboro that the municipal shore areas, piers, and floats be available for use by all boat owners and operators to board and depart from their vessels, to load and unload their vessels, and to tie up small tenders. Further it is the intent of the Town of Islesboro to ensure that the municipal shore areas, piers, and floats are available for the use and enjoyment of the public.

§ 142-20. Rules and regulations.

The following rules and regulations shall apply to every individual using the municipal shore areas, piers, and floats:

- A. No dinghy or vessel which exceeds 12 feet in length shall be tied to the north faces of Floats GP-C and GP-D nor to Floats GP-C1 and GP-D1 (these locations being designated by a white stripe on the decking of these floats).
- B. No dinghy or vessel with a motor larger than 10 horsepower shall be tied to any of the floats listed in Subsection A.
- C. Except to load and to unload, no vessel shall be tied to the south face of Float GP-C, the east face of Float GP-A or the west face of Float GP-A (these locations being designated by a red stripe on the decking of this float).
- D. No vessel shall be tied to Floats GP-B and GP-D for more than two hours at any time nor for longer than two hours in any five-hour period, said period commencing from the time the vessel is first tied up, except as permitted in Subsection M.
- E. No dinghy nor any vessel exceeding the length or horsepower limits established in Subsections A and B of this section shall be tied to the sides of Floats GP-A and GP-B overnight, except as noted below in Subsection M.
- F. No dinghy shall be left while tied to Float GP-A or GP-B or to the south or east faces of Floats GP-C and GP-D, and should a vessel exceeding the length and horsepower limits established in Subsections A and B wish to use the float space occupied by the dinghy, the dinghy shall be promptly moved clear.
- G. Vessels owned by or operated for the legal owner(s) of Seal Island shall have priority use of the east face of Float SH-B, and such vessels may be left tied up at this location at the discretion of the operator except when sea conditions are such that to do so could result in damage to the float or its moorings. Vessel length shall not exceed 30 feet.

- H. Vessels other than those defined above in Subsection G may use the west face of Float SH-A, if it is not occupied, to load and unload but shall promptly move clear of this west face if a vessel defined in Subsection G wishes to occupy it.
- I. No dinghy or vessel exceeding the length and horsepower limits specified in Subsections A and B shall be tied to the north and south faces of Float SH-A1 or SH-A2 nor to the east face of Float SH-A (these locations being designated by a white stripe on each side of the decking of this float).
- J. Except to load and unload, no vessel, with the exception stipulated in Subsection G above, shall be tied to the west face of Float SH-A and to the east and west faces of Float SH-B (these locations being designated by red stripes on the decking of these floats). However, from October 15 to November 20 and from April 1 to May 15, vessels may be tied to the west face of Float SH-A and to the east face of Float SH-B for up to two hours in any five-hour period, said period commencing from the time the vessel first tied up.
- K. No vessel tied to the west face of Float SH-A shall be left unattended, i.e. the operator of the vessel must remain within hailing distance of this float while the vessel is tied thereto.
- L. Notwithstanding the provisions of Subsections C through G above with regard to the use of floats serving Town-owned piers, from November 15 through April 15 vessels may, if weather conditions permit, be left tied up to a float overnight. The vessel must be removed by 8:00 a.m. the following morning. Vessel owners leaving a vessel on the float past 8:00 a.m. must call the Town Office leaving a detailed message containing the operator's name, the vessel's name, the date, and the reason why the vessel has been left on the float.
- M. Vessels having a length greater than 45 feet on deck may tie up to a Town float only with prior permission from the Harbor Master or Assistant Harbor Master.
- N. Crab and/or lobster crates may be tied to the Town floats at Grindle Point and Seal Harbor, provided that it is done in a manner that does not interfere with the normal function of these floats.
- O. No dinghy, fishing gear of any type, bait, bait containers, debris, fuel tanks, or other items shall be left on a Town pier or float unattended or stored for more than two hours without prior approval from the Harbor Master or the Assistant Harbor Master;
- P. No vessel, boat cradle, trailer, fishing gear, or mooring tackle shall be stored or left unattended on the Grindle Point boat launching ramp, the areas on either side of the ramp down to the mean low-water line, the Memorial Museum grounds, the parking lots at Grindle Point and Seal Harbor, the beach at Hewes Point, and the Town Beach grounds and parking areas without prior approval from the Harbor Master or Assistant Harbor Master. In addition, there shall be no stored or unattended personal property of any nature placed or located at or upon the beach/Town property at Hewes Point (Town-owned property which lies westerly of the granite breakwater) for more than 72 hours.

- Q. Floats are not allowed at any time within any of the shore areas unless:
- (1) It is for a structural repair and written permission has been granted by the Harbor Master or Assistant Harbor Master and then the float is only allowed on the shore area for one week. Under unusual circumstances the Harbor Master (or Assistant Harbor Master) may extend the privilege for one addition week.
 - (2) It is September 30 through May 1.
- R. A clear unobstructed passage 50 feet wide shall be maintained between the Grindle Point launching ramp and the east face of Float GP-D. No tackle, gear, floats or mooring shall be permitted in this passageway.
- S. Any activity not consistent with this chapter must have the prior written approval of the Harbor Master or Assistant Harbor Master or, in cases of emergency, verbal approval of the Harbor Master, Assistant Harbor Master, the Town Manager or a duly designated law enforcement officer.
- T. A fee shall be charged for mooring dinghies at any Town float. This fee shall be \$20 per year for Islesboro residents and \$80 for nonresidents. All dinghies moored at a Town float must display a sticker obtained at the Town Office upon payment of the annual mooring fee. Any dinghy without a sticker and moored at a Town float for more than six days shall be impounded by the Harbor Master or the Assistant Harbor Master.
- U. All dinghies moored at a Town float must have either soft rub-rails or use suitable fenders on both sides. Oar locks must be unshipped and either removed or left inboard. All outboards must be left in the down position.
- V. The owners of dinghies moored at a Town float shall be responsible for the proper maintenance of their respective dinghies. Any dinghy left unbailed or posing a hazard to adjacent dinghies may be impounded by the Harbor Master or Assistant Harbor Master. To reclaim the impounded dinghy, the owner must first reimburse the Town for the cost of hauling the dinghy and pay an administrative fee of \$50. If unclaimed after one year, the Town may sell the impounded dinghy at auction.
- W. The hoist on the Grindle Point pier is available for loading and unloading gear, tackle, bait, and cargo into or from boats by commercial fishermen, boatyard owners, and others. Users must obtain a key from the Town Office after receiving instructions in the proper use of the hoist. An annual fee of \$10 shall be charged by the Town for a key which shall not be transferable. Users assigned a key shall be responsible for the proper use of the hoist and for ensuring that there is no unauthorized use of their respective keys. Any unauthorized use of the hoist shall be subject to the penalty provision of Article V of this chapter.
- X. Any individual damaging Town property covered by this chapter, including but not limited to the Town piers, inclines, floats, and hoist, shall be liable for the cost of repairing the damages thereto in addition to penalties allowed under Article V of this chapter.

- Y. Any individual witnessing or discovering damage to Town property covered by this chapter, including but not limited to the Town piers, inclines, floats, and hoist, shall contact the HM, AHM or the Town Manager.

§ 142-21. Moorings in Town anchorages.

- A. Except as provided in the following Subsection B, mooring privileges shall be granted upon application on a first-come-first-served basis, provided that the applicant has complied fully with the application requirements. Such assignment of a mooring privilege does not confer any right, title, or interest in submerged lands owned by the State of Maine. Mooring privileges shall be limited to vessel owners or those providing proof of a controlling interest in a vessel.
- B. Whenever there are more applicants for mooring assignments than there are mooring sites available within the boundaries of a Town anchorage, the Harbor Committee shall establish, pursuant to 38 M.R.S.A § 7-A, a waiting list at the Town Office. The list shall be in four sections:
- (1) Riparian owners;
 - (2) Resident full-time commercial fishermen and resident commercial boat operators;
 - (3) Resident noncommercial; and
 - (4) Nonresident commercial and noncommercial.
- C. The HM or AHM shall assign mooring sites as they become available from the waiting list established in Subsection B above based upon the following priorities:
- (1) Riparian owners who shall receive their first mooring site as a matter of littoral right. They shall be given the first vacancy available, and no mooring fee shall be required of them.
 - (2) Resident full-time commercial fishermen and resident commercial boat operators who shall receive the next available vacancy after the riparian owners;
 - (3) Resident noncommercial boat owners; and
 - (4) Nonresident boat owners.
- D. Mooring assignments are nontransferable and may not be rented by the assignee to others.
- E. A vessel must exceed at least one of the parameters outlined above in § 142-20A or B to qualify for a mooring.
- F. If, in the opinion of the HM or AHM, a mooring site has remained unoccupied for one year, it shall be deemed abandoned and assigned to the next person on a waiting list, provided that the vessel proposed to be moored at this site is of a size and type which would be compatible, in the judgment of the HM or AHM, with other vessels moored in that area of the anchorage. If the vessel is deemed to be unsuitable for the open mooring

site, the HM or AHM shall proceed down the waiting list until a suitable vessel for that mooring site is located. However, an exception may be made, with prior written approval from the HM or AHM, for a mooring site to remain unoccupied for up to two years either because the vessel assigned to that mooring site is being replaced by the owner or because the owner has taken the vessel on an extended voyage. In such instances, the HM or AHM may allow other vessels to use the unoccupied mooring site on a temporary basis.

- G. When a mooring has been deemed abandoned in accordance with the provisions of Subsection F above, the owner of the mooring shall be notified by the HM or AHM that the mooring must be removed by the owner at his expense. If removal by the owner does not occur within 30 days of receipt of said notice from the HM or AHM, the HM or AHM shall arrange for the mooring to be removed at the owner's expense.
- H. All new mooring balls within a Town mooring area must have a polyball and shall be white in color; indicate the size/weight of the mooring block; indicate the owner's name; and must have the assigned mooring number painted on the ball in sufficient size to make the number clearly visible.
- I. All moorings within the boundaries of a Town anchorage shall be supplied and owned by the respective vessel owners but shall be sited as instructed by the HM or AHM. Each mooring shall be of sufficient size to hold the vessel for which it is used. (Wooden poles shall not be permitted.) The length of the pennant shall not exceed half the length of the boat or three times the height of the bow. Vessel owners shall be liable for any damage resulting from the use of the faulty or inadequate moorings or their improper placement. Mooring tackle shall be properly maintained by the owner.
- J. No fishing gear (lobster or crab pots) shall be set within the boundaries of a Town anchorage.
- K. Anchoring within a Town mooring area is prohibited except in emergencies or with the express prior permission of the HM or AHM
- L. All moorings in the Town mooring areas shall be inspected every two years at the owner's expense and a letter submitted to the Town Clerk, who shall forward a copy to a HM or AHM and keep the original on file at the Town Office, identifying who performed the inspection and when; stating the condition of the mooring; and further verifying that any deficiencies found were properly corrected.
- M. The discharge of improperly treated septage waste, refuse, or any petroleum product from any vessel into or on the waters surrounding Islesboro, including its harbors, mooring areas, and channels, is strictly prohibited by order of this chapter and in accordance with state and federal regulations.

§ 142-22. Seal Harbor swimming area.

A swimming area at the northeastern end of Seal Harbor (Big Tree Beach) shall be delineated by two pylon markers. No vessels are permitted between these markers and the beach except small nonpowered watercraft when being used for training purposes.

§ 142-23. Appeals to Harbor Committee.

The Harbor Committee shall hear any appeal by any person affected directly or indirectly by any decision, order, ruling, act or failure to act of the HM or AHM, except that an appeal of a written citation will be appealed directly to the Town Manager. In deciding any appeal, the Committee shall hear and approve, approve with modification or conditions, or disapprove the decision, order, act or failure to act of the HM or AHM, from which the appeal is made. The complainant may, within 30 days, appeal to the Superior Court any decision rendered by the Harbor Committee under this provision of this chapter.

ARTICLE V
Enforcement and Penalties

§ 142-24. Enforcement.

The enforcement of this chapter shall be carried out by the Harbor Master or the Assistant Harbor Master, or a duly appointed Town law enforcement officer.

§ 142-25. Violations and penalties.

- A. Whoever violates any of the provisions of this chapter shall be subject to penalties pursuant to the provisions of 30-A M.R.S.A. § 4452. The minimum penalty for a specific violation shall be \$100 for each day or part thereof of violation to be recovered on complaint before the District Court. Each day such a violation is continued after receipt of notice from the HM or AHM as outlined in Subsection B below may be considered a separate offense.
- B. Violators of this chapter shall be notified, first by one warning per six-month period, followed either by written citation or other means, by the Harbor Master, the Assistant Harbor Master, or other duly authorized law enforcement officer of the violation and instructed to correct said violation immediately.
- C. Anyone refusing to follow any lawful order of the Harbor Master or the Assistant Harbor Master in the lawful performance of their duties shall be guilty of a Class E crime pursuant to 38 M.R.S.A. § 13 and subject to a fine of up to \$1,000 and/or a maximum of six months' imprisonment to be recovered on complaint by the Harbor Master before the District Court.
- D. Any property or items left unattended or stored on Town property or any float found within or floating above the shore area found in violation of § 142-20R of this chapter shall be removed at the owner's expense from said property by order of the HM or AHM or their duly authorized representative by anyone he/she shall designate. Said property or items shall be deposited at a designated place for 30 days, with public notice, and if not claimed within that period, said property or items may be disposed of in any reasonable manner to recover Town expenses.
- E. All fines, forfeitures, and penalties collected as a result of the efforts of the HM or AHM and other law enforcement officers enforcing the provisions of this chapter shall be paid,

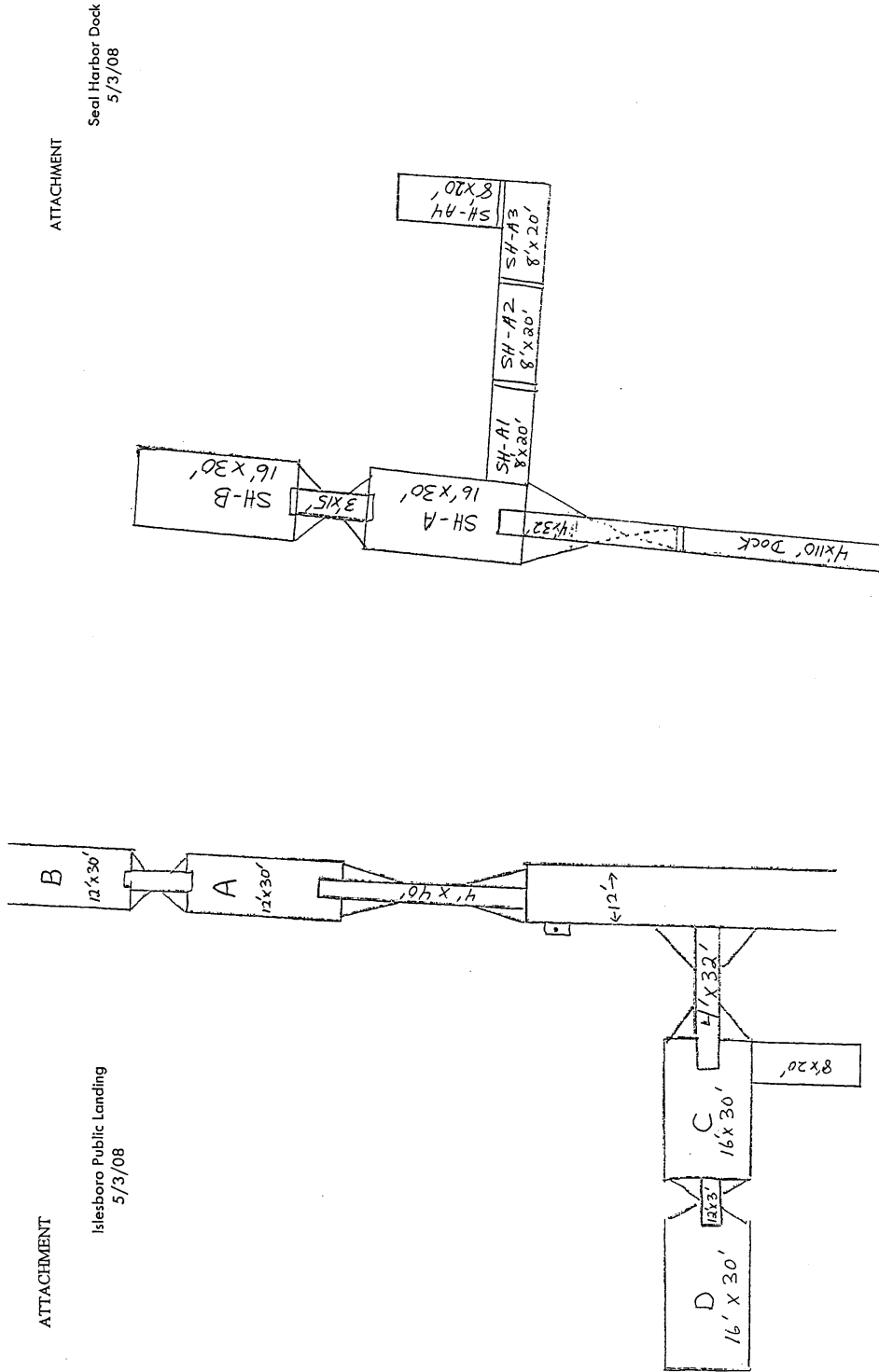
pursuant to 12 M.R.S.A. § 10206, Subsection 3, to the Town of Islesboro for the Town's enforcement efforts of the regulations of this chapter.¹

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

MUNICIPAL SHORE AREAS, PIER AND FLOAT USE

142 Attachment 1

Town of Islesboro
Public Landing and Seal Harbor Dock



ATTACHMENT

Islesboro Public Landing
5/3/08

ATTACHMENT

Seal Harbor Dock
5/3/08

142 Attachment 1:1

09 - 01 - 2011

Chapter 167

POLLUTION CONTROL

§ 167-1. Title.	§ 167-10. Notification.
§ 167-2. Authority.	§ 167-11. User charges.
§ 167-3. Purpose.	§ 167-12. Building sewers and connections.
§ 167-4. Applicability.	§ 167-13. Appeals.
§ 167-5. Pollution Control Committee.	§ 167-14. Definitions.
§ 167-6. Prohibitions.	§ 167-15. Amendment.
§ 167-7. Notification.	
§ 167-8. Monitoring.	Attachment A, Determination of Rate
§ 167-9. Access.	

[HISTORY: Adopted by the Town of Islesboro 4-29-2000; amended 4-27-2002; 7-16-2003; 2-26-2011. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Appeals to Board of Appeals — See Ch. 15, Art. I.
Floodplain management — See Ch. 70.

Septage disposal control — See Ch. 200.

§ 167-1. Title.

This chapter shall be titled "Amendments to the Town of Islesboro Pollution Control Ordinance" and shall supersede a similar ordinance which became effective August 9, 1979.

§ 167-2. Authority.

This chapter is enacted pursuant to the following:

- A. 30-A M.R.S.A. § 3001.
- B. Federal Water Pollution Control Act, as amended (hereafter called the "Act").

§ 167-3. Purpose.

The purpose of this chapter is to provide for compliance with the Federal Water Pollution Control Act and to protect the health and welfare of the inhabitants of the Town of Islesboro.

§ 167-4. Applicability.

This chapter shall apply to discharges into any sewer, sewage treatment plant or sewage system (hereafter called "system") owned or operated by the Town of Islesboro.

§ 167-5. Pollution Control Committee.

There shall be a Pollution Control Committee formed hereafter called "Committee."

- A. The Committee shall consist of five members, voters in the Town of Islesboro, appointed by the Board of Selectmen.
- B. Terms of the Committee members shall be for one year running from the first day of the fiscal year of the Town of Islesboro.
- C. Not less than three nor more than four members of the Committee shall be users of the system at the time of their appointment.
- D. The Town Manager shall be an ex officio member of the Committee.
- E. Duties of the Committee:
 - (1) The Committee shall be responsible for the general oversight of the system, recommending purchases, repairs, replacements of equipment, and changes in operating procedures to the Town Manager and the Board of Selectmen.
 - (2) The Committee shall provide the Town Manager with annual estimates of expenses for the ensuing year at least 60 days prior to the end of the fiscal year.
 - (3) The Committee may recommend the hiring of operating personnel to the Town Manager.
 - (4) The Committee shall hold a hearing on request for the exceptions set forth in § 167-12C of this chapter and may recommend the approval of such exception to the local Plumbing Inspector to permit the work.

§ 167-6. Prohibitions.

No discharge into any part of the system shall be permitted of any pollutant which:

- A. Is a toxic pollutant as defined in standards issued from time to time under Section 307 (a) of the Act;
- B. Creates a fire or explosion hazard in the system;
- C. Causes corrosive structural damage to the system, including all wastes with a pH lower than 5.0;
- D. Contains solid or viscous substances in amounts which would cause obstruction to the flow in sewers or other interference with proper operation of the system; or
- E. In the case of a major contributing industry as defined in the Act, contains an incompatible pollutant, as further defined in the Act, in an amount or concentration in excess of that allowed under the standards or guidelines issued from time to time pursuant to Sections 304, 306 and/or 307 of the Act.

§ 167-7. Notification.

Forty-five days prior notification shall be given the Board of Selectmen by any person or persons of a:

- A. Proposed substantial change in volume or character of pollutants over that being discharged into the system at the time of issuance by the United States Environmental Protection Agency of Authorization to Discharge under the National Pollutant Discharge Elimination System;
- B. Proposed new discharge into the system from any source which would be a new source as defined in Section 306 of the Act if such source were discharging pollutants; or
- C. Proposed new discharges into the system of pollutants from any source which would be subject to Section 301 of the Act if it were discharging such pollutants.

§ 167-8. Monitoring.

Any industry discharging into the system shall perform such monitoring of its discharge as the Board of Selectmen may reasonably require, including the installation, use, and maintenance of monitoring equipment methods to keep records of the results of such monitoring and to report the results of such monitoring to the Board of Selectmen. Such records will be made available by the Board of Selectmen to the Regional Administrators on request.

