Code
of the
Town of Millinocket

COUNTY OF PENOBSCOT
STATE OF MAINE

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GENERAL CODE PUBLISHERS CORP.
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SERIAL NO. 0002

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PREFACE

In the land of Mt. Katahdin, the heart of the vital paper milling areas of Maine, Millinocket sits proudly reflecting on its past while constantly planning for the future.

The Town of Millinocket has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the Town, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the Town. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Town Council ordered the following codification of the Town's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation (ordinances) of a general and permanent nature enacted by the Town Council of the Town of Millinocket, including revisions or amendments to existing legislation deemed necessary by the Town Council in the course of the codification.

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, contains all Town legislation of an administrative nature,

namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other Town legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Grouping of Legislation and Arrangement of Chapters

The various items of legislation are organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more items of legislation dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation pertaining to the regulation of streets and sidewalks may be found in Part II, in the chapter entitled "Streets and Sidewalks." In such chapters, use of Article or Part designations has preserved the identity of the individual items of legislation.

Table of Contents

The Table of Contents details the alphabetical arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, titles of the several Articles or Parts are listed beneath the chapter title in order to facilitate location of the individual item of legislation.

Reserved Chapters

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new enactments. In this manner, new subject matter can be included alphabetically.

Pagination

A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 would begin on page 6:1. By the use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

Numbering of Sections

A chapter-related section-numbering system is employed, in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 would be § 6-1, while the fourth section of Chapter 53 would be § 53-4. New sections can then be added between existing sections using a decimal system. Thus, for example, if two sections were to be added between §§ 53-4 and 53-5, they would be numbered as §§ 53-4.1 and 53-4.2.

Scheme

The Scheme is the list of section titles which precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the Scheme titles are repeated as section headings in the text.

Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and

the date of adoption. In the case of chapters containing Parts or Articles derived from more than one item of legislation, the source of each Part or Article is indicated in the History. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

Codification Amendments and Revisions

New chapters adopted or sections amended or revised during the process of codification are specifically enumerated in chapter Histories with reference to "Ch. 1, General Provisions," where the legislation adopting this Code and making such revisions will appear after final enactment. Sections so amended or revised are also indicated in the text by means of Editor's Notes referring to the chapter cited above.

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this Code is reserved for such legislation and for any other material that the community may wish to include.

Index

The Index is a guide to information. Since it is likely that this Code will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been

indexed. The Index will be supplemented and revised from time to time as new legislation is added to the Code.

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or complete new additions, should be adopted as amending the Code. In doing so, existing material that is not being substantively altered should not be renumbered. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 45-5 and 45-6 should be designated § 45-5.1). New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the table of contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the table of contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 45 and 46 should be designated Chapter 45A). New Articles may be inserted between existing Articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" Articles (e.g., a new Article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 45-30 and Article XVII begins with § 45-31. Article XVIA should contain §§ 45-30.1 through 45-30.6).

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible

after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

This Code is the result of much time and effort on the part of the Town's officials. The editor wishes to particulary acknowledge the efforts of the Millinocket Town Council and especially the cooperation and hard work of Town Manager William Ayoob. His desire for accuracy and attention to detail, as well as his kindness and courtesy contributed greatly to the successful outcome of this project.

The codification of the legislation of the Town of Millinocket reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code that this Code will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

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[HISTORY: Adopted at the town election held 3-14-1969; amended 7-11-1974, 3-9-1979, 7-8-1980 and 11-2-1993. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

General provisions — See Ch. 1, Art. I.
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ARTICLE I
Grant of Powers to the Town

§ C101. Incorporation.

The inhabitants of the Town of Millinocket, within the limits as now established or as hereafter established in the manner provided by law, shall be a municipal corporation by the name of the "Town of Millinocket, Maine."

§ C102. Powers of the town.

A. The town shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein or otherwise pertaining to or incumbent upon said town as a municipal corporation, or the inhabitants or municipal authorities thereof; it may enact bylaws, regulations and ordinances not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof not exceeding one hundred dollars ($100.) in any one case, to be recovered to the use of said town by appropriate action.

B. The town may acquire property within or without its corporate limits for any town purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise,

lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interest may require.

C. In this Charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the town would have if the particular power were not mentioned. The Charter shall be liberally construed to the end that the town may have all the powers necessary or convenient for the conduct of its municipal affairs, including all powers the town may assume pursuant to state laws and of the provisions of the State Constitution.

ARTICLE II
Town Council

§ C201. Membership; election; terms.

The Town Council shall be composed of seven (7) members, each of whom shall be elected by the registered voters of the entire town. Each member shall be elected for a term of three (3) years and until his successor is elected and qualified.

§ C202. Qualifications.

Councilmen shall be qualified electors of the town and shall reside in the town during the term of office. They shall hold no office of emolument or profit under the Town Charter or ordinances. If a Councilman shall cease to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, his/her office shall immediately become vacant.

§ C203. Powers and duties generally.

The members of the Town Council shall be and constitute the municipal officers of the Town of Millinocket for all purposes required by statute, and except as otherwise herein specifically

provided, shall have all powers and authority given to, and perform all duties required of, municipal officers under the laws of this state, and the municipal officers all have all the powers heretofore vested in the Town Meeting, subject to provisions of Article IX.

§ C204. Enumeration of powers.

Without limitation of the foregoing, the Council shall have power to:

A. Appoint and remove the Town Manager and the Town Clerk; appoint the Board of Assessment Review, the Board of Appeals, the Planning Board; and determine the manner of appointment of the following officers: Assessor, Treasurer and Town Attorney.

B. By ordinance create, change and abolish offices, departments or agencies other than the offices, departments and agencies established by this Charter. The Council by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency. The Council may, however, vest in the Manager all or part of the duties of any office except the School Department.

C. Make, alter and repeal ordinances; included under this power shall be the power to enact ordinances regulating the following classes of persons, businesses and purposes and to grant licenses and permits therefor for such periods of time and in accordance with such rules and regulations, not inconsistent with law, upon payment by the licensee of such fees and filing of such bonds as said Town Council may establish and make provisions for by ordinance, to wit: auctioneers; the maintenance and operation of garages, filling stations, sidewalk tanks and pumps for the sale or distribution of gasoline and other

volatile flammable liquids for fuel or power; the manufacture, storage, sale, transportation, disposition and use of explosives and flammable liquids; billiard halls; pool halls; bowling alleys; roller-skating rinks; junk; dealers in secondhand parts and salvage of automobiles; dealers in secondhand merchandise; hawkers and peddlers; employment agencies; itinerant vendors; public automobiles; taxicabs and motor buses; public wagons and trucks; amusements; exhibitions and performances; theaters; moving-picture houses; inns; victualers; pawnbrokers; lodging houses of four (4) lodging rooms or more; public shooting galleries; the manufacture, storage, sale, distribution and use of fireworks; dance halls; circuses; and the erection of signs, flags, banners, awnings, marquees and all other things within the limits of the sidewalks, roads, ways and streets of said town, and no such objects placed within said limits in accordance with such ordinances shall be deemed defects in such sidewalks, roads, ways and streets.[1]

D. Inquire into the conduct of any office, department or agency of the town and make investigations as to municipal affairs.

E. Adopt land survey maps.

F. Adopt and modify the Official Map of the town.

G. Regulate and restrict the height and the number of stories of buildings and other structures, the size of yards and courts, the density of population and the location and use of buildings for trade, industry, business, residence or other purposes.

H. Create a housing authority.

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[1] **Editor's Note: See Part II, General Legislation, of the Code of the Town of Millinocket for ordinances regulating such persons and businesses.**

I. Adopt, modify and carry out plans proposed by the Planning Board for the clearance of slum districts and rehabilitation of blighted areas.

J. Adopt, modify and carry out plans proposed by the Planning Board for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction and redevelopment of any area or district which may have been destroyed in whole or in part by disaster.

K. Provide for an annual audit.

§ C205. Compensation. [Amended 4-17-1986 by Ord. No. 4-86]

Councilors shall receive fifteen dollars ($15.) for each Council meeting upon attendance, not to exceed, in the aggregate, eight hundred dollars ($800.) per year in full for their services, except that the Chairperson of the Town Council shall receive twenty dollars ($20.) for each Council meeting upon attendance, not to exceed, in the aggregate, one thousand dollars ($1,000.) per year in full for his or her services. Such compensation may be changed by ordinance. The Town Council by order shall fix the salaries of officials elected by the Town Council, including the salary of the Town Manager for his/her services as such and for all other services rendered by him. Maximum salaries of the appointees of the Town Manager shall be fixed by the Town Council.