§ 167-9. Access.

Any industry discharging into the system shall authorize the Board of Selectmen's authorized representative to enter into, upon, or through its premises; to have access to and copy any records; to inspect any monitoring equipment or method required under § 167-8 above, and to sample any discharge into the system.

§ 167-10. Notification.¹

The Board of Selectmen shall notify the Regional Administrator of any discharge specified in § 167-7 above within 30 days of the date on which the Board of Selectmen is aware of such discharge.

§ 167-11. User charges.

- A. At least 30 days prior to the end of the fiscal year, the Town Manager shall consult with the Committee and shall submit an operating budget for the ensuing year to the Board of Selectmen. The budget shall include, but not be limited to, ordinary expenses and expenses for the replacement of equipment necessary to maintain operations of the works. Major capital improvements, including reconstruction and sewer extensions, shall be apportioned as required by the Town Meeting vote authorizing such expenditures.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. All property owners who have any kind of facility connected to the system shall be liable for an annual user or usage charge.
- C. Property owners are required to install a metering device of a type approved by the Town Manager that will measure the amount of flow from their own private water source.
- D. The budget will be prorated to individual users on the basis of a minimum connection fee and water usage. Usage will be measured by water meters. The usage rate shall be based upon the metered amount of flow from the owner's private water source. (NOTE: See Attachment A for calculations.²)
- E. All properties, with buildings that are connected to the system, whether occupied or unoccupied, shall pay at least the minimum rate.
- F. All charges pursuant to this section shall be billed annually or as the Committee determines.
- G. User and/or usage charges are due within 60 days of bills being issued.
- H. Delinquent accounts shall be handled as provided by Maine State Revised Statutes Annotated and as outlined below:
 - (1) Interest. As authorized by 30-A M.R.S.A. § 3406, the Committee may charge interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of the state for municipal taxes.
 - (2) Liens. There shall be a lien on real estate served or benefitted by the system to secure the payment of usage rates and charges and interest on delinquent accounts established under this chapter. This lien takes precedence over all other claims on the real estate, excepting only claims for taxes.
 - (3) Collection. The Town Treasurer is responsible to collect the fees and interest on delinquent accounts in the same manner as granted by 38 M.R.S.A. §§ 1202 and 1208.
- I. The Committee may review any meter flow reading on its own initiative, or upon request from the user, or upon request from any other user of the system. After notice and after hearing, if requested by the affected user, the Committee may change the usage charge if warranted.

§ 167-12. Building sewers and connections.

- A. No person shall uncover, make any connections with, or opening into, use, alter, or disturb any public sewer or appurtenance thereto without first obtaining a written permit from the licensed plumbing inspector and paying a fee, payable to the Treasurer of the Town of Islesboro. Violation of this section shall make the offender liable to a fine not to exceed \$100 per day.

2. Editor's Note: Attachment A is included at the end of this chapter.

- B. All costs and expenses incidental to the installation, repair, maintenance, or reconstruction of a building sewer or of a service connection shall be borne by the owners. The owner shall indemnify the Town for any loss or damage that may directly or indirectly be caused by installation of the building sewer and/or service connector.
- C. A separate and independent building sewer shall be provided for every building, and where practicable a separate service connector shall be used for each building. Groupings of more than one building on one building sewer or on one service connector shall not be permitted except under special circumstances and for good sanitary reasons or other good cause shown, but only after permission of the Committee in writing shall be secured and subject to such rules, regulations, and conditions as may be prescribed by the Committee.
- D. All materials, connections, repairs, replacements, and installations used or performed on the system shall conform to the State of Maine Plumbing Code (which is herein incorporated by reference) current and in force at the time of the work. All work shall be done by a duly licensed plumber.
- E. No roof drain, cellar drain or discharge from any roof gutter shall be permitted to enter the system.
- F. Users are required to install appropriate backflow control device(s) in their individual systems. Should damage or problems arise due to the fact that the user has not installed such a device, then the Pollution Control Committee is not responsible for any or all damages that may occur to the user's property.

§ 167-13. Appeals.

Appeals from any decision of the Committee or relating to § 137-12 may be made to the Appeals Board or to Superior Court under Rule 80-B, Maine Code of Civil Procedure.

§ 167-14. Definitions.

The following definitions shall apply to this chapter:

BUILDING DRAIN — That outlet for sewage which connects the plumbing facilities inside the building with the service connection and is privately owned and maintained.

OWNER — Owner of record or tenant in possession as of April 1 of any year.

PLUMBING CODE — The current State of Maine State Plumbing Code.

SERVICE CONNECTION — That pipe or fitting that connects the building drain to the sewer line.

SEWAGE SYSTEM ("SYSTEM") — Any portion of the Town of Islesboro sanitary sewer system by whatever formal name it shall be called.

SEWER — The pipe or conduit carrying sewage to the treatment plant.

USER — The owner of any building which in any way is connected to the system.

§ 167-15. Amendment.

This chapter may be amended from time to time in the manner set forth by law for the passing of ordinances.

POLLUTION CONTROL

167 Attachment 1

Town of Islesboro

Attachment A Determination of Rate

- 1) Total amount of water usage is determined in cubic feet by actual meter readings. (Beginning meter reading is subtracted from final meter reading per user.) All users' amounts are then added together to get a total amount of usage for the entire system.
- 2) Total budget is approved by the Board of Selectmen.
- 3) Each user is charged a minimum system connection fee. This amount is set at \$350 as of the adoption of this ordinance change.¹
- 4) The total amount charged in Step #3 (i.e., \$350 for 30 users = \$10,500) is subtracted from the total budget amount which was approved in Step #2.
- 5) The new budget amount calculated in Step #4 is then divided by the total amount of water usage as determined in Step #1. This gives a per cubic-foot cost rate.
- 6) For each user, the per-cubic-foot cost rate is then multiplied by their individual total usage amount.
- 7) Each user's total yearly assessment will be the minimum system connection fee of \$350 plus the usage fee amount (Step #6).
- 8) Minimum system connection fee shall be recalculated at the least every three years.

¹ Editor's Note: See history at the beginning of Chapter 167 for adoption date.

Chapter 171

PROPERTY ASSESSED CLEAN ENERGY PROGRAM

ARTICLE I Purpose and Enabling Legislation

§ 171-1. Purpose.

§ 171-2. Enabling legislation.

ARTICLE II Title and Definitions

§ 171-3. Title.

§ 171-4. Definitions.

ARTICLE III PACE Program

§ 171-5. Establishment; funding.

§ 171-6. Amendment to PACE program.

ARTICLE IV Conformity with Trust Requirements

§ 171-7. Duty of municipality to conform to standards.

ARTICLE V Program Administration; Municipal Liability

§ 171-8. Program administration.

§ 171-9. Liability of municipal officials; liability of municipality.

[HISTORY: Adopted by the Town of Islesboro 5-7-2011. Amendments noted where applicable.]

ARTICLE I Purpose and Enabling Legislation

§ 171-1. Purpose.

By and through this chapter, the Town declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a property assessed clean energy ("PACE") program so that owners of qualifying property can access financing for energy-saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this chapter to be in conformity with federal and state laws.

§ 171-2. Enabling legislation.

The Town enacts this chapter pursuant to 35-A M.R.S.A. § 10151 et seq.

ARTICLE II
Title and Definitions

§ 171-3. Title.

This chapter shall be known and may be cited as the "Town of Islesboro Property Assessed Clean Energy (PACE) Ordinance" (this "chapter").

§ 171-4. Definitions.

Except as specifically defined below, words and phrases used in this chapter shall have their customary meanings; as used in this chapter, the following words and phrases shall have the meanings indicated:

ENERGY-SAVING IMPROVEMENT — An improvement to qualifying property that is new and permanently affixed to qualifying property and that:

- A. Will result in increased energy efficiency and substantially reduced energy use and:
- (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the trust; or
 - (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the trust; or
- B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

MUNICIPALITY — The Town of Islesboro.

PACE AGREEMENT — An agreement between the owner of qualifying property and the trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

PACE ASSESSMENT — An assessment made against qualifying property to repay a PACE loan.

PACE DISTRICT — The area within which the municipality establishes a PACE program hereunder, which is all that area within the municipality's boundaries.

PACE LOAN — A loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy-saving improvements.

PACE MORTGAGE — A mortgage securing a loan made pursuant to a PACE program to fund energy-saving improvements on qualifying property.

PACE PROGRAM — A program established under state statute by the trust and a municipality under which property owners can finance energy-saving improvements on qualifying property.

QUALIFYING PROPERTY — Real property located in the PACE district of the municipality.

RENEWABLE ENERGY INSTALLATION — A fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including but not limited to photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal qualified energy conservation bonds or federal clean renewable energy bonds.

TRUST — The Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE III **PACE Program**

§ 171-5. Establishment; funding.

The municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE District who so choose to access financing for energy-saving improvements to their property through PACE loans administered by the trust or its agent. PACE loan funds are available from the trust in municipalities that:

- A. Adopt a PACE ordinance;
- B. Adopt and implement a local public outreach and education plan;
- C. Enter into a PACE administration contract with the trust to establish the terms and conditions of the trust's administration of the municipality's PACE program; and
- D. Agree to assist and cooperate with the trust in its administration of the municipality's PACE program.

§ 171-6. Amendment to PACE program.

In addition, the municipality may from time to time amend this chapter to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE IV **Conformity with Trust Requirements**

§ 171-7. Duty of municipality to conform to standards.

If the trust or other state or federal agency adopts standards, promulgates rules, or establishes model documents subsequent to the municipality's adoption of this chapter and those standards, rules or model documents substantially conflict with this chapter, the municipality

shall take necessary steps to conform this chapter and its PACE program to those standards, rules, or model documents.

ARTICLE V

Program Administration; Municipal Liability

§ 171-8. Program administration.

- A. PACE administration. Pursuant to 35-A M.R.S.A. § 10154(2)(A)(2) and (B), the municipality may enter into a PACE administration contract with the trust to administer the functions of the PACE program for the municipality. The PACE administration contract with the trust will establish the administration of the PACE program including, without limitation, that:
- (1) The trust will enter into PACE agreements with owners of qualifying property in the municipality's PACE District;
 - (2) The trust, or its agent, will create and record a notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
 - (3) The trust, or its agent, will disburse the PACE loan to the property owner;
 - (4) The trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
 - (5) The trust, or its agent, will be responsible for collection of the PACE assessments;
 - (6) The trust, or its agent, will record any lien, if needed, due to nonpayment of the PACE assessment;
 - (7) The trust or its agent on behalf of the municipality promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.
- B. Assistance and cooperation. The municipality will assist and cooperate with the trust in its administration of the municipality's PACE program.
- C. Assessments not a tax. PACE assessments do not constitute a tax but may be assessed and collected by the trust in any manner determined by the trust and consistent with applicable law.

§ 171-9. Liability of municipal officials; liability of municipality.

- A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, Tax Assessors and Tax Collectors, are not personally liable to the trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.
- B. Other than the fulfillment of its obligations specified in a PACE administration contract with the trust entered into under Article V, § 171-8A above, a municipality has no

liability to a property owner for or related to energy-savings improvements financed under a PACE program.

Chapter 186

ROAD NAMES AND ADDRESS NUMBERS

§ 186-1. Purpose.

§ 186-2. Authority.

§ 186-3. Administration.

§ 186-4. Naming system.

§ 186-5. Numbering system.

§ 186-6. Compliance.

§ 186-7. New construction and subdivisions.

§ 186-8. Amendments.

Procedure for Road Name Changes

[HISTORY: Adopted by the Town of Islesboro effective 1-21-1997. Amendments noted where applicable.]

§ 186-1. Purpose.

The purpose of this chapter is to establish and maintain addressing which supports Enhanced 911 service and the requirements of the United States Postal Service.

§ 186-2. Authority.

This chapter is adopted pursuant to and consistent with 30-A M.R.S.A. § 3001.

§ 186-3. Administration.

- A. This chapter shall be administered by the Islesboro Addressing Authority (IAA) which is authorized to and shall assign road names and numbers to all properties on existing, proposed and future roads. The Islesboro Addressing Authority shall consist of a Coordinator and volunteers who are appointed annually by the Board of Selectmen.
- B. The IAA Coordinator shall be responsible for maintaining records necessary to accomplish the purpose of this chapter.

§ 186-4. Naming system. ¹

Every official road name should have a standard suffix that complies with United States Postal Service regulations and the Maine Enhanced 911 database standards that link telephone numbers with addresses.

1. Editor's Note: The Procedure for Road Name Changes is included at the end of this chapter.

§ 186-5. Numbering system.

Numbers shall be assigned along both sides of the road with even numbers appearing on the left side of all roads and odd numbers appearing on the right side of all roads, determined by direction from the number origin.

§ 186-6. Compliance.

All owners of structures are requested to display and maintain the assigned number in a conspicuous place in the following manner:

- A. Number may be displayed on a residence or structure if the number is clearly legible from the road.
- B. Where the residence or structure is a distance from the road whereby the number, if displayed on the structure, is not legible, the number shall be displayed on a post, fence, wall, mailbox, or on some structure on the property next to the walk or access drive to the residence or structure.
- C. The size of the number should be four inches high and the color should be contrasted to the background on which it is attached.
- D. No other number is to be displayed which might be mistaken for or confused with the number assigned for conformance with this chapter.

§ 186-7. New construction and subdivisions.

In all new construction and subdivisions, properties shall be named and numbered in accordance with the provisions of this chapter and the current operating practices of the IAA.

§ 186-8. Amendments.

- A. This chapter may be amended from time to time in the manner set forth by law for passing of ordinances.
- B. If an amendment to this chapter affects appeals to provisions of Chapter 125, Land Use, the Board of Appeals shall notify the Commissioner of the State of Maine Department of Environmental Protection.

ROAD NAMES AND ADDRESS NUMBERS

186 Attachment 1

Town of Islesboro

Procedure for Road Name Changes

PREAMBLE:

This procedure is established to provide a means for changing the names of roads in the Town of Islesboro. Road names changes may be instituted only under the following conditions:

- 1. Road name changes are permitted only on condition that the change does not affect the numbering existing on the road.
2. At least 75% of the households on the road proposed to have its name changed must agree in writing to the proposed change.

PROCEDURE:

- 1. The person requesting the name change shall submit a written request to the Islesboro Addressing Authority (IAA) for the change, indicating which resident on the road is volunteering to administer the name change project. The volunteer must be a resident on the affected road.
2. IAA will research the request to determine that it complies with the preamble conditions and the rules governing similar sounding road names within 21 calendar days of receiving the request. IAA will send the requester by certified mail, return receipt, a letter stating that the request may proceed or reasons why it may not proceed.
3. The requester or volunteer shall obtain written approval of at least 75% of the households affected by the proposed change on forms furnished by IAA. Approvals by residents of the road affected may be obtained by mail or in person. The forms must be submitted to IAA no later than 30 days after receipt of the forms by the requester or volunteer from IAA. Households and residents may be seasonal or year-round.
4. IAA will tally the forms and determine whether 75% of the house households approve the change.
5. If IAA determines that fewer than 75% of the households approved of the change, IAA will notify the requester. No further change of name may be proposed until after 60 days of that notification.
6. If IAA determines that 75% or more of the households approve the proposed change, IAA will notify the State E-911 authorities and the U.S. Postal Service. The name change will become effective upon notification from the State E-911 authorities and the U.S. Postal Service that their records have been changed to reflect the new name. No further change may take place for five years after the effective date of the last received notification by IAA from those two organizations. IAA will notify each household on the affected road of the changed name and the effective date of the change.

FORM FOR PROPOSED NAME CHANGE

A householder on your road has proposed to the Islesboro Addressing Authority that the name of your road be changed from:

_____ to _____

At least 75% of the households on your road must approve the proposed change for it to become effective. Please state your wishes regarding the proposed change by completing this form.

I, head of household at (number) _____ (road) _____

[] Approve of the proposed change [] Do not approve of the proposed change

Print Name: _____ Signature: _____

Return this form to: Islesboro Addressing Authority, P.O. Box 76, Islesboro, Maine 04848

To be received no later than _____

Chapter 200

SEPTAGE DISPOSAL CONTROL

- | | |
|---|---|
| § 200-1. Title. | § 200-7. Fees. |
| § 200-2. General statement of purpose and authority. | § 200-8. Enforcement; violations and penalties. |
| § 200-3. Rules governing septage disposal management. | § 200-9. Definitions. |
| § 200-4. Acceptable wastes. | § 200-10. Conflict with other laws. |
| § 200-5. Selectmen's rights. | § 200-11. Amendments. |
| § 200-6. Waste deposition procedure. | Fees and Deposition Procedure |

[HISTORY: Adopted by the Town of Islesboro 7-29-2002. Amendments noted where applicable.]

GENERAL REFERENCES

Sewage disposal — See Ch. 45, § 45-102.

Septic waste disposal — See Ch. 125, § 125-52.

Sewage disposal at campsites — See Ch. 125, § 125-47.

§ 200-1. Title.

This chapter shall be known and may be cited as the "Septage Disposal Control Ordinance for the Town Of Islesboro."

§ 200-2. General statement of purpose and authority.

A. Declaration of purpose.

- (1) This chapter is designed to control septage disposal in the Town of Islesboro by providing for the establishment and enforcement of rules and regulations, establishing limitations, prohibiting certain acts causing septage disposal problems and providing for fines for violations of the provision of this chapter.
- (2) The implementation of this chapter supports the following desired outcomes: to preserve and protect environmental resources and to protect the health, safety and welfare of the citizens of Islesboro.

B. Statement of authority. This chapter is adopted pursuant to 30-A M.R.S.A § 3001 et seq.

§ 200-3. Rules governing septage disposal management.

- ##### A. The Board of Selectmen is hereby authorized to establish detailed operating rules and regulations for all septage disposal and holding facilities. The rules and regulations shall be reviewed and revised as required to satisfy the needs of the municipality and with

changes in state and federal regulations. These rules and regulations will become effective upon enactment at a Special Town Meeting, July 2002. These rules and regulations shall be prominently displayed at the septage disposal field and Transfer Station and be on file at the Town Office.

- B. The use of the disposal facilities by any person shall be in compliance with these rules and regulations. Any person who violates any of these rules and regulations set forth by the Board of Selectmen shall be denied access to the facilities until the person complies with the rules and regulations and/or until the Board of Selectmen has had the opportunity to hear the complaint.

§ 200-4. Acceptable wastes.

The only acceptable waste to be deposited at the municipal facilities is septage as defined in § 200-9 of this chapter. There shall be no disposal of sludge (as defined in § 200-9 of this chapter) at any of the disposal facilities.

§ 200-5. Selectmen's rights.

The Board of Selectmen has the right to set standards on the acceptance of septage and to refuse to accept sludge which comes from any commercial, industrial, or any unidentified sources.

§ 200-6. Waste deposition procedure.

Included in the Attachment: Deposition Procedures¹ are the deposition procedures at the time of ordinance adoption. They have been written to protect the environment and the users and to meet current (at the time of adoption) state and federal regulations.

§ 200-7. Fees.

The Board of Selectmen shall establish appropriate fees.² Fees are effective with adoption of this chapter.

§ 200-8. Enforcement; violations and penalties.

- A. The Public Works Foreman and Codes Enforcement Officer shall enforce this chapter and shall inform the Town Manager of any violations of this chapter. The Town Manager shall take any action necessary to enforce the chapter and, upon authorization of the Board of Selectmen, may institute legal or equitable proceedings to enforce this chapter.
- B. At the discretion of the Board of Selectmen, any person violating any provision of this chapter shall commit a civil violation, punishable by a fine of not less than \$50 and not

1. Editor's Note: The attachment is included at the end of this chapter.

2. Editor's Note: See the attachment at the end of this chapter.

more than \$500. Each day a violation continues shall constitute a separate violation. Any fines collected shall accrue to the Town of Islesboro.

§ 200-9. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FACILITY — The Town of Islesboro septage disposal field and holding tanks; currently under DEP-approved license.

NONHAZARDOUS WASTE — Any solid waste, special waste or septage that is not regulated as a hazardous waste under Chapters 850 to 857 of the DEP rules.

SEPTAGE — Waste, refuse, effluent, sludge and any other materials from septic tanks, cesspools or any other similar facilities. It can further be defined as a mixture of liquids and solids derived from residential sanitary wastewater, and includes sanitary wastewater from tanks connected to commercial and institutional establishments which have inputs similar to residential wastewater. Septage also includes wastes derived from portable toilets and wastes derived from municipal primary treatment facilities that use a sand filtering system.

SLUDGE — 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 Water Pollution Control Act, 33 U.S.C. § 1342 (1999), as amended. It does not include wastes derived from municipal primary treatment facilities that use a sand filtering system.

§ 200-10. Conflict with other laws.

The provisions of this chapter shall supersede all other local laws, ordinances, resolutions, rules, or regulations contrary thereto or in conflict therewith.

§ 200-11. Amendments.

This chapter and its attachments may be amended by the Board of Selectmen after notice and public hearing.

SEPTAGE DISPOSAL CONTROL

200 Attachment 1

Town of Islesboro

Fees and Deposition Procedure

Attachment: Fees

The fee will be calculated at the rate of \$180 per 1,000 gallons of sludge or \$0.18 a gallon.

Attachment: Deposition Procedure

- A. The disposal field and storage tanks will be locked down, with keys held at the Transfer Station and Town Office.
- B. Individuals wanting to place septage into the holding tanks must:
 - 1) Contact the Town Office 24 hours prior to dumping to make arrangements for Town staff to meet them at the tanks and to pay the appropriate fee.
 - 2) At the tank site, the dumper must report from where the septage came and how many gallons will be dumped in the tanks to the Town staff who will log in the information.
 - 3) Town staff will use litmus paper to record the pH of the septage if the pH testing has not already been done. This reading will also be logged in.
 - 4) Tanks will be locked down when not in use.
 - 5) When 3,000 gallons have been deposited into the tanks, Town Office staff will call an appropriate licensed septic hauler and arrange the pumping out of the tanks.