§ C206. Induction into office. [Amended 1-6-1984 by Ord. No 2-84]

Effective January 1, 1985, the Town Council and the School Board shall meet at the Town Council Chambers at 7:00 p.m. on the second Monday in November, and at said meeting Councilmen-elect and School Board members-elect shall be sworn to the faithful discharge of their duties by a Notary Public or by the Town Clerk.

§ C207. Council to judge qualifications of its members.

The Council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require production of records, but the decision of the Council in any such case shall be subject to review by the courts.

§ C208. Regular meetings; special meetings, posting of Council actions.

A. The Town Council shall, at its first meeting or as soon thereafter as possible, establish by ordinance or resolution a regular place and time for holding its regular meetings, and shall meet regularly at last once a month. It shall also provide a method for calling special meetings. All meetings of the Town Council shall be open to the public in accordance with the Revised Statutes of 1964, Title 1 §§ 401 to 406.

B. Actions of the Council shall be posted in the town office within a reasonable time after such action has been taken.

§ C209. Chairman.

At its first meeting or as soon thereafter as practicable, the Council shall elect, by majority vote of the entire Council, one (1) of its members for the ensuing year as Chairman, and the Council may fill, for an unexpired term, any vacancy in the office of Chairman that may occur. The Chairman shall reside at the meetings of the Council and shall be recognized as head of the town government for all ceremonial purposes and by the Governor for purposes of military law, but he shall have no regular administrative duties. In the temporary absence or disability of the Chairman, the Town Council may elect a Chairman Pro tempore from among its members, and he/she shall exercise all the powers of Chairman during such

temporary absence or disability of the Chairman and shall receive such compensation as the Chairman normally receives.

§ C210. Quorum; adjourned meeting.

A majority of the Town Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or may compel attendance of absent members. At least twenty-four (24) hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken.

§ C211. Vacancies.

If a seat in the Council becomes vacant more than six (6) months prior to the next regular town election, the vacancy shall be filled for the unexpired term within sixty (60) days from the date that the vacancy occurred by a special election, the warrant for which shall, upon vote of the Town Council, be issued by a member of the Town Council, by vote designated for that duty.

§ C212. Rules of procedure,; ordinances, orders and resolves.

The Town Council shall provide for keeping a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same. The Council shall act only by ordinance, order or resolve. All ordinances, orders and resolves, except orders or resolves making appropriations of money, shall be confined to one (1) subject, which shall be clearly expressed in the title. All appropriation orders or resolves shall be confined to the subject of appropriations only.

§ C213. Adoption of ordinances.

Before any ordinance shall be passed, at least one (1) public hearing shall be held by the Council, notice of which shall be given at least seven (7) days in advance by publication in a newspaper having a circulation in said town and by posting a notice in a public place. The yeas and nays shall be taken on the passage of all ordinances and entered on the record of the proceedings of the Council by the Clerk. Every ordinance shall require on passage the affirmative vote of a majority of the members of the Council. Such ordinance shall be effective thirty (30) days after such passage, subject to the provisions of Article IX.

§ C214. Town Clerk as Clerk of Council; records.

The Town Clerk shall act as Clerk of the Council, and he/she shall keep a public record of all proceedings of the Council, including all roll-call votes.

§ C215. Independent annual audit.

Prior to the end of each fiscal year, the Council shall designate the State Department of Audit or private certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the town government and shall submit their report to the Council and the Town Manager. Such accountants shall not maintain any accounts or records of the town business, but shall postaudit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the town government.

§ C216. Appointment of Town Manager.

The Council shall appoint an officer of the town who shall have the title of "Town Manager" and shall have the powers and

perform the duties in this Charter provided. No Councilman shall receive such appointment during the term for which he shall have been elected nor within one (1) year after the expiration of his term, nor shall any member of the Town Council act in that capacity.

§ C217. Removal of Town Manager.

The Council shall appoint the Manager for an definite term and may remove him/her for cause by a majority vote of its members. At least thirty (30) days before such removal shall become effective, the Council shall, by a majority vote of its members, adopt a preliminary resolution stating the reasons for his/her removal. The Manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution, the Council may suspend the Manager from duty, but the regular salary of the Manager shall continue to be paid to him/her during the period of suspension. If removal is voted, the Council shall cause to be paid to the Manager forthwith any unpaid balance of his salary and his salary for at least the next two (2) calendar months.

§ C218. Interference by Council with administrative service.

Neither the Council nor any of its members shall direct or request the appointment of any person to or his/her removal from office by the Manager or by any of his/her subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the Manager, and neither the Council nor any member thereof shall give orders to any subordinates of the Manager, either publicly or privately.

§ C219. Recall of elected officials. [Added 9-26-1985 by Ord. No. 4-85]

Any person elected to any office in the Town of Millinocket may be recalled and removed therefrom by the electors of the town as herein provided.

A. Procedure for initiating recall petition.

(1) Any thirty (30) qualified voters of the town may make and file with the Town Clerk an affidavit containing the name of the elected official whose removal is sought. These thirty (30) qualified voters shall be referred to as the "Recall Committee." The affidavit shall also contain a statement detailing the reason(s) why recall is sought. This statement detailing the reason(s) for removal shall thereafter be made a part of the recall petition.

(2) Upon filing of the affidavit by the thirty (30) qualified voters and acceptance of the affidavit by the Town Clerk, the Town Clerk shall prepare a recall petition relating to the elected official named in the affidavit. The Recall Committee shall have 30 calendar days from the date of acceptance of the affidavit by the Town Clerk to cause the petition to be signed by not less than twenty percent (20%) of the qualified voters of the town. The petition shall be available for signing only at the Town Clerk's office during normal business hours and shall be signed by qualified voters in the presence of the Town Clerk or the Deputy Town Clerk. At the end of the thirty calendar day period the Town Clerk shall declare the recall petition closed.

(3) The recall petition, to be effective, shall have been signed by voters of the town numbering not less than twenty percent (20%) of the number of qualified voters as determined at the time of the last preceding municipal election, and each voter's signature shall be followed by the voter's place of

residence with the street and number or other description sufficient to identify the place.

B. Examination and certification of recall petition. Within ten (10) business days after the closing of the petition, the Town Clerk shall ascertain whether or not the petition was signed by the requisite number of voters and, upon such finding, shall attach a certification to the petition stating that the petition has the required number of signatures of qualified voters, that all signatures were affixed in the presence of the Clerk or Deputy Clerk, that each signer had an opportunity to read the statement detailing the reason(s) for recall and that the petition is sufficient. Should fewer qualified voters than required hereunder sign the petition within the required time, the petition shall have no further force or effect and all proceedings shall be terminated.

C. Calling of recall election. If the petition shall be certified by the Town Clerk to be sufficient, the Clerk shall submit the petition with certification to the Town Council within five (5) business days of certification as sufficient and shall notify the elected official whose removal is sought of such action. The Town Council shall thereupon, within ten (10) days of the receipt of the Town Clerk's certification, order an election to be held not more than forty-five (45) days after receipt to submit to vote the question of recall. If recall is effective, the Town Council shall, within forty-five (45) days after the vote for recall, hold a special election to fill the vacancy; provided, however, that if a regular municipal election is to occur within six months after the vote for recall, the Town Council may in its discretion hold the election to fill the vacancy on the date of such other regular municipal election. The recall election shall be called and held, and nominations to fill any vacancy created by that recall election shall be made as in other elections under this Charter.

D. Form of ballot in recall election. The form of the ballot at the recall election shall be as follows:

"Shall (name of person proposed for recall), a member of the Millinocket Town Council and/or the Millinocket School Committee, be recalled?"

Immediately below such question shall appear in the following order the words "Yes" and "No" and to the right of each word a square within which the voter may cast his vote.

E. Majority vote required. The elected official whose recall is sought as provided above shall be recalled and immediately removed from office when a majority of those voting thereon shall have voted in the affirmative. The successor elected after recall shall serve for the balance of the unexpired term of the recalled official.

ARTICLE III
Town Manager

§ C301. Qualifications.

The Town Manager shall be chosen by the Council solely on the basis of his character and his executive and administrative qualifications with special reference to his actual experience in or his knowledge of accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the town or state.

§ C302. Powers and duties.

The Town Manger shall be the chief administrative officer and the head of the administrative branch of the town government and shall be responsible to the Council for the proper administration of all affairs of the town. He shall have the power and shall be required to:

A. Appoint, prescribe the duties of and, when necessary for the good of the service, remove all officers and employees of the town, except as otherwise provided herein and except as he may authorize the head of a department or

office to appoint and remove subordinates in such department or office.

B. Prepare the budget annually, submit it to the Council and be responsible for its administration after adoption.

C. Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the town for the preceding year, and cause such annual town report to be published and made available to the public as promptly as possible after the close of the fiscal year.

D. Attend the meetings of the Council, except when his removal is being considered, and keep the Council advised of the financial condition and future needs of the town and make such recommendations as may seem to him desirable.

E. See that all laws and ordinances governing the town are faithfully executed.

F. Act as Purchasing Agent for all departments of the town, except the School Department.

G. Perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with this Charter.

H. Prepare an Administrative Code, submit it to the Council and be responsible for its administration after adoption.[2]

§ C303. Absence or disability.

To perform his duties during his temporary absence or disability, the Manager may, with the consent of the Council, designate by letter filed with the Town Clerk a qualified administrative officer of the town. In the event of failure of the Manager to make such designation, the Council may by

[2] **Editor's Note: See Ch. 3, Administration of Government.**

resolution appoint any administrative officer of the town to perform the duties of the Manager until he shall return or his disability shall cease.

§ C304. Establishment of departments.

There shall be a Department of Education and such other departments as may be established by ordinance upon the recommendation of the Manager.

§ C305. Appointment of Health Officer.

The Manager shall appoint a Health Officer, who shall serve for such term and exercise such powers and perform such duties as may be prescribed, conferred or imposed by law. The Health Officer shall meet such qualifications as may be specified generally for such positions by the State Commissioner of Human Services.

ARTICLE IV
Department of Education

§ C401. Board of Education.

The Department of Education shall be administered by a Board of Education, hereinafter referred to as the "School Board", which shall consist of five (5) duly qualified electors of the Town of Millinocket, who shall be nominated and elected by the registered voters of the entire town according to the provisions of Article VIII of this Charter for a term of three (3) years and who shall serve until their successors are elected and qualified.

§ C402. Qualifications of Board members.

Members of the School Board shall be qualified electors of the Town and shall reside in the town during their term of office.

They shall hold no office of emolument or profit under the Town Charter or ordinances. If a member of the School Board shall cease to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, his office shall immediately become vacant.

§ C403. Vacancies on Board.

If for any reason a vacancy shall exist in the membership of the School Board, it shall be filled by a majority vote of the Council until the next municipal election.

§ C404. Organization; swearing in; quorum.

The members of the School Board shall meet for organization on the second Monday from the date of their election. The members-elect shall be sworn to the faithful discharge of their duties by a Notary Public or by the Town Clerk, and a record made thereof. The majority of the whole number of the School Board shall be a quorum, and they shall elect their own Chairman.

§ C405. Powers and duties of Board; preparation of budget.

A. The School Board shall have all the powers conferred and shall perform all the duties imposed by law upon superintending school committees in regard to the care and management of the public schools of the town, except as otherwise provided in this Charter. The School Board shall prepare budget estimates in detail of the several sums required during the ensuing budget year of the support of the public schools. Such budget shall be approved by the Town Council prior to the beginning of the next school year. The Town Council shall prescribe the time and place of presentation of the school budget.

B. **[Amended 1-6-1984 by Ord. No. 1-84]** The school budget shall include an itemized statement of revenue from sources other than municipal taxation, together with a statement of the amount of money to be raised by municipal taxation, together with comparative figures from the current and next preceding school budget year. The school budget shall include the School Committee's recommended appropriation for each of the following line item categories of proposed expenditures, the sum of which shall constitute the total proposed appropriation for school purposes, as well as year-to-date expenditures for the previous year and preceding two years.

(1) Administration.

(2) Instructional salaries.

(3) Instructional materials.

(4) Attendance and health.

(5) Vocation education.

(6) Student activities and support service.

(7) Student transportation.

(8) Operation and maintenance of plant.

(9) Debt service and employee benefits.

(10) Adult education.

C. The Town Council, after reviewing the proposed budget, may change the proposed appropriation in any of the above line categories prior to approving the final budget. Approval of the school budget shall fix the appropriation for each of the line item categories and the School Committee shall not authorize the transfer of approved amounts from one line item category to another without prior approval of the Town Council. The expenditures included within each line item category shall be consistent with the accounting and reporting requirements of the Maine State Department of Education and Cultural Services. The Council may not

by ordinance create additional line item categories within the school budget.

D. The School Board shall review the budget at least quarterly to compare year-to-date expenditures to those amounts as approved by the Town Council. Any documents prepared pursuant to this requirement shall be immediately disseminated to the public and become part of the public record.

ARTICLE V
Budget

§ C501. Fiscal year, budget year.[3]

The fiscal year of the town government shall begin the first day of July and shall end on the 30th day of June of each calendar year. Such fiscal year shall constitute the budget and accounting year as used in this Charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

§ C502. Preparation and submission of budget.

A. The Town Manager shall, not less than 60 days before the beginning of any budget year, submit to the Council a budget and an explanatory budget message. The budget authority of the Council shall be limited to the final determination of the total appropriation to be made to each of the several offices, departments and agencies of the town, including the Department of Education. This budget shall be compiled from detailed information furnished by the administrative officers and boards on blanks, forms of which shall be designated by the Manager and shall contain:

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[3] **Editor's Note: See also § 3-8 of Ch. 3, Administration of Government.**

(1) Exact statement of the financial condition of the town.

(2) An itemized statement of appropriations recommended for current expenses and for permanent improvements, with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the next two preceding fiscal years. An increase or decrease in any item shall be indicated.

(3) An itemized statement of estimated revenue from all sources, other than taxation, and a statement of taxes required, with comparative figures from current and next two preceding years.

(4) Such other information as may be required by the Town Council.

B. The proposed budget prepared by the Manager shall be reviewed by the Town Council, which shall approve the budget with or without amendments. The Town Council shall give public notice as to the availability of the budget and the time and place of hearing. The Council shall then review and act on the budget.

§ C503. Budget establishes appropriations.

From the date of adoption of the budget, the several amounts stated therein as proposed appropriations shall be and become appropriated to the several agencies and purposes therein named.

§ C504. Budget establishes tax levy; certification to Town Assessor.

From the date of adoption of the budget, the amounts stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the

purposes of the town in the corresponding tax year. A copy of the budget as finally adopted shall be certified by the Manager and filed by him with the Town Assessor, whose duty it shall be to levy such taxes for the corresponding tax year.

§ C505. Budget summary.

At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and shall be itemized also by departments, including the School Department, and kinds of expenditures, in such a manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.

§ C506. Departmental expenditures; gross appropriations.

The budget for all departments, including the School Department, shall include all proposed expenditures, and the Town Council shall make a gross appropriation for each department, including the School Department, for the ensuing municipal year. The gross appropriation for each department shall not be exceeded except by consent of the Council and subject to the provisions of Article IX, but the school budget shall be expended under the direction and control of the School Board.

§ C507. (Reserved)

§ C508. Transfer of unencumbered appropriations.

The Council may by resolution transfer any unencumbered appropriation balance or portion thereof between general classification of expenditures within an office.

§ C509. Interim expenditures; public statement of overexpenditures.

A. In the period between the beginning of the fiscal year and the appropriation of funds, the Council may authorize expenditures for current departmental expenses chargeable to the appropriations for the year, when made, in amounts sufficient to cover the necessary expenses of the various departments.

B. If any act of the Council shall cause the annual town budget to be exceeded by any amount, this fact shall be stated publicly in the report of the Council as provided for in Sub Section C208 of this Charter.

ARTICLE VI
Tax Administration

§ C601. Division of Assessment; Town Assessor.

There shall be established a Division of Assessment, the head of which shall be the Town Assessor. The Assessor, appointed as hereinbefore provided, shall exercise the same powers and be subject to the same duties and liabilities as established by the laws of the State of Maine.

§ C602. Board of Assessment Review; compensation; vacancies.

There shall be a Board of Assessment Review, to consist of three (3) members who shall be appointed by the Town Council for a term of three (3) years. Compensation, if any, to such members shall be determined by the Town Council. Vacancies in the membership of such Board shall be filled by appointment by the Council for the unexpired term.

§ C603. Powers and duties of Board of Assessment Review.

The powers and duties of the Board of Assessment Review shall be to:

A. Review, on complaint of property owners, and revise, if necessary and proper, assessments for the purpose of taxation of real and personal property within the town limits made by the Town Assessor.

B. Administer oaths.

C. Take testimony.

D. Hold hearings.

E. Adopt regulations regarding the procedure of assessment review.

ARTICLE VII
Municipal Development

§ C701. Planning Board.

There shall be a Town Planning Board, which shall be appointed, have such powers and perform such duties as are provided by the laws of the State of Maine.[4]

§ C702. Zoning Ordinance.

There shall be a Zoning Ordinance as provided by state law.[5]

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4 **Editor's Note: See Ch. 23, Planning Board.**

5 **Editor's Note: See Ch. 125, Zoning.**

§ C703. Board of Appeals

There shall be a Board of Appeals, which shall be appointed by the Town Council, have such powers and perform such duties as are provided by the laws of the State of Maine.[6]

ARTICLE VIII
Nominations and Elections

§ C801. Municipal elections. [Amended 1-6-1984 by Ord. No. 2-84]

Effective January 1, 1985, the regular election for the choice of members of the Town Council and the School Board shall be held on the first Tuesday after the first Monday in November. The Council may, by resolution, order a special election at any time to fill vacancies in the Council.