No septage will be allowed to be dumped onto the field unless the proper pathogen reduction has taken place.

- C. Individuals wanting to place septage directly onto the field must:
 - 1) Contact the Town Office 24 hours prior to spreading to make arrangements for Town staff to meet them at the field.
 - 2) At the field, the dumper must report from where the septage came and how many gallons will be spread on the field to the Town employee who will log in the information. Pathogen reduction information will also be logged in.
 - 3) Field access gates will be locked when not in use.

Chapter 209

SHELLFISH CONSERVATION

- | | |
|---|--|
| § 209-1. Authority. | § 209-8. Opening and closing of flats. |
| § 209-2. Purpose. | § 209-9. Minimum legal size of soft shell clams; tolerance; penalty. |
| § 209-3. Shellfish Conservation Committee. | § 209-10. Exclusion. |
| § 209-4. Licensing. | § 209-11. Enforcement; violations and penalties. |
| § 209-5. Fees. | § 209-12. Definitions. |
| § 209-6. Issuance of licenses. | § 209-13. When effective. |
| § 209-7. Expiration, revocation and suspension of licenses. | § 209-14. Repealer. |

[HISTORY: Adopted by the Town of Islesboro 6-21-1998; amended 6-5-1999; 4-29-2000; 4-26-2003. Subsequent amendments noted where applicable.]

§ 209-1. Authority.

This chapter is enacted in accordance with 12 M.R.S.A. § 6671.

§ 209-2. Purpose.

The purpose of this chapter is to establish a shellfish conservation program for the Town of Islesboro which will ensure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:

- A. Licensing.
- B. Limiting the number of shellfish harvesters.
- C. Restricting the time and area where digging is permitted.
- D. Limiting the minimum size of clams taken.
- E. Limiting the amount of clams taken daily by a harvester.

§ 209-3. Shellfish Conservation Committee.

The shellfish conservation program for the Town of Islesboro will be administered by the Shellfish Conservation Committee consisting of five full and three associate members to be appointed annually by the Town of Islesboro Board of Selectmen for a term of one year. The Committee's responsibilities include:

- A. Establishing annually in conjunction with the Department of Marine Resources the number of shellfish digging licenses to be issued.

- B. Reviewing annually the status of the resource using the results of clam flat, harvester or dealer surveys and other sources of information and preparing in conjunction with and subject to the approval of the Department a plan for implementing conservation measures.
- C. Submitting to the Board of Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation.
- D. Keeping this chapter under review and making recommendations for its amendments.
- E. Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources.
- F. Recommending conservation closures and openings to the Board of Selectmen in conjunction with the area biologists of the Department of Marine Resources.
- G. Submitting an annual report to the municipality and the Department of Marine Resources covering the above topics and all other Committee activities.

§ 209-4. Licensing.

A municipal shellfish digging license is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current license issued by this municipality as provided by this chapter.

- A. Designation, scope and qualifications.
 - (1) Commercial shellfish license.
 - (a) Resident commercial shellfish license. This license is available to residents of the Town of Islesboro and entitles the holder to dig and take a daily amount of shellfish as determined on a yearly basis by the Islesboro Shellfish Conservation Committee.
 - (b) Nonresident commercial shellfish license. This license is available to nonresidents of this municipality and entitles the holder to dig and take a daily amount of shellfish as determined on a yearly basis by the Islesboro Shellfish Conservation Committee.
 - (c) Any commercial digger, whether resident or nonresident, must also have a valid State of Maine commercial shellfish license issued by the Department of Marine Resources.
 - (d) Each commercial license holder will be responsible for five hours per year of required shellfish conservation work. The conservation work will be approved and determined by the Islesboro Shellfish Conservation Committee.
 - (2) Recreational shellfish license.

- (a) Resident recreational shellfish license. This license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of soft shell clams and two bushels of hen clams in any one day for the use of the resident or real estate taxpayer and his/her family.
 - (b) Nonresident recreational shellfish license. This license is available to any person not a resident of this municipality and entitles the holder to dig and take not more than one peck of soft shell clams and two bushels of hen clams in any one day for the use of the license holder and his/her family.
- B. License must be signed. The licensee must sign the license to make it valid. The license must be in the possession of the licensee at all times.
 - C. Validity. The license will be valid from May 1 to April 30 of the following year.
 - D. Application procedure. Any person may apply to the Town Clerk or Assistant Town Clerk for the licenses required by this chapter on forms provided by the municipality.
 - E. Contents of application. Current application is Attachment 1 of this chapter.¹ Application may be changed/upgraded upon the recommendation of the Shellfish Conservation Committee and with the approval of the Board of Selectmen and without changing any other part of this chapter.
 - F. Misrepresentation. Any person who gives false information on a license application will cause said license to become invalid and void.

§ 209-5. Fees.

The fees for the licenses are as stated below and must accompany in full the application for the respective license. Fees received for shellfish licensing shall be used by the Town for shellfish management, conservation, and enforcement.

- A. Resident commercial: \$100.
- B. Nonresident commercial: \$200.
- C. Resident recreational: \$2; no charge under the age of 12 or over the age of 65.
- D. Nonresident recreational: \$4; no charge under the age of 12 or over the age of 65.

§ 209-6. Issuance of licenses.

- A. Prior to March 15 the Committee shall report its findings and document recommendations for the allocation of commercial and recreational licenses to be made available for the following license year to the Commissioner of Marine Resources for approval.

1. **Editor's Note: Attachment 1 is available at the Town Clerk's office.**

- B. After receiving approval of proposed license allocations from the Commissioner of Marine Resources and prior to April 15, the Shellfish Conservation Committee shall notify the Town Clerk or Assistant Town Clerk in writing of the number and allocation of shellfish licenses to be issued. The number of license allocations is determined yearly and submitted to the Department of Marine Resources.
- C. Notice of the number of licenses to be issued, the procedure for application, and any special issuing rules shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the Shellfish Conservation Committee considers effective in reaching persons affected, not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.
- D. The Town Clerk or Assistant Town Clerk shall issue shellfish licenses to residents and nonresidents on May 1 on the basis as determined by the Shellfish Conservation Committee and as approved by the Commissioner of the Department of Marine Resources.
- E. Licenses are required by each individual over the age of six.
- F. Open license sales. When the Shellfish Conservation Committee determines limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year:
 - (1) Notice of the dates, places, times and the procedures for the license sales shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to the Commissioner of Marine Resources.
 - (2) For each commercial license category, the Town Clerk or the Assistant Town Clerk shall issue one license to nonresidents when six licenses are issued to residents and one more to nonresidents when four more are issued to residents; thereafter, one nonresident license will be issued for every 10 additional resident licenses issued. For each recreational license category, the Town Clerk or the Assistant Town Clerk shall issue one license to a resident and one to a nonresident; thereafter, one nonresident license will be issued for every 10 additional resident licenses issued.

§ 209-7. Expiration, revocation and suspension of licenses.

- A. Commercial licenses may be returned to the Town voluntarily and reissued to another person at the current fee according to the priorities established in this chapter.
- B. License expiration date. Each license issued under authority of this chapter expires at 12:00 midnight on the 30th day of April next following the date of issue.
- C. Renewal of commercial licenses. Commercial licenses will be automatically renewed unless the conservation service requirement [See § 209-4A(1)(d).] has not been

completed or other violations have occurred. Though automatically renewed, each applicant must fill out an application form and submit proof of a state license.

- D. Inspection and search. Any person who receives a commercial license from the Town of Islesboro has a duty to stand by and to submit to inspection and search for violations relating to the activities authorized by this chapter by the Town of Islesboro Shellfish Warden.
- E. Suspension. Any commercial shellfish licensee having one conviction for a violation of this chapter shall have his shellfish license automatically suspended for a period of 30 days.
- F. Restoration of suspended license. A licensee whose shellfish license has been suspended pursuant to this chapter shall have his shellfish license restored only after the suspension period has expired.
- G. Suspension effective date. The suspension shall be effective from the date of mailing of a notice of suspension by the Town Clerk or Assistant Town Clerk to the licensee.

§ 209-8. Opening and closing of flats.

Clam resources vary in density and size distribution from year to year and over the limited soft clam producing area of the Town. It is essential that the Town carefully husband its shellfish resources. Following the annual review of the Town's clam resources, its size distribution, abundance and the Warden's reports, as required by § 209-3, the Shellfish Conservation Committee in consultation with the Department of Marine Resources area biologist will determine whether limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year.

- A. The Board of Selectmen, upon the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest upon recommendations of the Shellfish Conservation Committee and concurrence of the Department of Marine Resources area biologist that the status of shellfish resources and other factors bearing on sound management indicate that an area should be opened or closed.
- B. If the status of shellfish resources and other factors bearing on sound management indicate that an area should be opened or closed then the Board of Selectmen working with the approval of the Shellfish Conservation Committee and the Department of Marine Resources area biologist may call a public hearing to discuss the opening or closing. A notice of such a meeting shall be sent to the Department of Marine Resources.

§ 209-9. Minimum legal size of soft shell clams; tolerance; penalty.

It is unlawful for any person to possess soft shell clams within the Town or Township of Islesboro, County of Waldo, which are less than two inches in the longest diameter, except as provided by Subsection A of this section.

- A. Tolerance. Any person may possess soft shell clams that are less than two inches if they comprise less than 10% of any lot as defined by this chapter. The tolerance shall be

determined by numerical count of not less than one peck nor more than four pecks taken at random from various parts of the lot or by a count of the entire lot if it contains less than one peck. (Note: See § 209-12 for definitions of "lot" and "possess.")

- B. Penalty. Whoever violates any provision of this section shall be punished as provided by 12 M.R.S.A. § 6681.

§ 209-10. Exclusion.

Warren Island State Park is excluded from the restrictions of this chapter.

§ 209-11. Enforcement; violations and penalties.

The Town's Shellfish Warden shall be responsible for enforcement of this chapter, and a person who violates this chapter shall be punished as provided by 12 M.R.S.A. § 6671, Subsection 10.

§ 209-12. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

LOT — The total number of soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel, or other container, the contents of each box, barrel, or other container constitutes a separate lot.

MUNICIPALITY — Refers to the Town of Islesboro, Maine.

NONRESIDENT — Anyone not qualified as a resident under this chapter.

POSSESS — Dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft shell clam shell stock.

RESIDENT — Refers to a person who has been domiciled in this municipality for at least three months next prior to the time his claim of such residence is made.

SHELLFISH, CLAMS AND INTERTIDAL SHELLFISH RESOURCES — Soft shell clams (*Mya arenaria*) and hen clams (*Spisula solidissima*).

§ 209-13. When effective.

This chapter, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the municipality, provided that a certified copy of the ordinance is filed with the Commissioner within 20 days of its adoption. This chapter shall remain in effect until repealed or rescinded.

§ 209-14. Repealer.

Any ordinance regulating the harvesting or conservation of shellfish in the Town and any provisions of any other Town ordinance which are inconsistent with this chapter are hereby repealed.

Chapter 221

SOLID WASTE MANAGEMENT AND RECYCLING

§ 221-1. Title.	§ 221-9. Enforcement; violations and penalties.
§ 221-2. Purpose and authority.	§ 221-10. Definitions.
§ 221-3. Rules governing solid waste management.	§ 221-11. Conflict with other laws.
§ 221-4. Solid waste facility.	§ 221-12. Amendments.
§ 221-5. Prohibited wastes.	Transfer Station Operations Manual
§ 221-6. Mandatory recycling.	Appendix A
§ 221-7. Waste deposition.	Appendix B
§ 221-8. Fees.	

[HISTORY: Adopted by the Town of Islesboro 6-26-2010; amended 2-26-2011. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Pollution control — See Ch. 167.

Septage disposal control — See Ch. 200.

§ 221-1. Title.

This chapter is titled and may be cited as the "Town of Islesboro Solid Waste Control and Mandatory Recycling Ordinance."

§ 221-2. Purpose and authority.

- A. This chapter controls disposal of solid waste material in the Town of Islesboro, by providing for the institution and enforcement of rules and regulations, establishing materials limitations, prohibiting certain acts that would cause solid waste disposal problems and providing penalties for violations of the provisions of this chapter.
- B. The implementation of this chapter supports the following desired outcomes: to preserve and protect environmental resources, to protect the health, safety and welfare of the citizens of Islesboro, and to maximize recovery and reuse of valuable resources.
- C. This chapter is adopted pursuant to 30-A M.R.S.A. § 3001 et seq.; 30-A M.R.S.A. § 3003 et seq.; and 38 M.R.S.A. § 1301 et seq.

§ 221-3. Rules governing solid waste management.

- A. Town Manager ("Manager") is hereby authorized to administer this chapter and enforce it as indicated in Subsection B. This chapter shall be reviewed annually by the Board of

Selectmen ("Board") and Manager and revised as required to satisfy the needs of the municipality, changes in state and federal regulations and the economics of municipal solid waste disposal. This chapter shall be prominently displayed at the Transfer Station site, and an attested copy shall be on file at the Town of Islesboro Town Office.

- B. The use of the facility by any person shall be in compliance with this chapter. Any person who violates this chapter is subject to the fines in § 221-9B of this chapter and may be denied access to the facility by the Codes Enforcement Officer until the person complies with provisions of this chapter or until the Manager has had the opportunity to hear the complaint and rule on it. A person who is denied access to the facility may appeal the denial to the Islesboro Board of Appeals and Board of Assessment Review.
- C. The document titled "Islesboro Transfer Station Operations Manual," dated November 2010 is hereby incorporated by reference into this chapter. Copies of the Operations Manual shall be available for public viewing at the Transfer Station and shall be available at the Islesboro Town Office.

§ 221-4. Solid waste facility.

A. Location and function.

- (1) The Islesboro Transfer Station is located at 1299 Meadow Pond Road, Islesboro, ME 04848.
- (2) The facility handles residential waste from year-round and seasonal residents. The Town of Islesboro ("Town") provides a means to reduce its waste stream through a program of mandatory zero-sort recycling.

B. Owner and responsibility.

- (1) The facility is owned by and licensed to the Town of Islesboro.
- (2) Final authority and control of the facility rests with the Board. Administrative duties and day-to-day supervision of the facility are the responsibility of the Manager.
- (3) The Board is responsible for all contracts concerning the facility, including construction, maintenance, technical services, waste hauling and waste disposal. The Town shall retain a qualified facility attendant. The Board signs all contracts relevant to the facility and delegates to the Manager the responsibility for all record keeping.

C. Attendant.

- (1) The attendant is responsible for the day-to-day operation of the facility in accordance with the provisions of this Manual. Those responsibilities include but are not limited to:

- (a) Coordinating traffic movement in and out of the facility;
 - (b) Overseeing the unloading of waste and ensuring that the solid waste and recyclables are placed in their proper receptacles;
 - (c) Ensuring that mandatory recyclables are not contained in pay-as-you-throw (PAYT) bags.
- (2) The attendant shall perform the following duties as well as those other duties described in the attendant's job description and as instructed by the Manager:
- (a) Ensure the safety of the public both from traffic and mechanical operations;
 - (b) Maintain the facilities and surrounding areas in a clean and sanitary manner;
 - (c) Store materials and accept loads in a manner that will prevent fires;
 - (d) Report any fires to the Fire Department;
 - (e) Coordinate truck-load waste disposal;
 - (f) Operate recycling and solid waste disposal machinery; and
 - (g) Maintain all vehicles and equipment.

D. Operations.

- (1) Access to the facility shall be controlled to ensure that the public is not exposed to potential health and safety hazards at the site. The entrance shall be gated and shall be open only when the attendant is on duty or other authorized persons are present. The gates shall be closed and locked at all other times.
- (2) The Board, through the Manager, shall ensure that access to the facility and exit from the facility to and from the Meadow Pond Road is maintained for safe entry and exit under all weather conditions. Interior roads in the facility will be constructed and maintained to provide a safe smooth flow of traffic.
- (3) The attendant shall ensure that ensure that a copy of this chapter and its Operations Manual are prominently displayed in the facility, together with the hours of operation for the facility.

§ 221-5. Prohibited wastes.

- A. The following types of wastes and refuse shall not be accepted as part of the household refuse stream. They may be accepted at different separation areas of the facility or on another site as indicated by the Operations Manual and DEP guidelines.
- (1) Hazardous and special wastes as defined in § 221-10.
 - (2) Sewage treatment plant and septic tank sludge or residues.
 - (3) Animal and agricultural wastes such as manure and crop residues.

- (4) Tanks, vehicle fuel tanks, heating oil tanks, propane tanks, pesticide containers, and hazardous material containers.
 - (5) Dead animals or animal parts, other than usual kitchen waste.
 - (6) Motor vehicles, auto body and truck parts.
 - (7) Hazardous substance containers unless adequately cleaned and approved by the attendant.
 - (8) Liquids or other free-flowing material.
 - (9) Friable asbestos.
 - (10) Biomedical wastes; may be red-bag waste from hospitals, laboratories, clinics, nursing homes and occasionally doctor's offices; includes blood, body parts, disposable instruments, linens and other soiled items.
 - (11) Caustic or acidic materials.
 - (12) Sandblast grit and nonliquid paint wastes.
 - (13) Debris or residuals from nonhazardous chemical spills or spill cleanup.
 - (14) Contaminated soils or dredged soils.
- B. If any of these prohibited wastes are deposited within the household refuse stream, the cleanup and all costs associated with proper disposal shall be borne by the person(s) responsible for the deposition.

§ 221-6. Mandatory recycling.

- A. All solid waste shall be separated into household waste to be deposited in the designated household waste container and into recyclable materials to be deposited in the designated recyclable container as set forth in this chapter.
- B. Recyclable materials need not be sorted, but all recyclable materials designated in this chapter shall be deposited into the appropriate recycling container located at the Transfer Station.
- C. Recyclable materials include:
- (1) Paper: Newsprint, corrugated cardboard, newspapers, magazines, catalogs, telephone books, soft- and hard-cover books; direct mail/envelopes (all types); paper, all colors (Staples and paperclips are acceptable.); paperboard (cereal/shoe boxes); and all corrugated cardboard; brown paper bags.
 - (2) Plastics: milk/juice cartons; plastic bottles and containers, types numbered 1 through 7; soda/juice/water bottles (glass or plastic); milk jugs, bleach, detergent, shampoo bottles; food containers (cottage cheese/margarine/yogurt).

- (3) Rigid plastics: one- and five-gallon buckets with handle attached; milk/soda crates; laundry baskets; small plastic trash bins (up to five gallons); plastic toys; trays; plastic plant pots; kitty litter buckets, children's-size rigid pools; and the like.

Note: Any and all rigid plastics shall have some give when attempting to bend.

- (4) Glass bottles: glass bottles/jars (any color).
 - (5) Metals: aluminum/steel/tin cans, aluminum (pie plates/trays/foil).
- D. Materials not included as recyclable. Plastic bags/film, plastic grocery bags, stretch wrap, Styrofoam or foam packaging, ceramics, window glass, mirrors, light bulbs, dishes, hard brittle plastic with no give (i.e., monitors, keyboards, some children's toys).

§ 221-7. Waste deposition.

- A. Wastes will be deposited in appropriate areas as designated by the Operations Manual. The following areas will initially be provided for waste deposition. These areas may change as state regulations and market conditions dictate.
- (1) Transfer station.
 - (2) Recycling area.
 - (3) White goods storage area.
 - (4) Demolition storage area.
 - (5) Tire storage area.
 - (6) Hot loads area.
- B. Recyclables. Recyclables shall be separated from other waste and handled according to § 221-6 of this chapter.
- C. Pay-as-you-throw (PAYT) program:
- (1) All waste and refuse that is to be deposited at the Transfer Station shall be placed into officially designated bags (PAYT bags) provided by the Town. Any bags placed inside the PAYT bags shall be clear plastic only, except that trash compactor bags may be white plastic. Any refuse placed in opaque bags and inserted in the PAYT bags may be denied deposit at the Transfer Station.
 - (2) Any officially designated PAYT bags that contain more than 10% recyclable materials by volume shall be denied deposit at the Transfer Station.
 - (3) The cost for the officially designated bags shall be:
 - (a) For a pack of 10 thirteen-gallon bags: \$5.
 - (b) For a pack of five thirty-gallon bags: \$5.

- (c) For a pack of five thirty-three-gallon bags: \$5.
 - (4) All waste deposited at the Transfer Station shall be deposited in appropriate areas designated by the Operations Manual and as directed by the attendant. The areas within the Transfer Station shall be clearly marked to describe the types of waste that shall be deposited in each area. These areas may change from time to time and shall be designated in the Operations Manual and clearly marked at the Transfer Station.
- D. Disposal of other items.
- (1) Disposal of other items shall be as directed by the attendant, but is generally as follows:
 - (a) White goods/metals. White goods shall be placed in the appropriate roll-off container.
 - (b) Tires. Tires shall be piled neatly at the designated storage area. Wheel rims shall be removed from all tires prior to placement on site.
 - (c) Demolition waste. Building materials, excluding hazardous or special waste, shall be placed in the designated storage areas.
 - (d) Trees and brush. Trees and brush shall be disposed in the designated area.
 - (e) Alkaline, rechargeable, button-type, flashlight and UPS batteries.
 - (f) CFL bulbs; fluorescent lamps.
 - (g) Electronics, including computers, cell phones, PDAs and TVs.
 - (2) Application of items in Subsection D(1)(a) through (d) of this section is contingent upon the Maine Department of Environmental Protection licensing of the facility and approval of this chapter and Operations Manual.
- E. Returnable containers.
- (1) Funds received from the redemption of returnable containers may be donated by the Town to Islesboro charities.
 - (2) The Board shall designate what amounts or percentages and which charity or charities shall receive funds from the proceeds of returnable containers at the first meeting of the Board after the Annual Town Meeting.
 - (3) The Board may change the amounts or percentages beneficiary or beneficiaries of the proceeds of returnable container funds at any time during the year.

§ 221-8. Fees.

This chapter establishes fees for the deposition of other materials, including:

- A. White goods and/or appliances, furniture, televisions, and computer monitors.
- B. Demolition debris.
- C. Automobile/truck tires up to and including 16 inches.
- D. Truck/tires over 16 inches.
- E. Batteries.

Note: These fees are listed in Appendix A of this chapter. ¹

§ 221-9. Enforcement; violations and penalties.

- A. Violations of this chapter shall be reported to and dealt with by the Codes Enforcement Officer.
- B. Violations of this chapter shall subject an offender to a fine \$100 for the first offense; \$250 for the second offense within a twelve-month period; \$500 for a third offense within a twelve-month period.

§ 221-10. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ATTENDANT — The person(s) employed by the municipality to supervise the solid waste facility and operate any necessary equipment.

FACILITY — The Town of Islesboro solid waste facility.

HAZARDOUS WASTE — A substance designated as hazardous by the Maine Department of Environmental Protection, also as defined by 38 M.R.S.A. § 1303-C, Subsection 15, that shall include, but not be limited to, all electronics and electronic components, batteries and items containing mercury, such as thermometers and thermostats.²

HOUSEHOLD REFUSE — Ordinary solid wastes generated by normal household operations except:

- A. Wastes identified in this chapter; or
- B. Other wastes identified by rules that include, but are not limited to, white goods, appliances, furniture, mattresses, tires, construction debris, stumps, brush, leaves and rock and masonry materials.

1. Editor's Note: Appendix A is included at the end of this chapter.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

OFFICIALLY DESIGNATED BAGS — Bags approved by the Town for the deposit of household refuse, sold by the Town specifically for use in depositing household refuse at the facility

PAY-AS-YOU-THROW (PAYT) PROGRAM — A program that requires all household refuse to be placed in officially designated bags prior to deposit at the facility.

PERSON — Includes, but is not limited to, individuals, partnerships, corporations, organizations and their agents.

RETURNABLE CONTAINERS — Containers deposited at the Transfer Station that may be redeemed for cash under the provisions of 38 M.R.S.A. § 1863-A et seq.

SPECIAL WASTE — Waste designated by the State Department of Environmental Protection as special wastes.

TOWN — Town of Islesboro, Maine.

§ 221-11. Conflict with other laws.

The provisions of this chapter shall supersede all other local laws, ordinances, resolutions, rules, or regulations contrary thereto, or in conflict therewith.

§ 221-12. Amendments.

This chapter may be amended as provided in Title 30-A M.R.S.A. § 3002.

SOLID WASTE MANAGEMENT AND RECYCLING

221 Attachment 1

Town of Islesboro

Islesboro Transfer Station Operations Manual

November 2010

Section 1. Introduction.

- 1.1. The Islesboro Transfer Station (the facility) is located at 1299 Meadow Pond Road, Islesboro, ME 04848.
- 1.2. The facility handles residential waste from year-round and seasonal residents. The Town provides a means to reduce its waste stream through a program of mandatory no-sort recycling.
- 1.3. This Manual has been adopted by reference into the Town of Islesboro Solid Waste and Mandatory Recycling Ordinance (ordinance). The Manual sets forth the procedures to be followed by facility users and facility employees and used in conjunction with Town of Islesboro Solid Waste and Mandatory Recycling Ordinance that will ensure safe, clean and efficient operations of the facility and the waste disposal program.

Section 2. Owner and Personnel.

- 2.1. Owner. The facility is owned by and licensed to the Town of Islesboro (Town).
 - 2.1.1. Final authority and control of the facility rests with the Board of Selectmen (Board). Administrative duties and day-to-day supervision of the facility are the responsibility of the Town Manager (Manager).
 - 2.1.2. The Board is responsible for all contracts concerning the facility including construction, maintenance, technical services, waste hauling and waste disposal. The Town shall retain a qualified facility attendant. The Board signs all contracts relevant to the facility and delegates to the Manager the responsibility for all record keeping.
- 2.2. Attendant. The attendant is responsible for the day-to-day operation of the facility in accordance with the provisions of this Manual. Those responsibilities include but are not limited to:
 - 2.2.1. Coordination of traffic movement in and out of the facility; overseeing the unloading of waste and ensuring that the solid waste and recyclables are placed in their proper receptacles; and ensuring that mandatory recyclables are not contained in pay-as-you-throw (PAYT) bags.
 - 2.2.2. The attendant shall ensure the safety of the public from traffic and mechanical operations; maintain the facilities and surrounding areas in a clean and sanitary

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manner; store materials and accept load in a manner that will prevent fires; report any fires to the Fire Department; coordinate truck-load waste disposal; operate recycling and solid waste disposal machinery; and maintain all vehicles and equipment.

- 2.2.3. Charging the appropriate fees for PAYT bags and disposal fees listed in Appendix A of the ordinance and accounting for the charges and any monies collected.

Section 3. Operations.

3.1. Access to facilities.

- 3.1.1. Access to the facility shall be controlled to ensure that the public is not exposed to actual or potential safety or health hazards. The entrances to the facility shall be gated and shall only be open when the attendant is on duty or other authorized persons are present. The gates shall be closed and locked at all other times.
- 3.1.2. The Manager will ensure that access to the facility and exit from the facility will be safely maintained in all weather conditions.
- 3.1.3. Interior roads in the facility will be constructed and maintained to provide a safe smooth flow of traffic.
- 3.1.4. The attendant shall ensure that ensure that a copy of the ordinance and this Manual is prominently displayed in the facility, together with hours of operation and emergency telephone numbers.

Section 4. Waste Handling Rules.

4.1. The attendant is responsible for enforcing the following rules:

- 4.1.1. Prohibited wastes. The facility will not accept wastes set forth in § 221-5 of the ordinance.
- 4.1.2. Household waste and recyclables will be accepted and deposited at the facility as set forth in § 221- 6 of the ordinance. Any spillage of household waste shall be cleaned up by the person depositing the waste.
- 4.1.3. White goods, metals, construction/demolition debris will be stored at their designated sites. Appliances shall have their doors removed prior to storage.
- 4.1.4. Tires shall be accepted only after their removal from rims and shall be stacked neatly in the designated area of the facility. The stored tires shall be removed from the area and appropriately disposed of as needed, but at least once a year.

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- 4.1.5. Brush and clean wood waste will be accepted at the facility and will be disposed of by chipping. The chips shall be made available to the public and may be used by the Town appropriately. When a chipper is not available and the amount of brush and clean wood waste is sufficiently large to constitute a fire hazard, the attendant may burn the material after obtaining a fire permit. The ashes from this burn shall be spread evenly at the licensed septage spreading site.
 - 4.1.6. Hot loads are wastes delivered to the site burning or smoldering. These loads will be extinguished immediately upon dumping or spread in a thin layer to cool. These materials shall then be disposed of in the appropriate areas or containers when cooled. The extra cost of disposing of hot loads shall be paid the person disposing of those wastes.
 - 4.1.7. Alkaline, rechargeable, button-type, flashlight and UPS batteries; CFL bulbs, fluorescent lamps and electronics, including computers, computer monitors, cell phones, PDAs and TVs, shall be stored appropriately and disposed of at least once a year.
- 4.2. Facility cleanliness.
- 4.2.1. Litter control. The attendant shall supervise the disposal of all wastes to ensure proper handling of refuse. The facility shall be policed for litter as needed but not less than once a week.
 - 4.2.2. Dry cleanup. Cleanup of the waste-handling area shall be by approved dry chemical or dry absorbent material that shall be disposed of in the household waste container. The attendant is responsible to ensure sufficient dry chemical absorbent and absorbent pads are available at the facility.
 - 4.2.3. Water wash-down is prohibited until such time as proper facilities to store the water wash-down liquid are available.
 - 4.2.4. Dust control shall be maintained as needed by application of calcium chloride or other approved hygroscopic dust-control material. Oil and watering down may not be used for dust control.
 - 4.2.5. Odor controls using approved odor control chemicals shall be used when needed.
 - 4.2.6. Problems with vectors, those are, insects birds, rodents or other organisms capable of transmitting disease, shall be controlled as needed by licensed exterminators. The attendant shall report any vector problems to the Manager for action.
- 4.3. Safety.
- 4.3.1. First aid supplies shall be maintained at the facility at all times.
 - 4.3.2. Telephone service shall be provided to the facility.

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- 4.3.3. The attendant is responsible to operate the facility in a manner that will prevent accidents. The attendant shall ensure:
 1. There is no scavenging;
 2. All appliance doors are removed;
 3. There is no loitering at the facility;
 4. Traffic patterns are controlled to prevent congestion; and
 5. Persons are cleared from areas that have trucks dumping loads or waste containers that are being removed and replaced.
- 4.3.4. Fire prevention shall be facilitated by the attendant complying with the following prevention and control procedures:
 1. Controlling hot loads as set forth in Section 4.1.6;
 2. Maintaining fire extinguishers for minor fires at the facility and checking that they are properly charged monthly;
 3. Notifying the Town of Islesboro Fire Department immediately of any fire to ensure that fire is properly extinguished;
 4. Receiving instruction and training in fire prevention and in extinguishing fires.
- 4.4. Operating records.
 - 4.4.1. The owner shall maintain records of operations necessary to comply with the Maine Department of Environmental Protection and the Maine Waste Management Agency.
 - 4.4.2. Waste quantities shall be recorded of all municipal solid waste from the receipts of both transferred and recycled materials.
 - 4.4.3. Records shall be maintained of equipment and personnel utilized and deviations made from the approved operating plan.

SOLID WASTE MANAGEMENT AND RECYCLING

Section 5. Hazardous and Special Wastes Exclusion Plan.

5.1. Personnel training.

The attendant is designated as the Facility Safety Officer. The Manager shall coordinate training between the Facility Safety Officer and the Town of Islesboro Fire Department to receive training at least annually on:

1. Recognition and identification as required in OSHA 29 CFR 1910-120 (See: http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9765 for details)
2. Appropriate emergency and nonemergency notification procedures.
3. Appropriate hazardous and special waste-handling procedures.

5.2. Wastes exclusion.

Unpermitted hazardous and special wastes shall not be accepted at the facility. To ensure this, the attendant shall check all waste being deposited at the solid waste facility. The type of container and origin of the waste can help identify hazardous wastes and special wastes. People are allowed to deposit normal household quantities of household hazardous wastes with their general refuse. However, larger quantities of household pesticides and hazardous wastes generated by commercial and industrial establishments are not acceptable at this solid waste facility. The following list provides guidance for the identification of those materials as well as the precautions to be taken should they be encountered.

- 5.2.1. Asbestos is often friable (readily crumbled; brittle) insulation material but can take other forms. It can be combined with other materials to sometimes make nonfriable siding, flooring, or other products. If suspected to be or contain friable asbestos, contact Department of Environmental Protection asbestos abatement program personnel at telephone number 287-2651. Avoid inhalation of particles. Nonfriable asbestos materials shall be disposed of with demolition debris.
- 5.2.2. Biomedical wastes may be red-bag waste from hospitals, laboratories, clinics, nursing homes and occasionally doctor's offices. They include blood, body parts, disposable instruments, linens and other soiled items. Keep people away; follow hazardous waste procedures, including notifying the appropriate responder either a qualified fire department or the Department of Environmental Protection (DEP). If accidentally contacted, disinfect contact area with a 1:3 bleach-to-water solution.
- 5.2.3. Bottom ash and fly ash are ash-like substances ranging from powder to almost granular. They are generated by power production and some heavy industrial operations. Avoid skin contact and inhalation of dust; treat as a hazardous waste.

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- 5.2.3. Calcium hypochlorite is used for the disinfection of swimming pools. It is reactive when wet and can create a toxic chlorine vapor cloud and can cause fire. Keep away from petroleum and other organic materials. Treat as a hazardous waste. Avoid wetting. If wet, evacuate area.
 - 5.2.4. Electrical capacitors and transformers may be removed from white goods and other electrical equipment by individuals, scrap metal firms, or firms that work on appliances or motors. Avoid skin contact and breathing exposure; follow hazardous waste procedure.
 - 5.2.5. Industrial chemicals are generally found in five-gallon or larger pails, drums or barrels of steel, plastic or lined cardboard. These may be solids, liquids, flakes or granular materials that can cause corrosion or may be reactive with other liquids. Treat as hazardous waste, avoid skin contact and inhalation of vapors or particulate matter.
 - 5.2.6. Industrial sludge and still bottoms are generally viscous materials that may be oily, plastic or organic in appearance. Treat as hazardous waste, and avoid skin contact.
 - 5.2.7. Laboratory chemicals are usually found in smaller glass or plastic bottles up to one gallon in size. These can be severe irritants, highly explosive or toxic. Treat as hazardous waste; avoid skin contact and inhalation of fumes. Do not open or mingle with other wastes.
 - 5.2.8. Lead acid batteries from vehicles, boats and other applications are to be stockpiled, if not broken. Treat broken ones as hazardous waste; avoid skin contact.
 - 5.2.9. Oil-base paints, thinners and solvents will be found in containers up to five gallons in size. Treat as hazardous waste; avoid skin contact and inhalation of vapors.
 - 5.2.10. Sand blast grit is generally a fine sand or garnet, mixed with paint, brick and/or masonry chips. Treat as special waste; avoid inhalation.
 - 5.2.11. Waste oil includes used motor oil, hydraulic fluid and other lubricating oils. It will be found usually in containers up to five gallons in size. Treat as a special waste; avoid skin contact.
- 5.3. Identification.

When unknown material is found at the solid waste facility, the attendant shall identify the material to determine whether it is licensed solid waste, special waste, or hazardous waste. If hazardous waste, the attendant shall attempt to identify the person who has left, delivered, or attempted to deliver the hazardous waste and notify the DEP.

SOLID WASTE MANAGEMENT AND RECYCLING

5.3.1. While keeping a safe distance up-wind from the container or material, the attendant shall:

1. Look for any container labeling;
2. Determine the physical state of the material (solid, liquid or gas);
3. Determine the size of the container or amount of waste;
4. Determine the type and condition of the container.

5.3.2. If the material is determined to be or suspected to be potentially hazardous the attendant shall take the following steps:

1. Evacuate the area around the material;
2. Determine if there is any release of the material to the soil, water, or air if safely feasible;
3. Determine if the released material has been contained, confined or ongoing if safely feasible;
4. Complete Hazardous Materials Incident Form AR-1 (See Appendix B for example.) in preparation for notification.

5.4. Notification.

5.4.1. When hazardous waste or hazardous material is found at the facility in a container and the container is not damaged or leaking, the attendant shall:

1. Notify the Waldo County Emergency Coordinator at **1-800-660-3398**;
2. Maine DEP Bureau of Remediation and Waste Management at **1-800-452-4664**;
3. Notify the Islesboro Fire Department at **734-6787** to respond and assist in relocation of the material.

5.4.2. When hazardous waste or hazardous material is found left at the site and there is potential for impact on human health or the environment from leakage, the attendant shall notify the agencies listed Section 5.4.1 above and these additional agencies:

1. Maine State Police at **1-800-452-4664**;
2. Maine Poison Center at **1-800-442-6305** in cases of human contamination.

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- 5.4.3. When unpermitted special waste is found left at the facility, the attendant shall notify the Manager to arrange for authorized removal, and notify a staff person at the DEP regional office (**822-4570**), between 8:00 a.m. to 5:00 p.m., Monday through Friday, as well as the Manager, to authorize qualified removal.
- 5.4.4. If the attendant cannot identify the material, notify the Islesboro Fire Department and DEP at **1-800-452-4664** or at **822-4570** for assistance in identification. If sampling and further detection of hazardous or special waste is required, a qualified hazardous waste-handling firm or solid waste contractor must be used, as appropriate.
- 5.5. Household Hazardous Waste Collection. (06-096 Department of Environmental Protection Maine Solid Waste Management Rules).

One-day or two-day household hazardous waste (“HHW”) collection events may be held provided that all of the following conditions are met:

1. The collection events are for the receipt of only HHW. The HHW should be contained within the material’s original, labeled container when possible. These wastes may be household insecticides, pesticides, and herbicides; paints, varnishes, lacquers, and other surface coatings; waste solvents; waste fuels; and cleaners. Mixtures of wastes will not be accepted.
2. Each HHW collection event is not more than 48 hours in duration, and all wastes and containers are removed at the end of the collection event.
3. Each collection event is conducted by a company qualified to collect, sort and store hazardous wastes and licensed to transport hazardous wastes under the Department’s Hazardous Waste Management Regulations, Chapters 850-857.
4. The collection and storage of HHW at the approved location must be upon a base which is a firm impervious surface and which is kept entire.
5. Materials and personnel must be on hand to immediately contain, absorb, containerize, and clean up all spills of HHW before the waste leaves the impervious asphalt or concrete surface or comes in physical contact with any unauthorized persons.
6. The HHW is managed to prevent or minimize risk to the environment.
7. The solid waste owner/operator notifies the Division of Solid Waste at least one week prior to each HHW collection event.

SOLID WASTE MANAGEMENT AND RECYCLING

Section 6. Cleanup/Decontamination.

- 6.1. Only trained personnel shall handle hazardous wastes. Such training shall follow the guidelines of 29 CFR Part 1910.120 (http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=standards&p_id=9765).
- 6.2. Unpermitted special wastes shall be removed from the area where found and transported within 60 days to a special waste disposal facility that is licensed to accept that special waste.
- 6.3. A hazardous and special waste interim storage area will be designated on site. Because hazardous wastes require special training to handle, and to minimize the area of potential contamination, it is recommended that any hazardous waste found at the solid waste facility be removed by qualified personnel from the solid waste facility directly, without placement and storage in the interim storage area.
- 6.4. The owner shall provide the attendant with appropriate safety equipment, including disposable Tyvek® or similar coveralls; hood; boot covers; gloves; as well as goggles and an air-purifying respirator. This equipment shall be used when dealing with hazardous wastes and only when it can be used safely and within the trained capability of the attendant.
 - **NOTE: The air-purifying respirator will not protect against hazardous or toxic vapors.**

Section 7. Emergency Information.

- 7.1. The attendant shall have the following telephone numbers available and prominently posted at the solid waste facility to facilitate telephone notifications:
 - Bureau of Remediation and Waste Management DEP Augusta office during normal business hours **822-6358**;
 - DEP emergency spill number after hours or on weekends **1-800-482-0777**;
 - Town of Islesboro Fire Department **734-6787**;
 - Waldo County Emergency Coordinator **1-800-660-3398**;
 - Ambulance **911**;
 - Maine State Police for reporting hazardous waste **1-800-452-4664**; and
 - Maine Poison Center **1-800-442-6305**.
- 7.2. The closest location for emergency medical care is the Islesboro Health Center. To get there turn left leaving the facility and follow Meadow Pond Road to Main Road to 150 Main Road on the right.

Section 8. Amendments.

This Manual may be amended only as provided in 30-A M.R.S.A. § 3002.

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Section 9. Report.

A written spill report shall be filed with the DEP, Bureau of Remediation and Waste Management within 15 days of any incident involving hazardous waste or material. The report must indicate:

- Date and time of incident.
- Location.
- Material lost or spilled.
- Amount lost or spilled.
- Amount recovered.
- Cause of the incident.
- Corrective action taken.
- Cleanup methods used.
- Disposition of recovered materials.
- List of agencies notified.
- Time agency responded on site.

SOLID WASTE MANAGEMENT AND RECYCLING

221 Attachment 2

Town of Islesboro

Appendix A Disposal Fees

Furniture:

Chairs, kitchen, dining room	\$5 each
Couches, recliners, loveseats, upholstered chairs	\$10 each
Mattress, box spring – larger than twin size	\$10 each
Mattress, box spring – twin size or smaller	\$5 each
Rugs and carpeting less than 12 feet long	\$3 each
Rugs and carpeting more than 12 feet long	\$5 each

Other items:

Batteries, flashlight, button, lithium, etc.	No charge
Batteries, large	\$10 each
Batteries, uninterruptable power supply (UPS)	\$5 each
Batteries, vehicle-type small (car size or smaller)	\$5 each
Bicycles and tricycles	\$3 each
Grills, gas	\$3 each
Grills, tabletop	\$1 each
Lawn mowers, push-type	\$5 each
Lawn mowers, riding	\$10 each
Mopeds and motorcycles	\$10 each
Paint cans, more than one gallon	\$1 each
Paint cans, one gallon or less	\$0.25 each
Scrap metal	\$15 per cubic yard
Tanks, 275 gallons or smaller	\$20 each
Tanks, 276 gallons to 500 gallons	\$40 each
Tires, smaller than 16 inches, no rims	\$2 each
Tires, larger than 16 inches, no rims	\$4 each

Pay as you throw (PAYT) bags:

Thirteen-gallon bags, ten-pack	\$5 per pack
Thirty-gallon bags, five-pack	\$5 per pack
Thirty-three-gallon bags, five-pack	\$5 per pack

White goods:

Refrigerators and window air conditioners	\$20 each
Washers and dryers	\$15 each

SOLID WASTE MANAGEMENT AND RECYCLING

221 Attachment 3

Town of Islesboro

Appendix B

EXAMPLE ONLY; DO NOT SUBMIT
HAZARDOUS MATERIALS INCIDENT

AR-1

INITIAL NOTIFICATION

rev 08/95

Federal Law Requires Information in Shaded Areas

1	Date of Incident:	Time of Incident:	<input type="checkbox"/> AM <input type="checkbox"/> PM
2	Company Name:		
3	Location (street, route, town, county):		
4	Person Reporting:	Number Calling From:	
5	Call Back Name:	Call Back Number:	
6	Type of Incident: <input type="checkbox"/> Fixed <input type="checkbox"/> Transportation	Truck/Rail Car #:	
7	Substance: <input type="checkbox"/> EHS	Trade Name: <input type="checkbox"/>	
	Dot ID: <input type="checkbox"/> Hazard Class: <input type="checkbox"/>	CAS Number <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> - <input type="checkbox"/> <input type="checkbox"/> - <input type="checkbox"/>	
8	Physical State Stored: <input type="checkbox"/> Solid <input type="checkbox"/> Liquid <input type="checkbox"/> Gas	State Released: <input type="checkbox"/> Solid <input type="checkbox"/> Liquid <input type="checkbox"/> Gas	
	Qty. Released:	Reportable Quantity: Lbs	
9	Container (check all that apply):	Capacity: <input type="checkbox"/> Lbs <input type="checkbox"/> Gal <input type="checkbox"/> Cu.Ft.	
	<input type="checkbox"/> Fixed <input type="checkbox"/> Mobile <input type="checkbox"/> Portable <input type="checkbox"/> Insulated <input type="checkbox"/> Pressurized <input type="checkbox"/> Armorized <input type="checkbox"/> Steel <input type="checkbox"/> Glass <input type="checkbox"/> Plastic <input type="checkbox"/> Tank <input type="checkbox"/> Box <input type="checkbox"/> Barrel <input type="checkbox"/> Pipe <input type="checkbox"/> Other:		
10	Release: <input type="checkbox"/> Complete <input type="checkbox"/> Ongoing <input type="checkbox"/> Confined	Duration:	Rate:

SOLID WASTE MANAGEMENT AND RECYCLING

This report is required for any release that goes beyond the facility boundary and is a release of a reportable quantity of a CERCLA¹ Hazardous or Extremely Hazardous Substance. All chemical spills must be reported to the Maine DEP.