§ C802. Qualification for nomination.

Any qualified elector of the town may be nominated for the Council or School Board in accordance with the laws of the State of Maine.

§ C803. Conduct and management of elections.

Provisions of the laws of the State of Maine relating to the qualifications of electors, registration, the manner of voting, the duties of election officers and all other particulars respective to preparation for, conducting and management of elections, so far as they may be applicable, shall govern all municipal elections, except as otherwise provided in this Chapter.

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[6] **Editor's Note: See Ch. 5, Appeals, Board of.**

§ C804. Voting places.

The voting places established for state elections shall be established for municipal elections.

§ C805. Election officials.

The Town Council shall, at least ten (10) days before any election, appoint a Warden, who shall exercise all duties as prescribed by State law, and a Clerk, in addition to the regular Ballot Clerks, for each voting place.

§ C806. Activity restricted at voting places.

No unofficial activities, including but not limited to, the selling of any baked goods, crafts, or raffle chances; the collection of petition signatures for any cause; or polling or picketing; shall be allowed within 200 feet of any voting place. The Warden shall be empowered to enforce this section.

ARTICLE IX
Initiative and Referendum

§ C901. Petition for overrule of Council action.

All ordinances, orders or resolves, except those making appointments or removals or regulating exclusively the internal procedure of the Council, shall be subject to overrule by a referendum as follow:

A. Any five (5) registered voters may begin referendum proceedings by request, in writing, to the Town Clerk for the appropriate petition blanks. All papers of the petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the ordinance, order or resolve sought to be reconsidered. The petition shall be signed

only by registered voters of the town, and each voter's signature shall be followed by his address.

B. Each paper of the petition shall have attached to it, when filed, an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance, order or resolve sought to be reconsidered.

C. If within ten (10) days after the enactment of any such ordinance, order or resolve, or the next business day should the 10th day fall on a non-business day, the appropriate petition, signed by registered voters of the town numbering at least twenty percent (20%) of the number of votes cast in the town at the last gubernatorial election, is filed with the Town Clerk, requesting its reference to a referendum, the Town Council shall call a public hearing to be held within fourteen (14) days from the date of the filing of such petition with the Town Clerk and shall, within fourteen (14) days after said public hearing, call a special municipal election for the purpose of submitting to a referendum vote the question of adopting such ordinance, order or resolve. Pending action by the voters of the town, the referred ordinance, order or resolve shall be suspended from going into operation until it has received a vote of the majority of the voters voting on said question **[Amended 11-3-1992]**

§ C902. Submission by Council of proposition to popular vote.

The Town Council may submit on its own initiative a proposition for the enactment, repeal or amendment of any ordinance, order or resolve, except as herein otherwise provided, to be voted upon at any municipal election, and

should such proposition review a majority of the votes cast thereon at such election, such ordinance, order or resolve shall be enacted, repealed or amended accordingly.

§ C903. Enactment of ordinance by initiative.

Ordinances may be enacted by the following initiative procedure.

A. Any five (5) registered voters may begin initiative proceedings by request, in writing, to the Town Clerk for the appropriate petition blanks. The complete text of the proposed ordinance shall be included with the request. All papers of the petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the proposed ordinance. The petition shall be signed only by registered voters of the town, and each voter's signature shall be followed by his address.

B. Each paper of the petition shall have attached to it, when filed, an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the proposed ordinance.

C. Upon receipt by the Town Clerk of the appropriate petition, signed by registered voters of the town numbering at least twenty percent (20%) of the number of votes cast in the town at the last gubernatorial election, the Town Council shall call a public hearing to be held within fourteen (14) days from the date of the filing of such petition with the Town Clerk and shall within fourteen (14) days after said public hearing, call a municipal election for the purpose of submitting to vote

the question of adopting such ordinance, unless such shall be enacted by the Council prior to the call for said town election. Such ordinance shall be enacted and take effect when a majority of those voting thereon shall have voted in the affirmative. **[Amended 11-3-1992]**

D. Any such proposed ordinance shall be examined by the Town Attorney before being submitted to the voters. The Town Attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities and unconstitutional provisions and to assure accuracy in its text and reference and clearness and preciseness in its phraseology, but he shall not materially change its meaning and effect.

§ C904. Form of ballot.

A. The form of the ballot for the proposed ordinance or repeal of such ordinance, order or resolve shall be substantially as follows:

"Shall the ordinance, or order or resolve entitled,' "be approved?"

___YES ___NO

B. The voters shall indicate their choice by a cross or check mark placed in the appropriate box under the words "YES" and "NO".

§ C905. (Reserved)

§ C906. Referendum Reconsideration Limited. [Amended 9-30-1993]

Any issue that has been decided by referendum vote shall not be reconsidered by any means until at least one full year has lapsed from the time of referendum vote. Provided, however, any issue may be reconsidered if the Town Council determines

that an emergency exists affecting the health, safety or welfare of the inhabitants of the Town of Millinocket.

ARTICLE X
General Provisions

§ C1001. Repealer.

Chapter 131 of the private and special laws of 1965 is repealed; and all acts and parts of acts of the private and special laws of Maine relating to the Town of Millinocket, inconsistent with the provisions of this Charter, are repealed.

§ C1002. Severability.

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

§ C1003. Title.

This Charter shall be known and may be cited as the "Council-Manager Charter of the Town of Millinocket." The Clerk shall cause it to be printed and made available to the public promptly.

§ C1004. Existing rights and contracts not affected.

The Clerks of the Supreme Judicial and Superior Courts may issue summons for witnesses to attend and produce books, documents and papers at any meeting of the Town Council for the Town of Millinocket at which a hearing is had in any mater regarding any alleged dereliction, which summons shall be served as required to be sufficient in matters before the Supreme Judicial or Superior Courts. On complaint or failure to obey summons to the District Court for Northern Penobscot, which Court is expressly given jurisdiction to hear such

complaints, said District Court, if it finds failure to obey said summons to be without reasonable excuse, shall impose a fine of not less than ten dollars ($10.) nor more than one hundred dollars ($100.) or imprisonment for not more than thirty (30) days, or both. All rights of appeal are to be available as exist in the general laws of the Town Clerk.

§ C1006. Oath of office.[7]

Every officer of the town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk:

> "I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respect, observe the provisions of the Charter and ordinances of the Town of Millinocket, and will faithfully discharge the duties of the office of ....."

§ C1007. Continuation of ordinances not inconsistent.

All ordinances of the Town of Millinocket in force at the time when this Charter takes effect, not inconsistent with the provisions of this Charter, shall continue in force until amended or repealed.

§ C1008. Removal of officers and employees; appeals.

Any officer or employee to whom the Town Manager or a head of any office, department or agency may appoint a successor may be removed by the Manager or other appointing officer at any time. The decision of the Manager or other appointing officer shall be subject to appeal to the Personnel Appeals Board. Notice of such appeal shall be made in writing to the

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7 **Editor's Note: See also Subsection 3-6 of Ch. 3, Administration of Government.**

Town Manager and the Town Council within thirty (30) days of notice of dismissal.

§ C1009. Personnel Appeals Board.

There shall be Personnel Appeals Board consisting of three (3) members appointed by the Town Council from among the qualified voters of the town. All appointments shall be made for terms of three (3) years.

§ C1010. (Reserved)

§ C1011. Bonds of officials.[8]

The Town Council shall require a bond with sufficient surety or sureties, satisfactory to the Town Council, from all persons trusted with the collection, custody or disbursement of any of the public moneys and may require such bond from such other officials as it may deem advisable, the premium charges for said bonds to be paid by the town.

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[8] **Editor's Note: See also Subsection 3-7 of Ch. 3, Administration of Government.**

§ C1012. Charter amendment. [Amended 11-3-1992]

This Charter may be amended in accordance with 30-A M.R.S.A. Subsection 2101 et seq.[9]

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[9] **Editor's Note: The following provisions appeared immediately following this section "Emergency clause; referendum; effective date; certificate to Secretary of State and resubmission to the voters. In view of the emergency cited in the preamble, this Act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the Town of Millinocket at the next annual town election to be held in March 1969. Warrants shall be issued for such election in the manner now provided by law for the holding of municipal elections, notifying and warning the qualified voters of said town to meet in the regular voting place of said town, there to cast their ballots on the approval or rejection of this Act. Failure of approval by the legal voters of the Town of Millinocket at the annual town meeting of 1969 shall not prevent subsequent elections held before 1974. The Town Clerk shall prepare the required ballots, on which he shall reduce the subject matter of this Act to the following question: "Shall An Act Providing for a Council-Manager Form of Government for the Town of Millinocket, passed by the 104th Legislature, be accepted?" The voters shall indicate by a cross or check mark placed against the words YES or NO their opinion of the same. "This Act shall take effect for the purpose of nominating and electing officers hereunder immediately upon its acceptance by a majority of the legal voters voting at said election, and for all other purposes this Act shall take effect immediately following the first election held under the provisions of this Charter following the approval of this Act. "The results of the vote shall be declared by the municipal officers of the Town of Millinocket and due certificate thereof shall be filed by the Town Clerk with the Secretary of State."**

THE CODE

PART I

ADMINISTRATIVE LEGISLATION

Chapter 1

GENERAL PROVISIONS

ARTICLE I
Adoption of Code

§ 1-1. Designation of Code.

§ 1-2. Code adopted.

§ 1-3. Repealer; when effective.

§ 1-4. Items saved from repeal.

§ 1-5. General penalty.

§ 1-6. Amendments to Code.

§ 1-7. Copy of Code on file; book to be kept up-to-date.

§ 1-8. Altering or tampering with Code; penalties for violation.

§ 1-9. Changes in previously adopted legislation.

§ 1-10. Repeal of ordinances.

§ 1-11. Severability.

§ 1-12. When effective.

[HISTORY: Adopted by the Town Council of the Town of Millinocket: Art. I, 10-8-87 as Ord. No. 2-87; effective 11-7-87. Amendments noted where applicable.]

ARTICLE I
Adoption of Code
[Adopted 10-8-87 as Ord. No. 2-87; effective 11-7-87]

Be it ordained by the Town Council of the Town of Millinocket as follows:

§ 1-1. Designation of Code.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, Town of Millinocket, Maine," and may be so cited.

§ 1-2. Code adopted.

The Code of Ordinances, consisting of Chapters 1 to 125, each inclusive, is hereby adopted and enacted as the Code of Ordinances, Town of Millinocket, Maine, Parts I and II, and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent ordinances passed by the Town Council on or before September 1987, to the extent provided in § 1-3 hereof.

§ 1-3. Repealer; when effective.

All provisions of such Code shall be in full force and effect from and after the seventh day of November 1987, and all ordinances of a general and permanent nature of the Town of Millinocket, Maine, enacted on final passage on or before September 1987 and not included in such Code are repealed from and after September 1987, except as hereinafter provided.

§ 1-4. Items saved from repeal.

A. The repeal provided for in § 1-3 hereof shall not affect any of the following:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code.

(2) Any ordinance promising or guaranteeing the payment of money for the town or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness.

(3) Any contract or obligation assumed by the town.

(4) Any right or franchise granted by the town.

(5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any park, playground or recreational facility.

(6) Any ordinance relating to specific public improvements or assessments therefor.

(7) Any ordinance establishing or prescribing grades for streets.

(8) Any appropriation ordinance or ordinance providing for the levying of taxes or for an annual budget.

(9) Any ordinance in effect which regulates town elections and voting district boundaries.

(10) Any ordinance relating to the investment of municipal funds.

(11) Any ordinance establishing personnel rules for town employees.

(12) Any traffic regulation not inconsistent with this Code.

(13) Any ordinance enacted after September 1987.

(14) Any property right, including any easements, granted or conferred to the town.

B. The repeal provided for in § 1-3 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

§ 1-5. General penalty.

A. Any person violating or failing to comply with any provision of said Code or committing any act or omission to act declared to be a misdemeanor or unlawful, where no specific penalty is provided therefor, shall be punished by a fine of not more than one hundred dollars ($100.).

B. In case of the amendment of any section of such Code for which a penalty is not provided, the general penalty as provided in Subsection A above shall apply to the section as amended; or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

§ 1-6. Amendments to Code.

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

§ 1-7. Copy of Code on file; book to be kept up-to-date.

A copy of such Code shall be kept on file in the office of the Town Clerk. It shall be the express duty of the Town Clerk or someone authorized by the Town Clerk to insert in their proper places all amendments or ordinances which indicate the intention of the Town Council to make the same a part of such Code when the same have been printed or reprinted in page form and to extract from such Code all provisions which may be from time to time repealed by the Town Council. This copy of such Code shall be available for all persons desiring to examine the same and shall be considered the official Code of Ordinances of Millinocket, and any copy of such Code certified by the Town Clerk shall be the official Code of Ordinances of Millinocket at the date of such certification. Copies of the Code may be purchased at cost to be set by the Town Clerk.

§ 1-8. Altering or tampering with Code; penalties for violation.

It shall be unlawful for any person, firm or corporation in the town to change or amend, by additions or deletions, any part or portion of

such Code or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Town of Millinocket to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in § 1-5 of this ordinance or prosecuted under Title 17A, § 456, of M.R.S.A.

§ 1-9. Changes in previously adopted legislation.

A. In compiling and preparing the ordinances for publication as the Code of the Town of Millinocket, no changes in the meaning or intent of such ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one (1) or more of said pieces of legislation. It is the intention of the Town Council that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.

B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

(1) Chapter 90, Pawnbrokers, § 90-1, is amended to include the following definition of "pawnbroker":

"PAWNBROKER — Includes any person who loans money on deposit or pledge of personal property, other than securities or printed evidences of indebtedness, or who purchases personal property on condition of reselling the same back to a person at a stipulated price or who, doing business as a furniture warehouseman, loans and advances money upon goods deposited with or pledged to him as collateral security therefor."

(2) Chapter 97, Peddlers, § 97-2, is amended to read as follows:

"The Town Council may grant a license to expose for sale or sell upon the public streets of the town, or to go from place to place in the town exposing for sale and selling goods, wares or merchandise at retail."

§ 1-10. Repeal of ordinances.

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed, as of the operative date of this ordinance, but shall remain in full force and effect until such date.

§ 1-11. Severability.

If any phrase, clause, sentence, paragraph or section of this Code shall be declared invalid or unconstitutional by the valid judgment or decree of any court, such invalidity or unconstitutionality shall not affect any of the remaining provisions of this Code.

§ 1-12. When effective.

This ordinance shall become effective thirty (30) days after adoption.

Chapter 3

ADMINISTRATION OF GOVERNMENT

ARTICLE I
General Provisions

§ 3-1. Title.

§ 3-2. Scope.

§ 3-3. Definitions.

§ 3-4. Chief Administrator.

§ 3-5. Departmental organization.

§ 3-6. Oaths of office.

§ 3-7. Bonds of officials.

§ 3-8. Fiscal year; budget year.

§ 3-9. Administrative policy and procedures.

ARTICLE II
Department of Law

§ 3-10. Town Attorney; duties.

ARTICLE IIA
Department of Community Development

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§ 3-30. Violations and penalties.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-81 as Ch. 2 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Other administrative provisions — See Charter.

ARTICLE I
General Provisions

§ 3-1. Title.

This chapter shall be known and may be cited as the "Administrative Code of the Town of Millinocket."

§ 3-2. Scope.

This chapter shall include only those administrative functions and responsibilities not specifically provided for by Charter or by state law and listed in § 3-5 herein and functions related closely thereto. Specific exclusions are:

A. Department of Education. Administration of this Department is charged to the Board of Education by the Town Charter, Article IV.

B. Agencies created under state law. General administration of the following agencies is provided for under state law:

(1) Board of Appeals.[1]

(2) Civil Defense Director.

C. Agencies created by Town Charter. General administration of the following agencies is provided for under the Town Charter:

(1) Personnel Appeals Board. See Article X, § C1009, of the Charter.

(2) Board of Assessment Review. See Article VI, §§ C602 and C603, of the Charter.

D. Agencies created by town ordinance. General administration of the following agencies is provided for under other Code chapters:

(1) Recreation Commission.[2]

(2) Department of Transportation.[3]

[1] Editor's Note: See also Ch. 5, Appeals, Board of.
[2] Editor's Note: See Ch. 26, Recreation Commission.
[3] Editor's Note: See Ch. 29, Transportation, Department of.

(3) Library Board of Trustees.[4]

(4) Cemetery Commission.[5]

(5) Nursing Commission.[6]

(6) Planning Board.[7]

§ 3-3. Definitions.

As used in this chapter, unless the context otherwise requires, the following terms shall have the meanings indicated:

CHIEF ADMINISTRATOR or ADMINISTRATOR — The Town Manager of the Town of Millinocket.

TOWN — The Town of Millinocket.

TOWN COUNCIL or COUNCIL — The Council of the Town of Millinocket as provided for by the Town Charter.

§ 3-4. Chief Administrator.

The Chief Administrator shall be the chief executive and administrative officer of the town government. He shall see that all laws governing the town are faithfully executed, require the faithful performance of all administrative duties for which he is herein made responsible and:

A. Shall have the following duties:

(1) Appoint and remove. Appoint, prescribe the duties of and, when necessary for the good of the service, remove all officers and employees of the town, except as otherwise provided herein and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office.