A follow-up report is required within 14 days regarding actions taken to respond to and control the release; the cause and events leading to the release; known or anticipated health risks, medical attention needs of exposed persons; and measures taken to avoid re-occurrence. (Ref, SARA², Title III, sec. 304.)

1. Comprehensive Environmental Response, Compensation, and Liability Act
 2. Superfund Amendments and Reauthorization Act.

REFERENCE EMERGENCY TELEPHONE NUMBERS	
ORGANIZATION	TELEPHONE
MAINE STATE POLICE (will cal DEP and SERC)	1-800-452-4664
STATE EMERGENCY RESPONSE COMMISSION	1-800-452-8735
NATIONAL RESPONSE CENTER	1-800-424-8802
CHEMTREC	1-800-424-9300
LOCAL EMERGENCY COORDINATOR CONTACTS	
Knox County	594-5656
Waldo County	1-800-660-3398

Chapter 248

VEHICLES AND TRAFFIC

ARTICLE I Vehicle Weight Limits

- § 248-1. Purpose and authority.
- § 248-2. Definitions.
- § 248-3. Restrictions and notices.
- § 248-4. Exemptions.
- § 248-5. Permits.
- § 248-6. Administration and enforcement.
- § 248-7. Violations and penalties.
- § 248-8. Amendments.

ARTICLE II Parking at Grindle Point

- § 248-9. Purpose and authority.
 - § 248-10. Regulated areas.
 - § 248-11. Definitions.
 - § 248-12. Parking regulations.
 - § 248-13. Parking signs.
 - § 248-14. Fees.
 - § 248-15. Enforcement.
- Attachment A, Diagram of
Parking Lot at Grindle Point
Attachment B, Sticker Fees

[HISTORY: Adopted by the Town of Islesboro as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Shore areas, piers and floats — See Ch. 142.

ARTICLE I Vehicle Weight Limits [Adopted 3-11-1992]

§ 248-1. Purpose and authority.

- A. The purpose of this article is to prevent damage to Town ways and bridges in the Town of Islesboro which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of Town ways and bridges, and to reduce the public expense of their maintenance and repair.
- B. This article is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2388 and 2395.¹

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 248-2. Definitions. ²

The definitions contained in Title 29-A of the Maine Revised Statutes Annotated shall govern the construction of words contained in this article. Any words not defined therein shall be given their common and ordinary meaning.

§ 248-3. Restrictions and notices.

- A. The Board of Selectmen, the Road Commissioner or authorized agent may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the Town ways and bridges to which the restrictions shall apply.
- B. Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.
- C. The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signatures of the municipal officers.
- D. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the travel way. Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices.
- E. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

§ 248-4. Exemptions.

The following vehicles are exempt from this article:

- A. Any two-axle vehicle while delivering home heating fuel;
- B. Any vehicle while engaged in highway maintenance or repair under the direction of the state of Town;
- C. Any emergency vehicle (such as firefighter apparatus or ambulances) while responding to an emergency;
- D. Any school transportation vehicle while transporting students;
- E. Any public utility vehicle while providing emergency service or repairs; and

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- F. Any vehicle whose owner or operator holds a valid permit from the Board of Selectmen as provided herein.

§ 248-5. Permits.

- A. The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the Board of Selectmen for a permit to operate on a posted way or bridge notwithstanding the restriction. The Board of Selectmen may issue a permit only upon all of the following findings:
- (1) No other route is reasonably available to the applicant;
 - (2) It is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
 - (3) The applicant has tendered cash, a bond or other suitable security running to the Town in an amount sufficient, in its judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.
- B. Even if the Board of Selectmen make the foregoing findings, it need not issue a permit if it determines the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. The Board may also limit the number of permits issued or outstanding as may, in its judgment, be necessary to preserve and protect the highways.
- C. In determining whether to issue a permit, the Board of Selectmen shall consider the following factors:
- (1) The gross registered weight of the vehicle;
 - (2) The current and anticipated conditions of the way or bridge;
 - (3) The number and frequency of vehicle trips proposed;
 - (4) The cost and availability of materials and equipment for repairs;
 - (5) The extent of use by other exempt vehicles; and
 - (6) Such other circumstances as may, in their judgment, be relevant.
- D. The Board of Selectmen may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.³

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 248-6. Administration and enforcement.

This article shall be administered and may be enforced by the Board of Selectmen or its duly authorized designee (such as Road Commissioner, Codes Enforcement Officer or law enforcement officer).

§ 248-7. Violations and penalties.

- A. Any violation of this article shall be a civil infraction subject to a fine of not less than \$250 nor more than \$1,000. Each violation shall be deemed a separate offense. In addition to any fine, the Town may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs.
- B. Prosecution shall be in the name of the Town and shall be brought in the Maine District Court.

§ 248-8. Amendments.

This article may be amended by the Board of Selectmen at any properly noticed meeting.

ARTICLE II

Parking at Grindle Point

[Adopted 3-25-2003; amended 5-17-2006; 11-1-2006; 4-30-2008; 6-16-2011; 7-20-2011]

§ 248-9. Purpose and authority.

- A. The purpose of this article is to regulate and control parking in the Town of Islesboro in order to reduce congestion, prevent obstruction of ferry lanes, roads, and parking areas, and to prevent vehicles from obstructing snow removal activity.
- B. Authority to enact this article is conferred by 30-A M.R.S.A. § 3009.

§ 248-10. Regulated areas.

- A. The areas of Grindle Point to which these regulations apply are:
 - (1) Entire parking lot area;
 - (2) Entire pier area;
 - (3) The road shoulder, marsh side from the Row #3 ferry line marker to the eastern most parking regulations sign (No Parking Between Signs), approximately 1,360 feet.
 - (4) Water side between the parking regulation signs, up around the corner, approximately 215 feet;
 - (5) Adjacent to the boat launching ramp shore area from the very-low-tide line to the parking lot itself.

B. Attachment A is a diagram of the Grindle Point area with the regulated areas indicated.⁴

§ 248-11. Definitions.

As used in this article, the following terms shall have the meanings indicated:

COMMERCIAL USE — Those vehicles primarily used for commercial purposes; and/or a vehicle showing business-related advertising/lettering on its side.

DAY — Any day of the week, 6:01 a.m. to 5:29 p.m.

ISLAND — Those individuals paying real estate or personal property taxes or vehicle excise taxes to the Town of Islesboro.

NIGHT — Any night of the week, 5:30 p.m. to 6:00 a.m.

OUTER ISLANDS — Spruce, Warren, 700 Acre, Minot, Middle, Job and Lime Islands.

OVERNIGHT PARKING — From approximately 5:30 p.m. until 6:00 a.m.

PARKING SLOT — A parking area of approximately 18 feet by eight feet in size, and usually located by white lines.

PERSONAL USE — Those vehicles primarily used for personal use.

SUMMER SEASON — June 15 through September 1.

WINTER SEASON — From September second until June 14th the following year when plowing operations are occurring.

§ 248-12. Parking regulations.

- A. No parking at any time is permitted on the marsh side between the end of the guardrail heading east to the last parking regulation sign.
- B. No parking at any time is permitted on the water side between the no-parking signs on the road curve and in the intertidal/beach area adjacent to the boat launching ramp.
- C. There will be no overnight parking of any kind in marked Section G, year-round. (Section G is the parking directly adjacent to the lawn and stretches between the Sailor's Museum and the ferry terminal building.)
- D. During the summer season, no vehicle shall be parking within the regulated area in the same parking slot for more than 24 hours with the following exceptions:
 - (1) The Town Office, on request, shall issue an exemption placard to each household on the outer islands which shall be hung on the rearview mirror of the vehicle for which the exemption is requested. Up to two placards per household can be issued.

4. Editor's Note: Attachment A is included at the end of this chapter.

At the time of the request, vehicles registration numbers must be written on the exemption placard as the placard is valid for those vehicles only.

- (2) The Warren Island Park Ranger shall also receive an exemption placard which shall be affixed to his/her vehicle as described in Subsection D(1).
- E. During the summer season, the following sticker regulations apply:
- (1) Placards (one per vehicle) will only be issued at the Town Office. The vehicle must be present at the Town Office and available for viewing verification by Town Office employees when the placards are issued for it. Placards must be placed in their designated location at time of issuing.
 - (2) Personal placards are vehicle (registration) specific. Commercial placards are business specific.
 - (3) There will be an unlimited number of Island personal placards issued per household. Off-Island personal placards are limited to one per person.
 - (4) Island commercial placards are limited to two per business. off-Island commercial placards are limited to one per business.
 - (5) During days, placards are not required on any vehicles in the regulated areas.
 - (6) During nights, only vehicles with placards are allowed in the regulated areas.
 - (7) If more than three tickets are issued on any one placard during the summer season, the placard will be revoked and will not be reissued until the next June 15. If the placard (vehicle) is then found in any regulated areas at any time, that vehicle will be towed.
 - (8) Motorcycle class vehicles (motorcycles/moped/bicycles) and trailers are not required to affix a placard to them unless they are taking up the space (slot) of a vehicle.
- F. During the winter season, no overnight parking is permitted in the Grindle Point parking area on the road shoulder, marsh side, from the Row #3 ferry line marker to the corner telephone pole by the Phillips property, in the ferry line parking area, and in the short-term parking area immediately adjacent to the ferry waiting lines.
- G. During the winter season, owners of vehicles which are left for more than two weeks in regulated areas where such parking is not otherwise prohibited shall provide the Town Office with a description of the vehicle, the name of an individual to contact in case of emergency, and written authorization to tow the vehicle, together with acknowledgment of responsibility for reimbursing the Town for the cost of towing.
- H. During the winter season, the Town may impose a ban on all parking in the ferry line parking area and all center parking areas. Notice of the parking ban may be given by public posting, radio announcements, posting of flyers and by erecting temporary signs in the area affected.
- I. Vehicular parking on the Grindle Point Pier shall not exceed two consecutive hours.

- J. The Public Safety Officer or, in his absence, either a duly authorized law enforcement officer or the Town Manager, may cause vehicles which have been parking in violation of the twenty-four-hour limit or which are creating a safety hazard or interfering with plowing, to be removed at the owner's or operator's expense.
- K. The Public Safety Officer, or in his absence, either a duly authorized law enforcement officer or the Town Manager, may impose a ban on parking in any of the regulated areas when deemed necessary for safety reasons.

§ 248-13. Parking signs.

Signs may be erected at the direction of the Town Manager designating the regulated areas and giving notice of the parking restrictions which have been imposed within the areas in question. These parking control signs shall constitute the official designation of the areas which are subject to these regulations. Anyone who tampers with or removes an official parking sign shall be guilty of a civil violation and subject to a civil penalty of no more than \$1,000.

§ 248-14. Fees.

The Board of Selectmen shall establish fees for stickers. (See Attachment B for sticker fees effective with adoption of this chapter.⁵)

§ 248-15. Enforcement.

- A. Violation of any of the restrictions imposed by this article shall constitute a civil violation as provided by 30-A M.R.S.A § 3009, Subsection C. Owners and operators of vehicles which have been parked in violation of this article are jointly and severally responsible for the consequences of the violation.
- B. The Public Safety Officer, the Town Manager, or any duly authorized law enforcement officer may issue a notice of the violation of any provision of this article. The notice of violation may be affixed to the vehicle in question or delivered or mailed to the owner or operator of the vehicle.
- C. If more than three tickets are issued on any one sticker during the summer season, then the sticker will be revoked and will not be reissued until next June 15. If the sticker (vehicle) is then found in any regulated areas at any time, that sticker/vehicle will be towed.
- D. Violations.
 - (1) With sticker attached to vehicle: Initial violations shall be punishable by a civil penalty of \$25 payable to the Town of Islesboro at the Town Office.

5. Editor's Note: Attachment B is included at the end of this chapter.

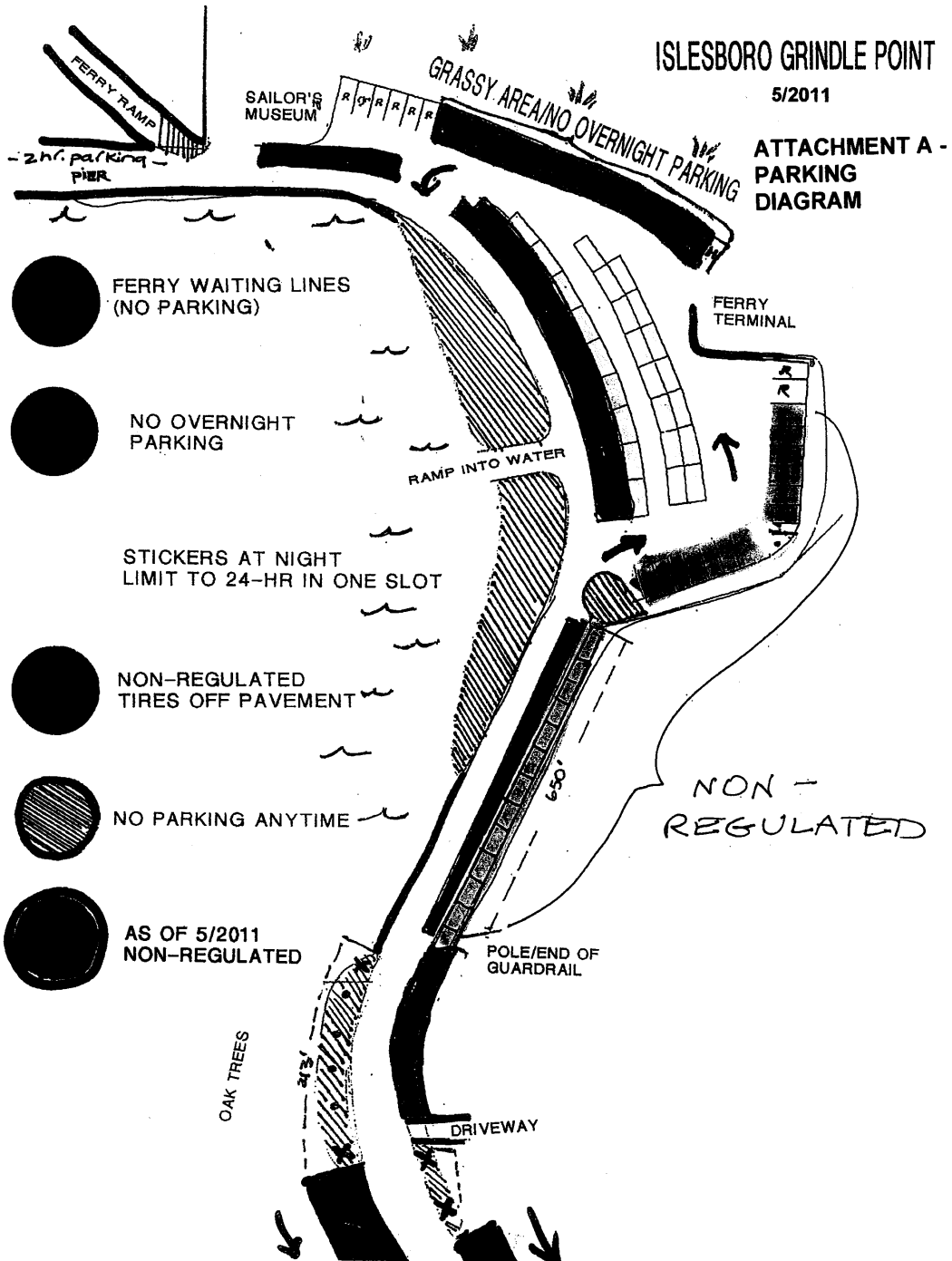
- (a) If the penalty is not paid within 72 hours of the issuance of the notice of violation, the civil penalty shall increase to \$50.
- (b) If the penalty of \$50 is not paid within seven days after the issuance of the notice of violation, the civil penalty shall increase to \$100.
- (2) Without sticker attached to vehicle: Initial violations shall be punishable by a civil penalty of \$125 payable to the Town of Islesboro at the Town Office.
 - (a) If the penalty is not paid within 72 hours of the issuance of the notice of violation, the civil penalty shall increase to \$250.
 - (b) If the penalty of \$250 is not paid within seven days after the issuance of the notice of violation, the civil penalty shall increase to \$350.
- E. Any vehicle which has been parked in violation of this article resulting in a civil penalty of \$100 or \$350 may be removed by the Town. In order to recover any such towed vehicle, the owner or operator shall reimburse the cost of towing and storage in addition to the civil penalty of \$100 or \$350. Any person who removes a vehicle which has been towed and placed in Town custody without permission shall be subject to a civil penalty of \$1,000 in addition to the cost of towing and storage.
- F. Any civil violation of this article may be prosecuted in the District Court by the Public Safety Officer, duly authorized law enforcement officer or other authorized Town official on behalf of the Town of Islesboro.

VEHICLES AND TRAFFIC

248 Attachment 1

Town of Islesboro

Attachment A
Parking Lot at Grindle Point



VEHICLES AND TRAFFIC

248 Attachment 2

Town of Islesboro

**Attachment B
Sticker Fees**

Personal	Island	\$2
	Off-Island	\$10
Commercial	Island:	
	First	\$25
	Second	\$150
	Off-Island	\$300

Chapter 257

VICTUALERS AND SPECIAL AMUSEMENTS

ARTICLE I General Provisions

§ 257-1. Purpose.

ARTICLE II Victualer's License

§ 257-2. License required.

§ 257-3. Exemptions.

§ 257-4. Determination of exemption.

§ 257-5. Enforcement.

ARTICLE III Special Amusement License

§ 257-6. License required; classes of licenses.

§ 257-7. Exceptions.

§ 257-8. General rules for special amusement licenses.

§ 257-9. Enforcement.

ARTICLE IV Administrative Regulations

§ 257-10. Victualer and special amusement licensing requirements.

ARTICLE V Licenses and Fees

§ 257-11. Issuance of licenses.

§ 257-12. Fees.

ARTICLE VI Enforcement

§ 257-13. Violations and penalties.

ARTICLE VII Definitions

§ 257-14. Terms defined.

[HISTORY: Adopted by the Town of Islesboro 4-12-1999; amended 4-29-2000. Subsequent amendments noted where applicable.]

ARTICLE I General Provisions

§ 257-1. Purpose.

The purpose of this chapter is to protect the general welfare, public safety and health of the inhabitants of the Town of Islesboro and to regulate the sale of prepared and cooked foods and special amusement/entertainment events.

ARTICLE II
Victualer's License

§ 257-2. License required.

Any place where food or drink is prepared or served to the public as a profit-making venture, for consumption on or off the premises, including but not limited to a catering service, soup kitchen, delicatessen, lunch wagon, outdoor or picnic facility, soda fountain, bakery, sandwich shop, tour boat, restaurant, inn, and bed-and-breakfast, shall be licensed annually as a victualer, to operate in or from the Town of Islesboro.

§ 257-3. Exemptions.

A school, public service organization, private club, or church organization, fire department association, ambulance association or auxiliary of any Town department, or any other nonprofit organization selling food or drink to raise money for a charitable cause from time to time, is exempt from the requirements of this license. Grocery stores, except those selling food items prepared on the premises, shall be exempt. Establishments selling food and drink only through vending machines shall also be exempt.

§ 257-4. Determination of exemption.

The Selectmen shall determine if an establishment is exempt.

§ 257-5. Enforcement.

Except as otherwise provided, the Town of Islesboro Codes Enforcement Officer shall enforce this chapter.

ARTICLE III
Special Amusement License

§ 257-6. License required; classes of licenses.

Any commercial or noncommercial entity or private club, not otherwise exempted by this chapter, that provides live entertainment, music or any other type of entertainment event shall apply for and obtain a special amusement license.

- A. The Board of Selectmen may consider the applicant's and/or manager's prior business experience, criminal record, and history as a liquor and/or special amusement licensee, here or in any other jurisdiction. The Board may consider any other material information reflecting on the applicant's ability to operate or manage the establishment or special amusement in a manner compatible with this chapter and with other statutes and regulations of the State of Maine and ordinances of the Town of Islesboro.
- B. There are two classes of licenses; both are governed by the general rules, and specifically Class II is also subject to the special rules set forth in this chapter.

- (1) Class I license. A Class I license includes all establishments and private clubs not otherwise exempt by this chapter. The ultimate judgment whether an applicant qualifies for a Class I license shall be determined by the Board of Selectmen. No license under this class shall be granted to any establishment or private club operating within 200 feet of any residence, church, school, or library or within 600 feet of a combination of seven residences or public buildings.¹
 - (2) Class II license. A Class II license includes establishments or private clubs located within 200 feet of any residence, church, school or library, or within 600 feet of any combination of at least seven residences or public buildings. No license under this class shall be granted unless the establishment uses soundproofing or other acceptable means to reduce noise levels to avoid disturbing the public or those in any residences.²
- C. The following special rules apply to Class II licenses in addition to the general rules:³
- (1) All music, dancing and entertainment must be confined to an enclosed building with all the windows and doors closed at all times, except for a reasonable amount of time to allow patrons to enter and leave.
 - (2) Loitering or drinking by any person or persons outside of the licensed establishment is prohibited.

§ 257-7. Exceptions.

- A. A public or private school, public service organization, private club (not required to obtain a Class I license), or church organization, fire department association, ambulance association or auxiliary of any Town department, or any other nonprofit organization selling food and/or drink and providing entertainment to raise money for a charitable cause from time to time is exempt from the requirements of this license.
- B. An owner or legal occupier of a private residence who provides free entertainment for invited guests from time to time is exempt from the provisions of this chapter but is subject to the statutes prohibiting public nuisances.

§ 257-8. General rules for special amusement licenses.

- A. The Board of Selectmen may impose any other limitations on individual applications as it deems necessary to protect the public health, safety and welfare of the inhabitants of the Town of Islesboro.
- B. The Board of Selectmen, in its discretion, may waive or alter applicable provisions of any special rules or fees upon the applicant's request and for good reason, after notice to the general public and after a public hearing.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: See § 257-8.

- C. The licensee is responsible to enforce the general and special rules in his or her establishment and outside premises.
- D. No visibly intoxicated person shall be served or allowed to remain on the premises.
- E. No improper conduct, disorder, illegality or disturbance of any kind shall be allowed in the licensee's establishment or on the premises.
- F. No alcoholic beverages shall be sold after 1:00 a.m., and no patrons shall be allowed in the licensee's building after 1:15 a.m.
- G. All patrons and their vehicles shall leave the licensee's premises no later than 1:20 a.m.
- H. No music, entertainment or dancing of any kind is permitted before 11:00 a.m. or after 12:00 midnight.
- I. No unnecessary noise and no disorderly conduct in the licensee's establishment or premises shall be permitted.
- J. The premises shall be kept in a clean, tidy, and in a sanitary condition at all times.

§ 257-9. Enforcement.

- A. Upon written complaint or upon its own initiative, the Board of Selectmen may hold a public hearing any time after 24 hours' written notice to both the applicant and, through posted notices, to the general public, to consider the suspension or revocation of the special amusement license.
- B. Upon written complaints from three or more citizens and their agreement that they will appear at a subsequent hearing, the Board of Selectmen shall hold a public hearing any time after 24 hours' written notice to the licensee and through posted notices to the general public, but in no case more than seven days after the receipt of the complaints.
- C. Suspension or revocation.
 - (1) Upon a finding by the Board of Selectmen that the license holder has violated one or more of these regulations or conditions of the license, the Board, at a minimum, shall:
 - (a) First offense: give a warning.
 - (b) Second offense: suspend the license for seven days if in violation of one or more license conditions.⁴
 - (c) Third offense: revoke the license.
 - (2) At all times, the Board, depending on the seriousness of the violations, may suspend or revoke the license if these penalties are at least as severe as the minimums established above. The Board at any time following a finding of a

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

violation may also impose additional license conditions, including the establishment of a larger compliance bond.

- D. A finding of "unnecessary noise" after complaints from three or more households for one incident shall, at a minimum, result in action by the licensee to abate such noise and will be a violation under Subsection C. The finding of "unnecessary noise" after the receipt of additional complaints from three or more households shall be treated as a second violation under Subsection C.
- E. Incidents of disorderly conduct shall be grounds for the suspension or revocation of a license under the provisions of Subsection C. The licensee shall not permit disorderly conduct in the establishment or on its premises at any time. Incidents or occurrences of disorderly conduct twice in one week or three times in one month shall constitute grounds for suspension or revocation of the license. The finding of fact that the owner or manager of said establishment took no reasonable action to abate the conduct shall be prima facie evidence of a condition detrimental to the public health, safety or welfare of the community. Regardless of efforts taken by the licensee or duly designated employee, the Board of Selectmen may impose the additional condition on the license that the licensee be required to hire sufficient law enforcement personnel at the expense of the licensee.
- F. The compliance bond shall be ordered forfeited when the Board of Selectmen, after notice and hearing, determines that there has been either an intentional act on the part of the license holder to violate a significant rule or that a pattern of violation of these rules exists, whether caused by the license holder, patrons or other persons.⁵
- G. The licensee may appeal any order by the Board of Selectmen to the Town of Islesboro Board of Appeals. Notwithstanding an appeal, the order of the Board shall not be stayed during the pendency of the appeal. The Board of Appeals may order the Board of Selectmen to reinstitute the license in the case of suspension or revocation.
- H. Any law enforcement personnel that the Board of Selectmen require be hired by the applicant or licensee, under Subsection E, must be on the licensed premises from the commencement of any music, dancing or entertainment until all patrons have left the premises following the close of business.

ARTICLE IV

Administrative Regulations

§ 257-10. Victualer and special amusement licensing requirements.

- A. An applicant requesting a victualer's license, special amusement license or renewal of the same shall certify to the Board of Selectmen, to the Board's satisfaction, that the establishment or entity is in compliance with all applicable municipal ordinances and regulations, state and federal laws, statutes and regulations. The Board shall deny any application that fails to meet these requirements.

5. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

- B. New applicants may apply at any time during the year. The Selectmen shall hold a public hearing within 21 days of the receipt of any new application.
- C. Renewals.
- (1) The Board of Selectmen annually shall review all victualer and special amusement license renewal applications at its first meeting in May for the purpose of determining the applicant's previous conformance to this chapter and to determine either to:
 - (a) Approve the renewal application;
 - (b) Table the renewal application, setting a date for the applicant to appear before the Board to answer questions affecting consideration of the renewal application; or
 - (c) Reject the renewal application, stating in a findings of fact the reason for the rejection.
 - (2) Applicants for renewal shall submit a completed application with appropriate fees on or before each April 30. Failure to meet the April 30 renewal obligation shall constitute a new application.
- D. The establishment of an applicant requesting a license for the first time shall be inspected by the Town of Islesboro Codes Enforcement Officer prior to any action taken on the application.
- E. An applicant shall apply for a victualer's license or special amusement license or renewal of a license on a form provided for that purpose by the Town. Failure by an applicant to fill out the form completely or any material misstatements provided by the applicant on the form shall be grounds to deny granting the license.
- F. An applicant previously licensed as a victualer shall provide a copy of the current food establishment license issued by the State of Maine Department of Health and Human Services with the renewal application. A new application shall be granted by the Board of Selectmen only under the condition that the victualer's license becomes effective after the Department of Health and Human Services has made an on-site inspection and has issued an food establishment license.⁶
- G. Each applicant shall annually submit documentation indicating satisfactory water tests for potable water.
- H. Each establishment or entity required to be licensed shall be either connected to a public sewer; have an approved sewage waste disposal system or shall provide documentation showing how its wastewater will be disposed.
- I. Licensees who cook food on the premises shall have a vent or vents from the cooking area to the outdoors. The vent or vents shall be installed to avoid unreasonable nuisance

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

to any abutting property or to the public because of fumes, grease, smell, heat, steam, condensation, smoke or noise.

- J. All victualer and special amusement license applications shall be advertised by posting notices in two or more public places in the Town of Islesboro at least seven days prior to the meeting scheduled to consider the application.
- K. A new victualer's or special amusement license shall be valid until May 31 immediately following the approval of the license, except that licenses granted in May shall be valid until May 31 of the following year, unless previously revoked. Renewals shall be valid until May 31 of the following year unless previously revoked.
- L. A compliance bond shall be returned to the licensee upon termination of the license unless the bond shall have been forfeited under the provisions of § 257-9D.

ARTICLE V Licenses and Fees

§ 257-11. Issuance of licenses.

- A. The annual fee for a new license or renewal of a license shall be as listed below. The fee shall be paid to the Town of Islesboro at the time of application.
- B. Approved applications shall be signed by a majority of a duly constituted quorum of the Board of Selectmen.
- C. The Town Manager or designated Town employee shall issue the license within two working days after receipt of the approved application signed by the Board.
- D. The Board of Selectmen shall specify in a findings of fact and order the reasons for denying an application or renewal of an application. The findings of fact shall be delivered to the applicant within two working days by the Codes Enforcement Officer of the Town of Islesboro or mailed to the applicant by certified mail within two working days, each after the signing of the findings of fact and order by the Board. Denials of applications may be appealed to the Board of Appeals.
- E. Licensees shall permanently display the current victualer's license and/or special amusement license in a place within the establishment where it can readily be viewed by the public.

§ 257-12. Fees.

The Board of Selectmen, after public hearing, shall establish fees for applications for a victualer's license and special amusement license:

- A. Victualer's license:
 - (1) Fee: \$15.
 - (2) Water test (if done by Town): \$10.50.

B. Special amusement license:

- (1) Class I:
 - (a) Fee: \$20.
 - (b) Compliance bond: \$100.
 - (c) Water test (if done by Town): \$10.50.
- (2) Class II:
 - (a) Fee: \$50.
 - (b) Compliance bond: \$500.
 - (c) Water test (if done by Town): \$10.50.

**ARTICLE VI
Enforcement**

§ 257-13. Violations and penalties.

Any act made unlawful by this chapter and any violation of this chapter shall also be punishable by a fine of not more than \$50 for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.

**ARTICLE VII
Definitions**

§ 257-14. Terms defined.

As used in this chapter, the following terms shall have the meanings indicated:

DISORDERLY CONDUCT — A person is guilty of disorderly conduct if, with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he or she:

- A. Engages in fighting or threatening or in violent or tumultuous behavior;
- B. Makes unreasonable noise or offensively coarse utterance, gesture or display, or addresses abusive language to any person present;
- C. Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor; or
- D. Refuses to leave the establishment or its premises when requested by the licensee, the licensee's authorized employee, or a law enforcement officer.

ENTITY — A person or persons conducting a business or activity subject to the provisions of this chapter.

ESTABLISHMENT — A place where business or activity subject to the provisions of this chapter is conducted.

PREMISES — The area around and including an establishment.

PRIVATE CLUB — An establishment that caters to and provides entertainment for a selected membership and its guests as opposed to an establishment catering to and providing entertainment for the general public.

PART II

SELECTMEN'S

POLICIES

Chapter 295
GENERAL PROVISIONS

ARTICLE I
Establishment of Policies

§ 295-2. Deviation from policies.

§ 295-1. Procedure for adoption and amendment.

[HISTORY: Adopted by the Board of Selectmen of the Town of Islesboro as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Establishment of Policies
[Adopted 7-6-2011]

§ 295-1. Procedure for adoption and amendment.

- A. It is the policy of the Board of Selectmen to establish working policies for the current Board and for future Boards.
- B. A policy may be proposed in writing by any member of the Board and upon motion and after discussion and any amendments shall be deemed approved if it obtains at least three affirmative votes. The written policy shall then be placed in the book of Selectmen's policies. The same procedure shall be followed for amending policies.

§ 295-2. Deviation from policies.

The Board may deviate from time to time from these policies as circumstances dictate. At least three affirmative votes are required to deviate from a policy and the reason for so doing shall be placed in the minutes. A copy of that portion of the minutes shall be on file with the official copy of the policies book.

Chapter 318

COMMITTEES AND OTHER APPOINTMENTS

ARTICLE I Committee Establishment Policy

**§ 318-1. Notice of vacancies;
appointment procedures.**

ARTICLE II Swearing in of Appointees

§ 318-2. Persons required to be sworn in.

[HISTORY: Adopted by the Board of Selectmen of the Town of Islesboro as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Boards — See Ch. 15.

ARTICLE I Committee Establishment Policy [Adopted 12-6-2000]

§ 318-1. Notice of vacancies; appointment procedures.

It is the policy of the Islesboro Board of Selectmen to notify the Islesboro community of committee vacancies and to make annual committee appointments in accordance with the following procedures:

- A. Immediately following the first Selectmen's meeting after the Annual Town Meeting, notices will be sent to committee members whose terms are due to expire on June 30 to determine whether they wish to be reappointed.
- B. At the second Selectmen's meeting following the Annual Town Meeting, the vacancies on each committee will be reported to the Board of Selectmen and a listing of the vacancies made public.
- C. Openings on committees shall be posted as widely as possible, including notices in conspicuous public places, newspapers, the Annual Report and the Internet no later than the first week in June.
- D. Committee appointments will be made by the Board of Selectmen no later than its second meeting in July.
- E. The Board shall endeavor to balance membership on committees among the various demographic segments of the community.
- F. Nonvoter residents who indicate a desire to serve on committees will be added to the committees where feasible. Resident voters will continue to constitute the majority of membership on all committees.

ARTICLE II
Swearing in of Appointees
[Adopted 7-6-2011]

§ 318-2. Persons required to be sworn in.

It is the policy of the Board of Selectmen to require only those persons appointed to positions or committees that are required by law, ordinance or contract to be sworn in by the Town Clerk or Deputy Town Clerk prior to assuming their duties. Generally those who volunteer for positions or serve on ad hoc committees are not required to be sworn in.

Chapter 334

EMPLOYEE SAFETY

§ 334-1. Policy statement.

§ 334-2. Authority of Manager to draft safety policies.

[HISTORY: Adopted by the Board of Selectmen of the Town of Islesboro 7-6-2011. Amendments noted where applicable.]

§ 334-1. Policy statement.

It is the policy of the Board of Selectmen to support the Maine Municipal Association's Safety Leader Program. It is the policy of the Board to provide a safe environment for all Town employees.

§ 334-2. Authority of Manager to draft safety policies.

The Board authorizes the Town Manager to research, report, update and draft all policies so that they ensure employee safety.

Chapter 349

FINANCE

ARTICLE I Purchasing Policy

- § 349-1. Purpose.
- § 349-2. Definitions.
- § 349-3. Responsibilities of department heads.
- § 349-4. Purchase limits and procedures.
- § 349-5. Preparation of specifications.
- § 349-6. Quotation or bid summary form.
- § 349-7. Factors to be considered; notice of receipt.
- § 349-8. Accepting equipment on trial.
- § 349-9. Joint purchasing.
- § 349-10. Disposal of property.
- § 349-11. Petty cash.

ARTICLE II Abatement Requests

- § 349-12. Duties of Board of Selectmen.
- § 349-13. Delegation of functions; hearings.
- § 349-14. Application form.

ARTICLE III Fixed Asset Policy

- § 349-15. Compliance with GASB Statement No. 34.
- § 349-16. Capital asset definition.
- § 349-17. Capitalization method.
- § 349-18. Capitalization thresholds.

- § 349-19. Infrastructure assets.
- § 349-20. Other assets.
- § 349-21. Depreciation and useful life.
- § 349-22. Safeguarding and controlling fixed assets.

ARTICLE IV Treasurer's Disbursement Warrant

- § 349-23. Signing by Board of Selectmen.

ARTICLE V Acceptance of Gifts and Donations

- § 349-24. Accounting of unrestricted gifts and donations.
- § 349-25. Accounting of restricted gifts and donations.
- § 349-26. Criteria for acceptance of restricted gifts and donations.
- § 349-27. Fund-raising.
- § 349-28. Donations of equities.

ARTICLE VI Auditor

- § 349-29. Annual selection; notifying State Auditor.
- § 349-30. Post-audit standards.

Attachment A, Application for Property Tax Exemption or Abatement

Suggested Useful Life Schedule

Policy on Treasurer's Disbursement Warrants for Employee Wages and Benefits

[HISTORY: Adopted by the Board of Selectmen of the Town of Islesboro as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Disposal of foreclosed properties — See Ch. 357.

ARTICLE I
Purchasing Policy
[Adopted 9-29-2010]

§ 349-1. Purpose.

The purposes of the policy are to standardize the purchasing procedure of the Town of Islesboro thereby securing for the Town the advantages of a centralized and uniform purchasing policy saving the taxpayers' money and increasing public confidence in the procedures for municipal purchasing; to promote the fair and equitable treatment of all suppliers of goods and services; and to set forth the duties and responsibilities of the department heads and the Town Manager or Town Manager's designee, thereby fostering interdepartmental cooperation and trust in the purchasing system. The purpose of this policy is to allow the Board of Selectmen and Town Manager, or Town Manager's designee, the ability, when in the best interest of the Town, to give preferential treatment to bids and/or bidders that represent a direct benefit to the local economy.

§ 349-2. Definitions.

The following terms shall have the meanings indicated:

BID MOST ADVANTAGEOUS TO THE TOWN — A bid chosen on the basis of price, quality of merchandise, suitability of merchandise, and service reputation of the vendor, and therefore may not necessarily mean the lowest bid received.

COMPETITIVE BIDDING — The process of obtaining the bid most advantageous to the Town for any purchase, whether through formal or informal bidding procedures.

COOPERATIVE PURCHASE — A purchase made by the Town in conjunction with or from another governmental or quasi-governmental agency, such as, but not limited to, the State of Maine, Islesboro Central School, Dark Harbor Wastewater Treatment Facility or another municipality.

FORMAL BID — A written quotation obtained in a sealed envelope from a vendor or through advertisement and opened at a specific day, place and time.

INFORMAL BID — A written quotation obtained from a vendor but not required to be opened publicly at a specified day, place and time.

ISLAND BUSINESS — Bidders whose company's headquarters are in Islesboro and/or who pay excise or personal property taxes in Islesboro.

PURCHASE — Buying, renting, leasing, or otherwise acquiring supplies or services for a price.

SERVICES — The lease or rental of all grounds, buildings, offices, space or equipment required by the Town, the repair or maintenance of equipment or real property owned by or the responsibility of the Town and all labor furnished to the Town and the use of equipment by persons, firms, individuals or corporations not part of or connected with the Town government. "Services" shall not include professional services provided to or for the Town by lawyers, architects, engineers, auditors and consultants, nor shall "services" include utilities such as electricity and phone services.

SUPPLIES — All supplies, materials and equipment.

TOWN MANAGER or TOWN MANAGER'S DESIGNEE — The Town Manager or the Town Manager's designee.

§ 349-3. Responsibilities of department heads.

Responsibilities of department heads shall be as follows:

- A. To practice economy in the use of materials.
- B. To maintain equipment in serviceable condition.
- C. To plan future purchases to provide ample time to secure favorable prices.
- D. To ensure compliance by employees with purchasing regulations and procedures.
- E. To assure that a sufficient unencumbered balance in the department's appropriation is available before a purchase is made.
- F. To supply the Town Manager with a list of estimated annual requirements of frequently used supplies, thereby fostering cooperative purchasing.
- G. To report to the Town Manager the following:
 - (1) Items beyond use.
 - (2) Items being replaced or to be replaced.
 - (3) Items no longer of use to department operations.
- H. To be empowered to reject any unacceptable supply or commodity on the grounds of high cost or low quality, and provide the Town Manager with a written detailed report of any rejection.

§ 349-4. Purchase limits and procedures.

- A. Purchase limits are as follows:

Purchase Amount	Process
\$0 to \$2,500	Purchase order required
Between \$2,500 and \$10,000	Informal bidding
Over \$10,000	Formal bidding

B. Purchases of \$2,500 or less:

- (1) Authority. Department heads are authorized to make purchases from vendors when the total cost is \$2,500 or less if budget funds are available. Department heads are expected to investigate the local market and select items best suited for their needs by both quality and price.
- (2) Purchase order. Purchase orders will be submitted for all purchases and will be approved by the department head, followed by the Town Manager. A copy of the purchase order will be sent to the vendor, or the purchase order number will be relayed to the vendor for placement on the invoice with proper account coding.
- (3) Invoice necessary. The department head making the purchase will ensure that the invoice is to the Town of Islesboro and should also ensure that the vendor provides a legible and complete description of the item purchased on the invoice. A copy of the supplier's invoice signed by the person making the purchase will be delivered to the department head. The department head shall verify (by signing the invoice) the receipt of the item and ensure that the invoice reflects the department and activity for which the purchase was made. The invoice shall also have the corresponding purchase order number clearly printed on the invoice so that the Treasurer and/or Deputy Treasurer can expeditiously pay the invoice. Invoices shall be delivered to the Treasurer and/or Deputy Treasurer as soon as possible.
- (4) Department heads. Department heads shall exercise prudence and care to ensure that the appropriate vendor selection method is utilized.
- (5) Blanket purchase. Blanket purchase orders for ongoing purchases of supplies or seasonal contracts shall be renewed annually.

C. Purchases between \$2,500 and \$10,000.

- (1) Dollar limits. An informal bidding process may only be used in the purchase of items under \$10,000 or over \$10,000 in an emergency. Department heads are expected to investigate the local market and select the items best suited for their needs by both quality and price.
- (2) Informal bidding process. Informal bidding shall require at least three written quotations from separate vendors whenever possible. Under this method the request for quotations is not publicly advertised nor is there a formal bid opening. All informal purchases shall, whenever possible, be based on at least three competitive quotations and be awarded in accordance with the standards set forth. Generally, an informal bidding process shall be used whenever a purchase or contract exceeds \$2,500 but is less than \$10,000. If written quotes are not possible,

a log containing the date, vendor's name, items, price and delivery quoted shall be prepared and maintained by the department head.