[4] Editor's Note: See Ch. 18, Library.
[5] Editor's Note: See Ch. 9, Cemetery Commission.
[6] Editor's Note: See Ch. 21, Nursing Commission.
[7] Editor's Note: See Ch. 23, Planning Board.

(2) Appoint to acting capacity. Designate himself or some other officer or employee to perform the duties of any office or position in the administrative service under his control which is vacant or which lacks administration due to the absence or disability of the incumbent.

(3) Annual report. Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the town for the preceding year, and cause such annual town report to be published and made available to the public as promptly as possible after the close of the fiscal year.

(4) Budget report. Prepare the budget annually, submit it to the Council and be responsible for its administration after adoption.

(5) Administrative Code. Prepare an Administrative Code, submit it to the Council and be responsible for its administration after adoption.

(6) Departmental responsibilities. Prepare, with respect to each commission, committee or board, a list of all procedural duties and responsibilities of such agencies upon approval by the Council, file the same with the Town Clerk and be responsible for the administration thereof.

B. Shall have the following powers:

(1) Assign according to classification. Assign any employee of the town to any department or branch thereof requiring services appropriate to the classification or qualifications of the employee so assigned.

(2) Prescribe rules. Prescribe such rules and regulations as he shall deem necessary or expedient for the conduct of administrative agencies subject to his authority, and revoke, suspend or amend any rule or regulation of the administrative service by whomever under his authority prescribed.

(3) Investigate. Either by himself or by an officer or person designated for the purpose by him, investigate and examine or inquire into the affairs or operation of any department, division, bureau or office, and, when so authorized by the Council, employ consultants and professional counsel to aid in such investigations, examinations or inquiries.

(4) Town departments. Recommend establishment of town departments considered essential to proper administration of the town.

(5) Overrule officials. Set aside any action taken by a department head under his authority and supersede him in the functions of his office.

(6) Delegate duties. Direct any department, division or bureau in time of emergency.

(7) Appoint administrative committees. Designate from the administrative service such committees and the officers thereof as he shall find necessary for the proper consideration of administrative problems. Such committees shall meet at the request of the Chief Administrator and shall make such recommendations on matters referred to them as they shall find necessary for the best interest of the town.

(8) Work with Council. Attend the meetings of the Council, except when his removal is being considered, and keep the Council advised of the financial condition and future needs of the town and make such recommendations as may seem to him desirable.

(9) Bonded debts. Submit to the Town Attorney or bond counsel for legal review, all bonded debts required to be furnished to the town.

§ 3-5. Departmental organization.

The departmental organization of the town shall be as follows:

Department of Law	Town Attorney
Department of Finance	Town Treasurer
Department of Records	Town Clerk
Department of Police	Chief of Police
Department of Fire	Fire Chief
Department of Public Health	Town Health Officer
Department of Public Works	Director of Public Works
Department of Public Welfare	Director of Public Welfare
Department of Purchasing	Purchasing Agent
Department of Community Development **[Added 5-11-89 by Ord. No. 1-89]**	Director of Community Development

§ 3-6. Oaths of office.[8]

A. Persons required to take oath of office. Each of the following officers and employees in the administrative service shall be required to take an oath of office before entering upon the discharge of his duties, which oath shall be subscribed by the person taking it and shall be filed and preserved in the office of the Town Clerk:

(1) Officers. The Chief Administrator, each officer and department head.

(2) Policeman. Every member of the Department of Police, including any private, special, temporary or substitute policeman which the town might find it necessary to appoint.

(3) Fireman. Every member of the Department of Fire who serves on a full-time basis.

(4) Any other officer or employee of the town, if required to do so by state law.

B. Form of oath. The form of the oath shall be as follows:

[8] **Editor's Note: See also § C1006 of the Charter, which is included at the beginning of this volume.**

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Millinocket, and will faithfully discharge the duties of the office of _____."

§ 3-7. Bonds of officials.[1]

The Town Council shall require a bond with sufficient surety or sureties, satisfactory to the Town Council, from all persons trusted with the collection, custody or disbursement of any of the public moneys, and may require such bond from such other officials as it may deem advisable, the premium charges for said bonds to be paid by the town.

§ 3-8. Fiscal year; budget year. [Amended 11-2-1993[2]]

The fiscal year of the town government shall begin on the first day of July and shall end the 30th day of June of each calendar year, except as applicable law may otherwise require. Such fiscal year shall constitute the budget and accounting year as used in the Charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

§ 3-9. Administrative policy and procedures.

A. Officers. Each officer shall perform all duties required of his office by state law, the Town Charter, this chapter, other provisions of the Code and any other ordinances,

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1 **Editor's Note: See also § C1011 of the Charter, which is included at the beginning of this volume.**

2 **Editor's Note: See also § C501 of the Charter, which is included at the beginning of this volume.**

and such other duties not in conflict therewith as may be prescribed by the Administrator.

B. Department heads. The heads of departments shall:

(1) Responsibility to appointing authority. Be immediately responsible to the appointing authority for the effective administration of their respective departments and all activities assigned thereto.

(2) Inaugurate sound practices. Keep informed as to the latest practices in their particular field and inaugurate, with the approval of the Administrator, such new practices as appear to be of benefit to the town.

(3) Report to Administrator. Submit monthly and annual reports of the activities of their respective departments to the Administrator.

(4) Maintain records. Establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish and to form a basis for periodic reports to the Administrator.

(5) Authority over employees. Have power, when authorized by the Administrator in writing, to appoint and remove, subject to regulations for personnel, all subordinates in their respective departments.

(6) Maintain equipment. Be responsible for, account for and maintain all town property and equipment used in their respective departments.

C. Departments. Each department shall, upon the direction of the Administrator, furnish any other department such service, labor and materials as may be requisitioned in writing by the head of such department, through the same procedure and subject to the same audit and control as other expenditures are incurred.

D. Operation of administrative service. All units in the administrative service shall:

(1) Make weekly deposit. Make a weekly deposit with the Town Treasurer of any moneys received directly from the public.

(2) Payment of moneys. Pay out moneys belonging to the town only in the manner prescribed herein.

(Cont'd on page 311)

ARTICLE II
Department of Law

§ 3-10. Town Attorney; duties.

The Department of Law shall consist of the Town Attorney, who shall act to protect the interests of the town when requested by the Town Council or the Chief Administrator and who shall:

A. Advise Council. Advise the Council or its committees or any town officer, when thereto requested by the Council or the Chief Administrator, upon all legal questions arising in the conduct of town business.

B. Prepare ordinances. Prepare or revise ordinances when so requested by the Council or any committee thereof duly authorized.

C. Attend Council meetings. Attend meetings where legality of procedure or presentation of evidence may be pertinent, when requested by the Council or Chief Administrator.

D. Prepare legal instruments. Prepare for execution or otherwise recommend preparation of all contracts and instruments to which the town is a party, and he shall approve, as to form, all bonds required to be submitted to the town.

E. Prosecute offenders and defend officials. Prepare, when authorized by the Council, all charges and complaints against and appear in the appropriate court in the prosecution of every person charged with the violation of a town ordinance or of any regulations adopted under authority of the Charter. In any prosecution for violation of any regulation adopted by any board or commission created under authority of the Charter, the Town Attorney shall act under the directions of such board or commission, subject to such paramount control as is given to the Council by the Charter.

F. Negotiate claims. When requested by the Chief Administrator, negotiate any action, cause of action, account, debt, claim, demand, dispute and matter in favor of or against the town or in which the town is concerned as debtor or creditor, now existing or which may hereafter arise, and submit results to the Chief Administrator and Council for approval.

G. Make reports.

(1) Immediate report of decision. Immediately report the outcome of any litigation in which the town has an interest to the Administrator and Council.

(2) Annual report of pending litigation. Make an annual report to the Administrator and Council, as of the last day of the fiscal year, of all pending litigation in which the town has an interest and the condition thereof.

H. Employment negotiations. Serve as a member of the Public Employment Negotiating Committee charged with negotiating with employees in the area of wages, hours of work and conditions of employment, subject to the authority granted by the Town Council.

I. Keep records.

(1) Suits. Keep a complete record of all suits in which the town had or has an interest, giving the names of the parties, the court where brought, the nature of the action, the disposition of the case or its status pending and the briefs of counsel.

(2) Opinions and titles. Keep a complete record of all written opinions furnished by him and of all certificates or abstracts of title furnished by him to the town or any department or official thereof.

J. Deliver records to successor. Deliver all records, documents and property of every description in his possession, belonging to his office or to the town, to his successor in office, who shall give him duplicate receipts therefor, one of which he shall file with the Town Auditor.