D. Formal bidding. Purchases over \$10,000 shall normally require the use of the following bid process:

- (1) Notice of invitation to bid should be posted in at least three conspicuous public locations in Town and mailed to a bidder's list if available. Notification shall be made whenever possible at least five days preceding the last day acceptable for receipt of bids. In addition to the invitation to bid, each prospective bidder will be furnished a specification sheet and a bid proposal form.
- (2) Bids shall be submitted, sealed and identified as bids on the envelope. They shall be opened by the Town Manager or his designee, in public, at the time and place stated, and a tabulation of all bids shall be available for public inspection.
- (3) When deemed necessary by the Town Manager, bid deposits will be required. Unsuccessful bidders shall be entitled to return of their deposit, while the successful bidder shall forfeit the bid deposit upon failure on their part to enter into a contract within 10 days after award.
- (4) Before entering into a contract, the Town Manager shall have the authority to require performance bonds in such amounts as he/she shall find necessary to protect the best interest of the Town.
- (5) The Town Manager may make cooperative purchases without competitive bidding if the Town Manager determines the purchase is being made after competitive bidding by the cooperative entity or at a price more advantageous than the Town would be likely to obtain by competitive bidding.
- (6) The Town Manager may waive the requirements for competitive bidding for purchases of \$10,000 or less in cases of emergency or when the purchase is inappropriate for competitive bidding due to the nature of the item, time constraints or other factors, provided that the Town Manager shall file a full and complete statement of the reasons for waiving competitive bidding.
- (7) The Board of Selectmen may waive the requirements for competitive bidding for purchases of \$10,000 or more in the case of a nonemergency purchase when the purchase is inappropriate for competitive bidding due to the nature of the item, time constraints, or other factors.
- (8) The Town Manager may waive the requirements for competitive bidding in any amount in all emergency situations, provided that the Town Manager shall file a full and complete statement with the Town Clerk of the reasons for waiving competitive bidding and notify the Chair and members of the Board of Selectmen of such.
- (9) All purchases requiring utilization of the formal bidding process shall be subject to Board of Selectmen approval prior to the initialization of the formal bid process.

§ 349-5. Preparation of specifications.

The responsibility for preparing specifications rests with the department head, in collaboration with the Town Manager.

§ 349-6. Quotation or bid summary form.

Upon return of the bid proposals or the request for quotation form from the vendors, the department head will summarize the prices offered on a quotation summary form and recommend to the Town Manager the vendor to be chosen. The Town Manager will determine the lowest and best bid. A summary of the bid process will be provided to the Board of Selectmen.

§ 349-7. Factors to be considered; notice of receipt.

- A. The following factors shall be considered in awarding each bid:
- (1) The stated bid price.
 - (2) The ability, capacity and skills of the bidder to perform the contract or provide the purchase within the time specified without delay or interference.
 - (3) The character, integrity, judgment, experience and efficiency of the bidder.
 - (4) The quality of performance of previous contracts or purchases.
 - (5) The previous and existing compliance by the bidder with the laws and ordinances relating to the contract for service.
 - (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the purchase.
 - (7) Quality, availability and adaptability of the contract or purchase.
 - (8) The ability of the bidder to provide future maintenance service on the items to be purchased.
 - (9) The number and scope of conditions attached to the bid.
- B. If all bids received are the same total amount or within 10% variance, up to a maximum of \$25,000, with quality being equal, the contract shall be awarded to an Islesboro business, service or professional.
- C. The department head will notify the Treasurer and/or Deputy Treasurer upon receiving the goods or services, by stamping the purchase order with the receiving stamp and forwarding the stamped copy of the purchase order form, together with the statement, invoice and other documents accompanying the shipment, to the Treasurer and/or Deputy Treasurer.

§ 349-8. Accepting equipment on trial.

No equipment or accessory may be put to use by any department for the purpose of testing its suitability or fitness in advance of purchase without the prior written approval of the Town Manager. In all cases, proof of insurance must be furnished by the supplier or contractor.

§ 349-9. Joint purchasing.

The Town Manager shall have the authority to join with other units of government in cooperative purchasing when the best interests of the Town would be secured.

§ 349-10. Disposal of property.

- A. All municipally owned property, real or personal, shall be disposed of either by:
- (1) Trade-in on purchase of new equipment. Any item that is offered as a trade-in shall also be offered for sale by competitive bid. The higher amount of the two (trade-in allowance or bid) shall be accepted.
 - (2) Sealed bids.
 - (3) Auction.
 - (4) Donation with Board of Selectmen approval.
- B. Equipment or material that is obsolete, valueless, or surplus is to be reported to the Town Manager for disposition instructions.

§ 349-11. Petty cash.

Cash purchases may be made in small amounts through the petty cash fund.

- A. The amount of a single cash purchase shall not exceed \$25. Persons making cash purchases shall be reimbursed upon presentation of a receipt to the person authorized by the Town Manager to disburse petty cash.
- B. A record of disbursements, their purpose and receipts shall be maintained by the person authorized by the Town Manager to disburse petty cash.
- C. The petty cash fund shall not exceed \$100 and shall be kept separate from all other cash. It shall be replenished as needed by warrant approved by the Board of Selectmen.

ARTICLE II
Abatement Requests
[Adopted 7-6-2011]

§ 349-12. Duties of Board of Selectmen.

It is the policy of the Board of Selectmen to grant abatement of taxes due to inability to pay. The Board shall:

- A. Provide that any person indicating an inability to pay all or part of taxes that have been assessed because of poverty or infirmity be informed of the right to make application under this article;
- B. Assist individuals in making application for abatement;
- C. Make available application forms for requesting an abatement based on poverty or infirmity and provide that those forms contain notice that a written decision will be made within 30 days of the date of application;
- D. Provide that persons are given the opportunity to apply for an abatement during normal business hours;
- E. Provide that all applications, information submitted in support of the application, files and communications relating to an application for abatement and the determination on the application for abatement are confidential. Hearings and proceedings held pursuant to this article must be in executive session;
- F. Provide to any person applying for abatement under this article, notice in writing of their decision within 30 days of application; and
- G. Provide that any decision made under this article include the specific reason or reasons for the decision and inform the applicant of the right to appeal and the procedure for requesting an appeal.

§ 349-13. Delegation of functions; hearings.

The Board may delegate to the Town Manager the providing of forms and other assistance to the applicant, but the Board shall conduct all hearings and make all rulings relevant to the application.

§ 349-14. Application form.

A completed federal income tax form is required for each year of requested abatement. The following form shall be completed:¹

1. Editor's Note: The Application for Property Tax Exemption or Abatement form is included at the end of this chapter.

ARTICLE III
Fixed Asset Policy
[Adopted 7-6-2011]

§ 349-15. Compliance with GASB Statement No. 34.

- A. It is the policy if the Board of Selectmen to have the Town of Islesboro comply with the provisions of the Government Accounting Standards Board (GASB) Statement No. 34. To that end this policy establishes the minimum cost value (capitalization amount) that shall be used to determine the capital assets, including infrastructure assets, that are to be recorded in Town of Islesboro annual financial statements in order to comply with the requirements of GASB Statement No. 34.
- B. This policy also addresses other considerations for recording and depreciating fixed assets in order to comply with the provisions of GASB Statement No. 34.

§ 349-16. Capital asset definition.

Capital assets are defined as tangible and intangible assets that have initial useful lives that extend beyond a single reporting period.

§ 349-17. Capitalization method.

All capital assets are recorded at historical cost as of the date acquired or constructed. If historical cost information is not available, assets are recorded at estimated historical cost by calculating current replacement cost and deflating the cost using the appropriate price-level index.

§ 349-18. Capitalization thresholds.

- A. The Town establishes the following minimum capitalization thresholds for capitalizing fixed assets:
- (1) Land and improvements: \$25,000.
 - (2) Buildings and improvements: \$50,000.
 - (3) Machinery/equipment/vehicles: \$5,000.
 - (4) Infrastructure: \$150,000.
- B. Detailed records shall be maintained for all fixed assets above the established thresholds.

§ 349-19. Infrastructure assets.

In accordance with GASB Statement No. 34, the Town records, at a minimum, "major" infrastructure assets as defined in Statement No. 34 that were acquired, constructed or significantly reconstructed, or that received significant improvements after June 30, 1980.

Other infrastructure assets may be capitalized as deemed appropriate. The Town does not use the "modified approach" to record infrastructure.

§ 349-20. Other assets.

Detailed records are maintained at the discretion of the Town Manager for all items below the capitalization thresholds that should be safeguarded from loss. These items are part of the annual physical inventory discussed below. These items include firearms and computer equipment that fall below the established thresholds and any other assets specified by the Town Manager.

§ 349-21. Depreciation and useful life.

The Town Manager will assign an estimated useful life to all assets for the purposes of recording depreciation. The attached Suggested Useful Lives schedule² is used to establish lives for most assets. Asset lives will be adjusted as necessary depending on the present condition and use of the asset and based on how long the asset is expected to meet current service demands. Adjustments should be properly documented. Depreciation is recorded based on the straight line method using actual-month convention and depreciated down to the assets salvage value.

§ 349-22. Safeguarding and controlling fixed assets.

All machinery and equipment, vehicles and furniture is assigned an asset number and identified with a fixed asset tag. As fixed assets are purchased or disposed of, the department head in custody of that asset is responsible for preparing a fixed asset data sheet, which is then forwarded to the business office to ensure proper recording. A physical inventory will be taken annually on or about June 30 and compared to the physical inventory records. The results are forwarded to the Town Office where appropriate adjustments will be made to the fixed asset records.

ARTICLE IV
Treasurer's Disbursement Warrant
[Adopted 7-6-2011]

§ 349-23. Signing by Board of Selectmen.

It is the policy of the Board of Selectmen to sign the Town of Islesboro Policy on Treasurer's Disbursement Warrants for Employee Wages and Benefits at their first meeting after the Annual Town Meeting each year. The Board shall determine if such a warrant needs to be signed prior to their first meeting. In that event they shall post the time for a special meeting of the Board for the purpose of signing the policy.

2. Editor's Note: The Suggested Useful Lives schedule is included at the end of this chapter.

ARTICLE V
Acceptance of Gifts and Donations
[Adopted 7-6-2011]

§ 349-24. Accounting of unrestricted gifts and donations.

It is the policy of the Town of Islesboro Board of Selectmen to accept gifts and donations on behalf of the Town that are not inconsistent with articles approved at the Annual Town Meeting or at a Special Town Meeting called for that purpose in accordance with 30-A M.R.S.A. § 5652 to § 5655 and Internal Revenue Service Rule § 170(c)(1). Items purchased from the proceeds of such unrestricted gifts or unrestricted donations shall be accounted for on the Town's books of accounts and shall be the property of the Town.

§ 349-25. Accounting of restricted gifts and donations.

Items purchased from the proceeds of restricted gifts or restricted donations shall be accounted for on the Town's books of accounts and shall be the property of the Town.

§ 349-26. Criteria for acceptance of restricted gifts and donations.

The Selectmen shall only accept restricted gifts and donations when they believe such acceptance is in the best interest of the Town and can comply with 30-A M.R.S.A. § 5654.

§ 349-27. Fund-raising.

Organizations or individuals wishing to raise funds for Town departments for equipment, materials, programs and the like shall inform the Board of Selectmen prior to commencement of fund-raising. Organizers of the fund-raising shall account to the Board of Selectman for funds raised. At their option, the Board of Selectmen may accept cash or the item or items for which funds were raised.

§ 349-28. Donations of equities.

It is the policy of the Board of Selectmen to encourage the donation equities to the Town of stocks, bonds and other equities. When equities are received, the Town Manager shall determine the value of the equity on the day received and report that amount to the Board of Selectmen. If the Board of Selectmen wishes to accept the donation, it shall do so at the next meeting of the Board after the donation is received, acknowledge the amount of the donation as of the day of receipt and express its thanks to the donor. Disposition of the stock shall be determined by the Selectmen after competent advice and the proceeds, if any, credited to the proper account or to fund balance.

ARTICLE VI
Auditor
[Adopted 7-6-2011]

§ 349-29. Annual selection; notifying State Auditor.

It is the policy of the Board of Selectmen to comply with 30-A M.R.S.A. § 5823 and annually select an auditor to conduct a post-audit after the end of the fiscal year. The Selectmen shall notify the State Auditor of the name and address of the auditor within 30 days after the auditor is elected or engaged.

§ 349-30. Post-audit standards.

The post-audit shall be conducted on the basis of auditing standards and procedures prescribed by the State Auditor.

FINANCE

349 Attachment 1

Town of Islesboro

Attachment A

Application for Property Tax Exemption or Abatement

(Note: Property of blind persons [36 M.R.S.A. § 654, Subsection (1)(E)] is exempt regardless of need. Such persons need not file application to obtain exemption, but sufficient proof of eligibility for exemption or abatement must be furnished.)

Please file in duplicate

- 1. Name _____
- 2. Legal Residence _____
- 3. Mailing Address _____
- 4. Date of Birth (mm/dd/yyyy) _____
- 5. Place of Birth _____
- 6. Married Single Widow or Widower
- 7. Names of next of kin (husband or wife and children; or if none, other next of kin):

<i>Name</i>	<i>Age and</i>	<i>Address</i>
	<i>Relationship</i>	

- 8. What means of support has applicant? (Explain briefly.):

- 9. Real estate owned by applicant, and if married, by husband or wife:

<i>Kind (i.e., "home", "farm", "woodlot", etc.)</i>	<i>Location</i>	<i>Owner's Value</i>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

- 10. Mortgages or encumbrances on this property:

Held by _____

In the amount of \$ _____

- 11. Total value of bank accounts in name of applicant, and if married, in name of husband or wife: \$ _____

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- 12. Current cash value of securities or insurance owned: \$ _____
- 13. Brief description and value of other personal property owned, including cash:

- 14. Amount of annuity or pension received each year \$ _____
- 15. Total annual cash income of applicant, and if married, of husband and wife, exclusive of annuity or pension of Item 14: \$ _____
- 16. Remarks: _____

I hereby apply for exemption from taxation in accordance with 36 M.R.S.A. § 841, which provides for reasonable abatements in the real and personal taxes on "all persons who, by reason of infirmity or poverty, are in [the municipal officers'] judgment unable to contribute to the public charges." The answers to the above questions are correct to the best of my knowledge and belief.

Date _____

Signature of Applicant _____

INSTRUCTIONS: All questions should be answered. You may be requested to supply additional data to support your request. Application should be filed in duplicate; one copy will be returned to you with the decision of the Assessor noted below. A written decision shall be made and provided to the applicant within 30 days of the application.

Date _____

In accordance with the foregoing request, exemption from property tax for the year 20____ is (not) granted; partial exemption of property tax in the amount of \$_____ valuation for the year 20____ is (not) granted;

abatement of property tax for the year(s) 20____ is (not) granted.

Dated this ____ day of _____ 20____

Town of Islesboro Board of Selectmen

FINANCE

349 Attachment 2

Town of Islesboro

**Fixed Asset Policy
Capital Assets of Local Governments
Suggested Useful Lives**

Asset Type	Examples	Depreciable Life in Years
Noninfrastructure		
Furniture, office equipment	Desks, tables, chairs	5
Computer hardware	Monitors, CPU, printer	5
Telephone equipment		10
Motor Vehicles		
Cars and light trucks		5
Buses	School	8 to 10
Fire trucks		15
Buildings, temporary	T-buildings, other portable	25
Buildings:		40
HVAC systems	Air-conditioners, heating, ventilation systems	20
Roofing		20
Carpet replacement		7
Electrical/plumbing		30
Kitchen equipment	Appliances	12
Heavy construction equipment	Backhoes, trucks, dozers, front-end loaders, large tractors	5 to 10
Engineering, scientific equipment	Lab equipment	10
Firefighting equipment	Ladder, hoses	10
Police special equipment		10
Medical equipment		5
Radio, communications equipment	Mobile, portable radios	10
Recreational/athletic equipment	Weight machines, mats, treadmills	10
Library books	Collections	5 to 7
Artwork	Collections	5 to 7
Outdoor equipment	Playground equipment, scoreboards, bleachers, radio towers	20
Custodial equipment	Floor scrubbers, vacuums, other	12

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Asset Type	Examples	Depreciable Life in Years
Grounds equipment	Mowers, tractors and attachments	15
Land improvements, structure	Parking lots, sidewalks, fencing, flagpole	20
Land improvements, ground work	Golf course, ball field, park landscaping	30
Landfill disposal systems		25
Land		No depreciation
Sewerage treatment plants		25
Infrastructure		
Easements		No depreciation
Drainage systems		25
Water systems		25
Sewerage disposal works system		25
Roads:		
Asphalt, rural		40
Nonpaved		50

Adapted from <http://www.la.state.la.us/userfiles/file/sugguse.pdf>.

FINANCE

349 Attachment 3

Town of Islesboro

Policy on Treasurer’s Disbursement Warrants for Employee Wages and Benefits

Purpose: This policy allows designated municipal officers (Selectmen), acting on behalf of the full board of municipal officers, to review, approve, and sign Municipal Treasurer’s disbursement warrants, for wages and benefits only.

This policy is additional to, not in lieu of, majority power. Nothing in this policy is intended to replace the authority of the full board of municipal officers, acting by majority vote, to act on any Treasurer’s warrant, including warrants for wages and benefits.

Delegation of authority. Pursuant to 30-A MRSA § 5603(2)(A)(1), the following authority is granted with respect to Treasurer’s disbursement warrants for municipal employee wages and benefits only:

Current municipal officers. The municipal officers in office at the time of execution of this policy are: _____, (Chair), and _____.

- Any one of the municipal officers named above, acting alone, may review, approve, and sign such warrants.
Either _____ or _____, acting alone, may review, approve, and sign such warrant.
_____, acting alone, may review, approve, and sign such warrants.

Effective date. This policy becomes effective on the date indicated below.

Copies. The Chair of the municipal officers will furnish copies of this policy to the Municipal Clerk and to the Municipal Treasurer. If the Clerk and the Treasurer are the same person, a copy shall nonetheless be provided to that person in each capacity.

Lapse. This policy lapses one year after its effective date, if not sooner amended or canceled.

Reminder. If the Municipal Treasurer is an appointed official, the Treasurer shall remind the municipal officers to consider renewing this policy annually before it lapses. If the Municipal Treasurer is an elected official, the Treasurer is requested to provide such an annual reminder.

Original. The Chair of the municipal officers will maintain the original of this policy on file unless the Municipal Clerk is an appointed official, in which case the Clerk shall maintain it on file, if requested to do so by the Chair.

Dated:

TOWN OF ISLESBORO MUNICIPAL OFFICERS:

Chapter 357

FORECLOSED PROPERTY, DISPOSAL OF

§ 357-1. Considerations for taking title.

§ 357-2. Procedure to reconvey
foreclosed property.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Islesboro 7-6-2011.
Amendments noted where applicable.]**

§ 357-1. Considerations for taking title.

- A. It is the policy of the Board of Selectmen to provide for the disposal of tax-acquired property.
- B. Prior to foreclosing a tax lien the Board shall determine whether it is in the best interest of the Town to take title to the property. Considerations include but are not limited to possible environmental remediation costs; possible welfare costs; possible demolition; possible maintenance costs; and increased liability. The Board of Selectmen shall ensure that an article be placed in the warrant of every Annual Town Meeting that states in effect:

To see if the Town will vote to authorize the Selectmen on behalf of the Town to dispose of any personal property regardless of how obtained and any real estate acquired by the Town for nonpayment of taxes on such terms as they deem advisable and to execute quit-claim deeds, if applicable, for such property. Property to be disposed of shall be advertised and sold by sealed bid except for the purpose of clearing title or reconveyance to a prior owner.

- C. A copy of that article shall be attached to the thirty-day foreclosure notice when sent to the owner of the property to be foreclosed. In addition, the following procedure for reconveyance to a prior owner shall be sent with the thirty-day foreclosure notice.

§ 357-2. Procedure to reconvey foreclosed property.

To obtain reconveyance of the foreclosed property, this procedure shall be followed:

- A. The prior owner (or heir/s) shall write to the Board of Selectmen to request the return of the property within 30 calendar days after the date of foreclosure.
- B. The Board shall decide at a public meeting whether to approve the reconveyance.
- C. If the Board approves a reconveyance, the prior owner (or heir/s) shall pay the following funds prior to the reconveyance on schedule determined by the Board:

- (1) All back taxes and interest due;
 - (2) All current taxes levied whether due or not;
 - (3) Certified mailing costs and any processing costs;
 - (4) Attorney's fees for creation of release deed;
 - (5) Recording fees for placing lien, for the deed(s) and all lien releases.
- D. The Town shall not be required to provide any additional notification to the property owner regarding this procedure.

Chapter 382

INTERNET AND ELECTRONIC MAIL POLICY

§ 382-1. Purpose.

§ 382-4. Acceptance.

§ 382-2. Policy.

**Acknowledgment of E-Mail and
Internet Policy**

§ 382-3. Procedures.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Islesboro 7-14-2004.
Amendments noted where applicable.]**

§ 382-1. Purpose.

Electronic mail, Internet and telecommunication access are resources made available to Town employees to communicate with each other, other governmental entities, companies and individuals for the conduct of business and the benefit of the Town of Islesboro.

§ 382-2. Policy.

- A. The Town of Islesboro's electronic mail system (e-mail) and Internet connection are designed to facilitate any Town business communication among employees and other business associates for messages or memoranda. Since no computer system is completely secure, the e-mail system is not intended to transmit sensitive materials, such as personnel decisions and other similar information which may be more appropriately communicated by written memorandum or personal conversation.
- B. The e-mail system is Town property and intended for Town business. It must be understood that use of this system is a privilege, which may be limited or removed if the privilege is abused at any time or for any reason, at the sole discretion of the Town of Islesboro. The system is not to be used for employee personal gain or to support or advocate for non-Town-related activities or business purposes. All data and other electronic messages within this system are the property of the Town of Islesboro. E-mail messages have been found to be public records and may be subject to the right-to-know laws, depending on their content.
- C. In addition, the Town, through its managers and supervisors, reserves the right to review the contents of employees' e-mail communications when necessary for Town business or performance purposes. Employees may not intentionally intercept, eavesdrop, record, read, alter, or receive other persons' e-mail messages without proper authorization.
- D. The Town of Islesboro owns and administers the necessary software and licenses to provide access to e-mail and Internet services. Employees may not rent, copy or loan the software or its documentation. The Town has invested much time and money to secure its electronic systems from intrusion and harmful viruses. Therefore, employees may not provide alternative software to access the system. Employees may be held responsible for any damages caused by using unauthorized software or viruses that have been introduced

into the Town system. All department heads are responsible for the implementation of and adherence to this policy within their departments.

§ 382-3. Procedures.