ARTICLE IIA
Department of Community Development
[Added 5-11-89 by Ord. No. 1-89]

§ 3-10.1. Establishment; Director.

There shall be a Department of Community Development, the head of which shall be the Director of Community Development, who shall be or be appointed by the Town Manager.

§ 3-10.2. Duties of Director.

The duties of the Director of Community Development shall be as follows:

A. Implement and administer the town's Community Development Program in accordance with its community development block grant.

B. Prepare and submit grant applications in furtherance of community development goals.

C. Exercise all the powers and perform all the duties conferred or imposed by state law in furtherance of community development.

D. Such other duties as may be prescribed by the Town Manager.

§ 3-10.3. Personnel.

The Department shall have such personnel as may be authorized by the Town Council and appointed by the Town Manager from time to time.

(Cont'd on page 313)

ARTICLE III
Department of Finance

§ 3-11. Duties of Director of Finance.

In all cases where the duty is not expressly charged to any other department or office, it shall be the duty of the Director of Finance to act to promote, secure and preserve the financial and property interests of the town. The Director of Finance shall:

A. Fiscal supervision over officers. Exercise general supervision over all officers of the town regarding the proper management of the fiscal concerns of their respective offices.

(1) Examine books. Examine the books of each department from time to time and see that they are kept in proper form.

(2) Report delinquent payments and financial reports. See that officers receiving money pay the same into the town treasury when required and that all delinquent payments are reported to the Administrator or Council.

B. Duty upon default of officer. Report the default of any officer of the town to the Chief Administrator, who shall direct the Town Attorney to take immediate legal measures for the recovery of the amount for which such officer may be in default.

C. Responsibility for proceeds of bonds. Deposit the proceeds of all sales of bonds with the Town Treasurer immediately after he shall have received the same, and until such deposit, he shall be responsible for the amount thereof.

§ 3-12. Divisions of Department.

The Department of Finance shall be divided into the following divisions:

A. Division of the Treasury, headed by the Town Treasurer, who shall:

(1) Account for expenditures. Keep in proper books a full and accurate account of all the moneys received and

disbursed, from whom received and to whom disbursed, on what account received and disbursed and how paid.

(2) Cancellation of evidences of debt. Cancel all warrants and other evidences of debt against the town whenever paid by him, by writing or stamping across the face thereof the words "Paid by the Town Treasurer," with the date of payment written or stamped thereon.

(3) Disburse money on warrant. Disburse money only on the authority of a warrant drawn for the purpose by the municipal officers.

(4) Pay town employees. Pay town employees upon presentation of the properly certified payrolls.

(5) Collect moneys and fees due the town. Demand and receive all moneys and fees owing to the town whenever any person is indebted to the town in any manner and the means of collection of such debt is not otherwise provided for by law. When any claim shall not be collectible by other methods, he shall report the same to the Chief Administrator for action by the Town Attorney.

(6) Bank accounts. Maintain appropriate bank accounts, subject to the approval of the Chief Administrator, in the name of the municipality, for the deposit of cash receipts. When the cash balance in his possession exceeds one hundred dollars ($100.), he shall deposit it in the bank within ten (10) days.

(7) Weekly settlement with Town Auditor. Make a weekly settlement with the Town Auditor of the amounts received and paid out during the week in which settlement is being made, and at such settlements deliver to the Town Auditor, properly canceled, all warrants and other obligations of the town paid by him since his last settlement and take a receipt thereof in duplicate, one to be turned over to the Director of Finance and one to be retained by him, and once a month he shall balance accounts with the Town Auditor, which monthly settlement shall show the balance to the credit of the several funds for which the Treasurer is responsible.

(8) Permits and licenses. Issue all permits and licenses for which money is required to be paid, except those which are required by ordinance or statute to be issued by another department or office.

(9) Monthly report to Director of Finance. Make a detailed report to the Director of Finance on the fifth day of each month or at such times as the Director of Finance may request, as to the business of his office during the period prescribed, showing the balance on hand to the credit of the different funds at the time of his last report, the amounts received during the period and on what account, together with such other items and facts as the Director of Finance may require.

(10) Deductions from employee's salary. Make deductions from the salary of a municipal employee and pay the money deducted to the proper payee when the employee gives him the written authority to do so. The authority of the Treasurer to make a deduction continues until it is revoked in writing by the employee or until the reason for the deduction is known by the Treasurer to no longer exist.

B. Division of Accounts, headed by the Town Auditor, who shall:

(1) Audit accounts. Examine and audit the accounts of all officers and departments, subject to the approval of the Administrator and Council.

(2) Prescribe form. Prescribe the form of accounts and reports to be rendered to him.

(3) Budget duties. Prepare estimates of revenue and give such other assistance in the preparation of the budget as may be required of him by the Administrator.

(4) Financial statements. Transmit to the Administrator at least semimonthly statements of cash on hand and of classified unencumbered appropriation balances for the town as a whole and such other financial statements as the Administrator may from time to time require. He shall keep all departments, boards, commissions or

institutions currently informed of their respective classified unencumbered appropriation balances.

(5) Keep accounts. Keep all general accounts of the town government and of the respective departments, offices, boards, commissions and institutions thereof.

(6) Custodian of bonds, contracts, etc. Be charged with the custody of the official bonds of town employees and with the custody of all deeds, mortgages, contracts, judgments, notes, debts and choses in action. He shall keep and administer all securities, bonds or other forms of negotiable instruments owned by or belonging to the town.

C. Division of Assessments, supervised by the Town Assessor, who shall:

(1) Prepare assessment rolls. Prepare all work in connection with the assessment of property and the preparation of all assessment and tax rolls and tax notices.

(2) Serve as real estate agent. Act as real estate agent and supervise the lease, rental or other use and maintenance of all town property not used by other units of the town.

D. Division of Tax Collection, supervised by the Tax Collector, who shall collect all taxes in the manner authorized and required by law.

E. Division of Licenses, supervised by the Town License Officer, who is also the Town Clerk.

ARTICLE IV
Department of Records

§ 3-13. Duties of Town Clerk.

The Department of Records shall consist of a Town Clerk, who shall:

A. Clerk of Council. Serve as Clerk of the Council and perform such other duties of a like nature as shall be required by that body.

B. Keep records of Council. Be responsible for the recording, filing, indexing and safekeeping of all proceedings of the Council.

C. Record ordinances. Record in full, uniformly and permanently, all ordinances and authenticate the same.

D. Publish Council action. Publish in timely fashion all adopted ordinances and resolutions of the Council and all legal notices required by law or ordinance.

E. Keep election records. Keep and maintain all election records and have custody of all property used in connection with elections.

F. Keep vital statistics. Prepare, attest and report on the vital statistics of the town.

G. Notice of expiration of term. Notify the appointing authority of the impending expiration of the term of office of a member of any board or commission, said notice to be given at least thirty (30) days before such expiration.

H. Oath. Be responsible for determining that all persons required to take an oath of office before entering upon their duties have done so.

I. Ward Clerk. Act as Ward Clerk at all municipal elections.

J. Legal documents. Record legal instruments and carry out other duties prescribed by the Chief Administrator or by state law.

K. Keep Official Seal. Be the custodian of the Official Seal of the town.

ARTICLE V
Department of Police

§ 3-14. Duties of Chief of Police.

A. The Chief of Police shall be directly responsible to his appointing authority for the police work of the town and for

the enforcement and maintenance of law and order and shall assign officers to the various divisions of the Department.

B. Chief's powers. The Chief of Police is authorized to represent the town in District Court in the prosecution of alleged violations of those ordinances which the Police Department is empowered to enforce, if duly certified in accordance with 25 M.R.S.A. § 2803(3)-A, or successor statute. The Chief of Police may designate any officer under his command, if so certified, to perform this prosecutorial function. **[Added 3-24-88 by Ord. No. 2-88]**

§ 3-15. Divisions of Department.

The Department of Police shall be divided into the following divisions:

A. Records Division, supervised by an officer who shall have charge of:

(1) The central complaint desk and of dispatching police records.

(2) Criminal and noncriminal identification.

(3) Identification of property.

(4) Custody of property.

(5) Operation of detention quarters.

B. Patrol Division, supervised by an officer who shall have charge of:

(1) Motor and foot patrol units.

(2) Routine investigations not assigned to the Investigation Division.

C. Investigation Division, supervised by an officer who shall have charge of:

(1) Investigation of crime.

(2) Elimination of illegal liquor traffic and vice.

(3) Preparation of evidence for the prosecution of criminal cases.

(4) Crime laboratory.

D. Crime Prevention Division, directed by a supervisor who shall have charge of:

(1) Prevention and control of juvenile delinquency.

(2) Removal of crime hazards.

(Cont'd on page 319)

(3) Coordination of community agencies interested in crime prevention.