- A. General information on passwords. While you may have a confidential password, users should be aware that this does not mean that the system is for personal confidential communication, nor does it suggest that e-mail is the property right of the employee. The use of the e-mail system is for Town business. Passwords should be periodically changed to ensure security of the e-mail system. Users should not share their passwords with anyone else, other than as his or her supervisor may require.
- B. Internet use. The Internet provides the Town with significant access and dissemination of information to individuals outside of the Town. The use of the Internet system for access and dissemination is intended to serve Town business. Like all e-mail messages, Internet messages are capable of being forwarded without the express permission of the original author. Internet messages are also routinely passed through routers before they reach their final destination. A message is "touched" many times before it gets to its recipient, and the message author should be aware of this. Therefore, users must use caution in the transmission and dissemination of messages outside of the Town and must comply with all state and federal laws.
- C. Prohibited uses. The Town's e-mail and Internet systems may be used only for lawful purposes. When sending e-mail messages, appropriateness and good judgment should be used. The following are examples (but are not limited to this list) of Internet and e-mail uses which are prohibited:
 - (1) Communications that in any way may be construed by others as disruptive, offensive, abusive, or threatening.
 - (2) Communications of sexually explicit images or messages or that constitute child pornography.
 - (3) Communications that contain ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on race, national origin, sex, age, disability or religious beliefs.
 - (4) Solicitation for commercial ventures, religious or political causes, outside organizations, or other non-job-related solicitations.
 - (5) Access to Internet resources, including websites and news groups, that are inappropriate in a business setting.
 - (6) Communications that encourage conduct that would constitute a criminal offense or give rise to civil liability.
 - (7) Any other use that may compromise the integrity of the Town of Islesboro and its business in any way.
- D. Retention of e-mail.

- (1) Generally, e-mail messages are intended to be temporary communications which are nonvital and may be discarded routinely. However, depending on the content of the e-mail message, it may be considered a more formal record and should be retained pursuant to the Town's record retention schedules. As such, these e-mail messages are similar to printed communication and should be written with the same care. Each department head is responsible for establishing and maintaining department retention schedules for the information communicated through the e-mail system.
 - (2) However, employees should be aware that when they have deleted a message from their workstation mailbox, it may not have been deleted from the central e-mail system. The message may be residing in the recipient's mailbox or forwarded to other recipients. Furthermore, the message may be stored on the computer's backup system for an indefinite period. Note that e-mail has been classified as "public" documents, i.e., available to the media, in at least one state. Keep that in mind when you create or store e-mail.
 - (3) Employees should delete e-mail messages as soon as possible after reading. An accumulation of files will degrade system performance and response times.
- E. Applicability to employees, part-time employees, contractors, and other users. This Internet and e-mail policy applies to all employees, contractors, part-time employees, volunteers, and other individuals who are provided access to the Town's system. Third parties should only be provided access to the e-mail system as necessary for their business purpose with the Town and only if they abide by all applicable rules.
- F. Employee termination, leave of absence, vacation, and other. Employees who leave employment with the Town of Islesboro have no right to the contents of their e-mail messages and are not allowed access to the e-mail system. Supervisors or management may access an employee's e-mail if employees are on leave of absence, vacation, sick leave or otherwise absent and it is necessary for the Town's business purposes.
- G. Penalties. The misuse of the Internet or e-mail privileges may be considered sufficient cause for discipline, up to and including discharge of employment, in accordance with the Town of Islesboro's Personnel Policy and/or other applicable rules or laws. In addition, in the event of suspected, alleged or actual illegal activity, the Town may notify or cooperate with applicable law enforcement authorities for potential civil or criminal investigation or prosecution.

§ 382-4. Acceptance.

The Town may require employees to read and accept the terms of this policy before making electronic systems available.¹

1. **Editor's Note: See Acknowledgment of E-Mail and Internet Policy at the end of this chapter.**

INTERNET AND ELECTRONIC MAIL POLICY

382 Attachment 1

Town of Islesboro

Acknowledgment of E-Mail and Internet Policy

As an employee, contractor, volunteer or other individual granted access to the Town's system, I understand that the confidentiality and protection of employer's information are of the utmost importance. I have read and understand employer's policy on acceptable use of e-mail and Internet access.

If I receive a password for access to e-mail, the Internet or any other system of electronically stored computer information, I will use it only for authorized purposes. I agree not to use a code, access a file or retrieve any stored communication other than where explicitly authorized unless there has been prior clearance by an authorized representative of the Town of Islesboro. I will notify my supervisor immediately if I believe that another person may have unauthorized access to my password.

I understand that all information stored in, transmitted or received through the Town's systems of printed or computer information is the property of the Town of Islesboro and is to be used only for job-related purposes. I further understand that authorized representatives of the Town may monitor the use of the Town's systems of printed or computer information from time to time to ensure that such use is consistent with the Town's policies and interests. Further, I am aware that use of a Town-provided password or code does not in any way restrict the employer's right or ability to access electronic communications.

I am aware that any violation of the Town of Islesboro's e-mail or Internet access policy may subject me to disciplinary action, up to and including discharge from employment.

Name (Please print.)

Signature

Date

Chapter 398

KINNICUTT CENTER GENERATOR

§ 398-1. Generator use protocol.

[HISTORY: Adopted by the Board of Selectmen of the Town of Islesboro 7-6-2011. Amendments noted where applicable.]

§ 398-1. Generator use protocol.

It is the policy of the Board of Selectmen to provide a protocol for use of the Kinnicutt Center generator. Copies of the protocol shall be furnished to the Town Manager, Public Safety Director, law enforcement officer, physicians' assistants, school Superintendent and school Principal.

Chapter 422

MEETINGS AND OFFICERS

ARTICLE I Chair

§ 422-1. Election of Chair and Vice Chair.

§ 422-2. Duties.

§ 422-3. Placing items on agenda.

§ 422-4. Overruling decisions of Chair.

§ 422-5. Meeting with Manager.

§ 422-6. Expressing personal opinions.

ARTICLE II Quorum

§ 422-7. Conduct of business by three-member quorum.

§ 422-8. Exceptions.

[HISTORY: Adopted by the Board of Selectmen of the Town of Islesboro as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Chair

[Adopted 7-6-2011]

§ 422-1. Election of Chair and Vice Chair.

It is the policy of the Selectmen of the Town of Islesboro to elect one of its members as Chair for a one-year term. The election shall be held at the first regular meeting of the Board after the Annual Town Meeting. Voting shall be by secret ballot. A majority of votes of the Selectmen present at the meeting is required to elect. The Board shall also elect a Vice Chair who shall carry out the duties of the Chair when the Chair is unable to carry out those duties.

§ 422-2. Duties.

The duties of the Chair are as follows:

- A. To call special or emergency meetings of the Board.
- B. To chair the meetings of the Board.
- C. To consult with the Town Manager on agenda items.
- D. To act as the official spokesperson for the Board.
- E. To be the single voice of the Board in instructing or correcting the Town Manager.
- F. To sign documents on behalf of the Board or the Town as appropriate.
- G. To represent the Board or the Town at official functions.
- H. To liaise with the Chair of the School Committee when necessary.

§ 422-3. Placing items on agenda.

Nothing in the above shall preclude a Selectman from having an item placed on the agenda, provided that item is submitted in a timely manner, that is, by the day before the meeting that the Board sets for closing the agenda.

§ 422-4. Overruling decisions of Chair.

Decisions by the Chair at a meeting may be overruled by a majority of the Selectmen present.

§ 422-5. Meeting with Manager.

Nothing in the above shall preclude a Selectman from meeting with the Town Manager and discussing matters or concerns that Selectman may have.

§ 422-6. Expressing personal opinions.

Nothing in the above precludes a Selectman from expressing his or her individual opinion to the public, provided that it is made clear that what is expressed is that person's opinion and not necessarily that of the Board.

ARTICLE II
Quorum
[Adopted 7-6-2011]

§ 422-7. Conduct of business by three-member quorum.

It is the policy of the Board of Selectmen to determine there is a quorum if three members are present. Except as stated below, any and all business conducted by the full Board may be conducted by a three-member quorum. A minimum of two affirmative votes is required to pass a motion by a three-member quorum. A minimum of three affirmative votes are required to pass a motion when more than three members are present.

§ 422-8. Exceptions.

The exceptions to the three-member quorum conduct of business, when the Board has more than three active members, are:

- A. Amending, enacting or repealing Board of Selectmen policies;
- B. Amending, enacting or repealing Town of Islesboro Personnel Policies and Procedures;
- C. Hiring, dismissing, or disciplining a Town Manager, except if there is no serving Town Manager, an acting Town Manager may be appointed;
- D. Selling Town-owned property.

Chapter 450

RECREATIONAL AREAS

§ 450-1. Rules governing use.

Recreational Facilities Use Permit

[HISTORY: Adopted by the Board of Selectmen of the Town of Islesboro 9-29-2010. Amendments noted where applicable.]

§ 450-1. Rules governing use.

The following rules govern the use of Town of Islesboro recreational areas by functions or organizations not sanctioned by the Recreation Department:

- A. No drinking of alcoholic beverages is permitted.
- B. Activity shall be restricted to that area for which permission is granted.
- C. The activity shall not extend the hours approved in the request.
- D. All programs shall be planned so they do not interfere with the regular Recreation Department schedule.
- E. The supervisor in charge of the activity shall be present before the activity is due to start and remain with the group until all have left.
- F. The facility used by applicant will be carefully examined after use. The applicant will make good promptly any loss or damage occurring as a result of their use.
- G. No Town property or equipment is to be altered or removed from the premises.
- H. The using organization may be required to furnish a certificate of insurance, with proper limits of liability, at least five working days in advance of the event. If required, such certificate must designate both the using organization and the Town (legal name) as insured.
- I. The absence of proof of insurance by the requesting organization may preclude use of the facility.
- J. This approval is revocable at any time by Town authorities.
- K. No reservation will be made until the application is returned and properly approved.¹

1. Editor's Note: See the Recreation Facilities Permit application at the end of this chapter.

RECREATIONAL AREAS

450 Attachment 1

Town of Islesboro

Town of Islesboro
P.O. Box 76
Islesboro, ME 04848

RECREATIONAL FACILITIES USE PERMIT

TOWN ADMINISTRATION IS RESPONSIBLE FOR THE USE OF ALL ORGANIZED RECREATIONAL FACILITIES. IN ORDER THAT THEY MAY CONSIDER YOUR REQUEST FOR THE USE OF THESE FACILITIES, KINDLY COMPLETE THE FOLLOWING FORM:

Area use request: (circle one)			
Meadow Pond	Warren's Landing	Town Beach	Maddie Dodge Field
Grindle Pt. Lawn Area	Moseley's	Grindle Pt. Museum	Hewes Point Ramp

The _____ (organization) request the use of _____ (which area) _____ for the purpose of _____

on _____ (day), _____ (date), from _____ to _____ (time).

Will the activity be open to the public? Yes No

Admission will/will not be charged; proceeds will be used for: _____

Any special equipment needs? Describe _____

Name, Address, Telephone number of person responsible on this occasion: _____

Insurance Information

(required of non-recreation department sanctioned functions/organizations)

Do you (the requesting organization), have an in-force public liability policy? Yes No

If yes, what are the limits of liability? Bodily injury \$ _____ Property Damage \$ _____

I agree on behalf of the above indicted organization that all members and guests will observe the regulations shown on the reverse side and that we, individually, and as an organization, will assume full financial responsibility for any and all damage done to Town property during the above indicated period of use. We also agree that our organization will at all times hereafter indemnify the Town against any loss, damage or expense of any kind, which said Town may sustain or incur because of use of the above described area/building by our organization and we will further hold said Town harmless for loss of any kind in connection therewith.

Request Submitted by: _____ Date: _____
Signature

WP: recreational facilities permit

Chapter 459

ROADS AND DRIVEWAYS

ARTICLE I Road Culvert Placement Policy

ARTICLE II Responsibility for Culvert Costs

§ 459-1. Background information.

§ 459-3. Labor and materials costs.

§ 459-2. Accepted policy.

[HISTORY: Adopted by the Board of Selectmen of the Town of Islesboro as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Development regulations — See Ch. 45.

Land use — See Ch. 125.

ARTICLE I Road Culvert Placement Policy [Adopted 11-29-2003]

§ 459-1. Background information.

- A. Land use ordinances require permits for the following:
- (1) Filling and earth moving activities: from the CEO or Planning Board.
 - (2) Driveways: from the CEO.
 - (3) Permits for houses: from the Planning Board.
- B. Clearly the intent is before a driveway is constructed, some "body" has given a permit for its location.
- C. The issuing authority has standards to meet prior to the permit being issued, sight lines and distances being the major ones.
- D. If a drainage culvert was necessary due to road shoulder conditions, then it is assumed that the culvert would need to be placed within the road limits and its location so stated in the issued permit.

§ 459-2. Accepted policy.

- A. If upon issuing a permit for a driveway entrance onto a Town-owned road a culvert is required, then the first responsibility for its placement shall be the Town of Islesboro's.
- B. The maintenance and repair of the culvert shall then forever fall on the driveway owner to bear.

ARTICLE II
Responsibility for Culvert Costs
[Adopted 7-6-2011]

§ 459-3. Labor and materials costs.

It is the policy of the Board of Selectmen to supply the labor and materials for culverts installed under new driveways. Replacement culverts, materials and labor are the responsibility of the property owner. Culverts and culvert connectors may be purchased at cost from the Town.

Chapter 485

TOWN FACILITIES

§ 485-1. Rules governing use.

Building Facility Use Permit

[HISTORY: Adopted by the Board of Selectmen of the Town of Islesboro 9-29-2010. Amendments noted where applicable.]

§ 485-1. Rules governing use.

The following rules govern the use of Town of Islesboro facilities by community groups:

- A. No smoking is allowed in any Town building.
- B. No drinking of alcoholic beverages is permitted.
- C. Activity shall be restricted to that building for which permission is granted.
- D. The activity shall not extend the hours approved in the request.
- E. All programs shall be planned so they do not interfere with the regular building schedule.
- F. The organization using the building shall be responsible for moving its equipment into and out of the building.
- G. The supervisor in charge of the activity shall be present before the activity is due to start and remain with the group until all have left.
- H. Town authorities must have free access to all rooms at all times.
- I. Where custodial assistance must be hired, a charge will be made and must be paid within 30 days. If police services are required, the requesting organization must make arrangements.
- J. Rooms or facilities used by the applicant will be carefully examined after use. The applicant will make good promptly any loss or damage occurring as a result of use of Town property.
- K. No Town property or equipment is to be altered or removed from the premises.
- L. The using organization may be required to furnish a certificate of insurance, with proper limits of liability, at least five working days in advance of the event. If required, such certificate must designate both the using organization and the Town (legal name) as insured.
- M. The absence of proof of insurance by the requesting organization may preclude use of the facility.
- N. This approval is revocable at any time by Town authorities.

O. No reservation will be made until the application is returned and properly approved.¹

1. Editor's Note: See the Building Facility Use Permit application at the end of this chapter.

TOWN FACILITIES

485 Attachment 1

Town of Islesboro

BUILDING FACILITY USE PERMIT

Town of Islesboro
P.O. Box 76
Islesboro, ME 04848

THE ADMINISTRATION IS RESPONSIBLE FOR THE USE OF ALL TOWN FACILITIES. IN ORDER THAT THEY MAY CONSIDER YOUR REQUEST FOR THE USE OF TOWN FACILITIES, KINDLY COMPLETE THE FOLLOWING FORM.

Building Use Request

Town Office/Parking Lot Selectmen's Meeting Room Library

The _____ (organization) request the use of

_____ (which area) _____ for the

purpose of _____

on _____ (day), _____ (date), from _____ to _____ (time).

Will the activity be open to the public? Yes No

Admission will/will not be charged; proceeds will be used for: _____

Any special equipment needs? Describe _____

Name, Address, Telephone number of person responsible on this occasion: _____

Insurance Information
(required of non-Town departments/organizations):

Do you (the requesting organization), have an in-force public liability policy? Yes No

If yes, what are the limits of liability? Bodily injury \$ _____ Property Damage \$ _____

I agree on behalf of the above indicted organization that all members and guests will observe the regulations shown on the reverse side and that we, individually, and as an organization, will assume full financial responsibility for any and all damage done to Town property during the above indicated period of use. We also agree that our organization will at all times hereafter indemnify the Town against any loss, damage or expense of any kind, which said Town may sustain or incur because of use of the above described area/building by our organization and we will further hold said Town harmless for loss of any kind in connection therewith.

Request Submitted by: _____ Date: _____ 20__

Signature

Chapter 491

TRAINING

ARTICLE I
Public Records and Public Proceedings

§ 491-1. Training required.

§ 491-2. Minimum training requirements.

§ 491-3. Certification and record of completed training.

Certification of Completion of Freedom of Access Act Training

[HISTORY: Adopted by the Board of Selectmen of the Town of Islesboro as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Public Records and Public Proceedings
[Adopted 7-6-2011]

§ 491-1. Training required.

It is the policy of the Board of Selectmen to comply with the provisions of 1 M.R.S.A. § 412, Freedom of Access training. Selectmen must complete training on the requirements of Maine's Freedom of Access laws relating to public records and proceedings. Selectmen shall complete the training within 120 days after each Selectman takes the oath of office regardless of whether it is that Selectman's first term or a reelection.

§ 491-2. Minimum training requirements.

- A. At a minimum, the training must be designed to be completed in less than two hours and include instruction in:
- (1) The general legal requirements regarding public records and public proceedings;
 - (2) The procedures and requirements regarding complying with a request for a public record; and
 - (3) The penalties and other consequences for failure to comply with the law.
- B. Elected officials can meet the training requirement by conducting a thorough review of the material on the "Frequently Asked Questions" on the website www.maine.gov/foaa/faq/index/shtml or by completing another training course that includes all of this information but may include additional information. Training courses do not need the approval of the Right to Know Advisory Committee or any other state agency.

§ 491-3. Certification and record of completed training.

After completing the training, elected officials are required to make a written or electronic record attesting that the training has been completed. The record, which will be available to the public, shall be filed with the Town Clerk.¹

1. Editor's Note: See Certificate of Completion of Freedom Access Act Training at the end of this chapter.

TRAINING

491 Attachment 1

Town of Islesboro

**Certification of Completion of Freedom of Access Act Training
Required by 1 M.R.S.A. § 412**

I _____ hereby certify that I have met the training
(Name of elected official)

Requirements set forth in 1 M.R.S.A. § 412 on _____ by
(Date of training)

Completing the following training:

- A thorough review of all the information made available on the “Frequently Asked Questions” on the State Freedom of Access website (www.maine.gov/foaa/faq/index/shtml).
- Another training course that includes this information, identified as follows:

(Title of course)

(Name of course provider)

Dated this _____ day of _____ 201_____

(Signature)

(Printed name)

(Elected office)

Note: Training must be completed within 120 days after the official takes the oath of office.

APPENDIX

DISPOSITION LIST

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Town of Islesboro indicating for each item its location in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).]

§ DL-1. Disposition of legislation.

Adoption Date	Subject	Disposition
3-15-1971; amended 3-7-1974	Camping	Ch. 23
3-10-1977; amended through 6-25-2009	Board of Appeals and Board of Assessment Review	Ch. 15, Art. I
3-14-1985; amended 6-15-1992	Planning Board	Ch. 15, Art. II
5-22-1987; amended through 6-25-2009	Development review	Ch. 45
7-25-1990; amended through 5-1-2010	Municipal shore areas, pier and float use	Ch. 142
April 1991; amended 10-8-1997; 4-28-2001	Floodplain management	Ch. 70
3-11-1992	Vehicle weight limits	Ch. 248, Art. I
6-15-1992; amended through 6-25-2009	Land use	Ch. 125
3-15-1994; amended 6-26-2010; 2-26-2011; 2-26-2011	Solid waste management and recycling	Ch. 221
1-21-1997	Road names and address numbers	Ch. 186
6-6-1998	Fire Department	Ch. 62
6-21-1998; amended 6-5-1999; 4-29-2000; 4-26-2003	Shellfish conservation	Ch. 209
4-12-1999; amended 4-29-2000	Victualers and special amusements	Ch. 257
4-29-2000	Groundwater Protection Committee	Ch. 91, Art. I

Adoption Date	Subject	Disposition
4-29-2000; amended 4-27-2002; 7-16-2003; 2-26-2011	Pollution control	Ch. 167
12-6-2000	Committee establishment policy	Ch. 318, Art. I
7-29-2002	Septage disposal control	Ch. 200
3-25-2003; amended 5-17-2006; 11-1-2006; 4-30-2008; 6-16-2011; 7-20-2011	Parking at Grindle Point	Ch. 248, Art. II
4-26-2003	Cemeteries	Ch. 30
11-29-2002	Road culvert placement policy	Ch. 459, Art. I
7-14-2004	Internet and electronic mail policy	Ch. 382
9-29-2010	Purchasing policy	Ch. 349, Art. I
9-29-2010	Recreational areas	Ch. 450
9-29-2010	Town facilities	Ch. 485
5-7-2011	Property assessed clean energy program	Ch. 171
7-6-2011	Establishment of Selectmen's policies	Ch. 295, Art. I
7-6-2011	Swearing in of appointees	Ch. 318, Art. II
7-6-2011	Employee safety	Ch. 334
7-6-2011	Abatement requests	Ch. 349, Art. II
7-6-2011	Fixed asset policy	Ch. 349, Art. III
7-6-2011	Treasurer's disbursement warrant	Ch. 349, Art. IV
7-6-2011	Acceptance of gifts and donations	Ch. 349, Art. V
7-6-2011	Auditor	Ch. 349, Art. VI
7-6-2011	Disposal of foreclosed property	Ch. 357
7-6-2011	Kinnicut Center generator	Ch. 398
7-6-2011	Chair	Ch. 422, Art. I
7-6-2011	Quorum	Ch. 422, Art. II
7-6-2011	Culverts	Ch. 459, Art. II
7-6-2011	Training related to public records and public proceedings	Ch. 491, Art. I

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