E. Traffic Division, supervised by an officer who shall have charge of:

(1) Control of traffic.

(2) Traffic educational program.

(3) School patrol.

(4) Coordination of traffic accident prosecution.

(5) Painting of street and crosswalk lanes.

F. Radio Division, supervised by the Chief Radio Engineer, who shall have charge of the maintenance and operation of the radio plant and equipment.

ARTICLE VI
Department of Fire

§ 3-16. Duties of Fire Chief.

The Fire Chief shall be charged with the prevention of fires and the protection of life and property against fire and shall:

A. Report losses. Report all fire losses over fifty dollars ($50.) to the Assessor.

B. Maintain equipment. Be responsible for the maintenance and care of all property and equipment used in his Department.

C. Investigate fire losses to determine cause.

§ 3-17. Division of Department.

The Department of Fire shall be divided into the following divisions and supervisors thereof:

A. Fire-Fighting Division.

(1) The Fire-Fighting Division shall be supervised by an officer who shall be responsible for:

(a) Extinguishment of fires.

(b) Saving of life and property from fire.

(c) Performance of various miscellaneous public services of an emergency nature.

(2) The Division shall include a volunteer department created by ordinance.

B. Fire Prevention Division, supervised by a Fire Hazard Inspector, who shall be responsible for:

(1) Inspecting of potential fire hazards.

(2) Abatement of existing fire hazards.

(3) Conducting an educational fire prevention program.

ARTICLE VII
Department of Health

§ 3-18. Duties of Town Health Officer.

The Town Health Officer shall have charge and control of all functions involved in protecting and preserving the public health as provided by Maine state law.

ARTICLE VIII
Department of Public Works

§ 3-19. Duties of Director of Public Works.

The Director of Public Works shall be responsible for all matters relating to construction and maintenance of the physical properties of the town, excluding property under the jurisdiction of the School Board.

§ 3-20. Divisions of Department.

The Department of Public Works shall be divided, under the Director of Public Works, into the following divisions and bureaus:

A. Division of Engineering, supervised by a civil engineer or Director, who shall perform all engineering services for the Department of Public Works and for such other departments of the town as may from time to time require such services.

(1) Bureau of Permits and Inspections, under the Division of Engineering and supervised by a town inspector who shall:

(a) Issue all permits for, and inspect the work involved in, street cuts, curb cuts, tree belt cuts and sidewalk cuts for utility services.

(b) Inspect all town premises, including structures and appurtenances thereon, for safety features.

B. Division of Sewer Maintenance, which shall, under the supervision of the Sewer Maintenance Foreman, be responsible for the operation and maintenance of the town sewerage system.

C. Division of Parks, which shall, under the supervision of the Park Foreman, maintain all town parks, except that the recreational areas and facilities shall be under the supervision of the Recreation Commission.[11]

D. Division of Property Control, which shall, under the supervision of the Property Control Foreman, provide for maintenance, custody, security and control of all structures, materials, supplies and equipment assigned to the Public Works Department and not otherwise provided herein.

E. Division of Highways, which, under the supervision of the Highway Foreman, shall be responsible for the maintenance, and uses for sanitation purposes, of all town streets, and more specifically shall be responsible for:

(1) Street cleaning.

[11] Editor's Note: See Ch. 26, Recreation Commission.

(a) Collection of rubbish and leaves authorized to be deposited in street rights-of-way.

(b) Clearing of snow.

(c) Cleaning of improved streets.

(d) Transportation of junked vehicles to the town dump.

(2) Street maintenance. Maintenance of and provision of adequate drainage for all streets, sidewalks and bridges.

(3) Off-street parking. Operation and maintenance of municipal off-street parking lots and areas.

F. Division of Construction Projects, under the supervision of the Project Engineer, which shall be responsible for all activities in connection with:

(1) Minor construction of special projects performed by the Public Works Department.

(2) Major construction projects, subject to authority granted by the Chief Administrator.

ARTICLE IX
Department of Purchasing

§ 3-21. Duties of Purchasing Agent.

In all cases where the purchasing duty is not expressly charged to any other town department, agency or individual, it shall be the duty of the Purchasing Agent to procure such materials, equipment or services as may be required and authorized by the Chief Administrator in carrying out his administrative function.

§ 3-22. Delegation of authority.

The Purchasing Agent may delegate in writing to department or agency heads such of his authority to purchase as he deems appropriate, but he shall not delegate his responsibility with respect thereto.

§ 3-23. Responsibilities of Purchasing Agent.

The Purchasing Agent shall be responsible for the prudent expenditure of town funds, consistent with customary municipal purchasing practices, and with respect thereto shall:

A. Submit to bid any purchase in excess of one hundred dollars ($100.) if requested to do so by his appointing authority or by the Chief Administrator.

B. Solicit bids only on specifications when requested to do so by his appointing authority or by the Chief Administrator.

C. Maintain a library containing sources and prices of materials, equipment and services required for operation of small municipalities.

ARTICLE X
Department of Personnel

§ 3-24. Duties of Director.

The duties of Director of Personnel shall be as follows:

A. Centralize the handling of personnel matters and records.

B. Incorporate basic personnel policy in an ordinance or code.

C. Identify and classify jobs in terms of difficulty and responsibility.

D. Match jobs classified with equitable rates of pay.

E. Develop procedures and policies to effect good employee morale.

F. Review with department or agency heads present status of training in departments, determine need for further training, establish and recommend a training objective and locate services and material necessary to carry out objective.

G. Prescribe policy for promotions establishing relative importance of seniority, testing and rating.

H. Prescribe disciplinary methods and procedures.

I. Review, and from time to time recommend changes in, the town's personnel retirement program and other fringe benefits.

J. Prepare and have for distribution copies of the town's personnel policy.

K. Maintain files containing copies of past contracts between the town and employees' representatives.

L. Issue to the Town Treasurer copies of any personnel actions involving change in employees' wages, hours, fringe benefits or working conditions.

M. Maintain a personnel file for each employee, including any personnel actions reported by employee's superior.

N. Develop and keep current information on each class of town employee, showing comparable wages for:

(1) Similar jobs in the community.

(2) Similar jobs in other communities.

(3) Jobs requiring like skills in this community.

(4) Jobs requiring like skills in other communities.

O. Secure and maintain a current, reliable cost-of-living index.

P. Serve on the town's negotiating team in developing contracts with employees' representatives.

Q. Such other duties as the Manager may delegate.

ARTICLE XI
Department of Public Welfare

§ 3-25. Establishment; Director of Public Welfare.

There shall be a Department of Public Welfare, the head of which shall be the Director of Public Welfare, who shall be or be appointed by the Town Manager.

§ 3-26. Duties of Director.

The duties of the Director of Public Welfare shall be as follows:

A. Be responsible for the planning, budgeting, reporting and control of the town welfare program.

B. Exercise all the powers and perform all the duties conferred or imposed by state law upon overseers of the poor.

ARTICLE XII
Commissions

§ 3-27. Creation of advisory commissions.

The administrative service of the town shall include, under the Chief Administrator, the advisory commissions hereby created:

A. Civil Defense Commission.

B. Department of Transportation.

C. Cemetery Commission.

D. Recreation Commission.

E. Nursing Commission.

§ 3-28. Membership.

Each Commission shall be created and shall serve as provided in Chapter 29, Transportation, Department of; Ch. 9, Cemetery Commission; Ch. 26, Recreation Commission; and Ch. 21, Nursing Commission, of the Code of the Town of Millinocket.

§ 3-29. Duties.

Each Commission created herein shall act as an advisory group to the Chief Administrator regarding the betterment of administrative operations within its field and as to any specific problems referred to it by ordinance, resolution or by the Chief Administrator.

ARTICLE XIII
Penalties

§ 3-30. Violations and penalties.

Whoever violates any of the provisions of this chapter shall be punished by a fine of not more than one hundred dollars ($100.) plus costs, such fine and costs to be recovered on complaint to the use of the Town of Millinocket.

or mechanical, chemical or electrical reproduction, or any other articles, equipment or machines.

OBSCENE — To the average person applying contemporary community standards, the predominant appeal of the matter or act taken as a whole is to prurient interest, and the matter or act depicts or describes in a patently offensive manner sexual conduct or lewd exhibition of the genitals or other body parts mentioned hereinafter in this chapter, and the matter or act or performance considered as a whole lacks serious literary, artistic, political or scientific value; or any matter or act or performance which is prohibited by the statutes of the State of Maine.

PERFORMANCE — Any preview, play, show, skit, film, dance or other exhibition or entertainment performed before an audience.

PROMOTE — To cause, permit, procure, counsel or assist.

SERVICE TO PATRONS — The provision of services to customers, patrons or any other persons present in establishments providing food and beverages, including but not limited to hostessing, hatchecking, cooking, bartending, serving, table setting and clearing, waitering and waitressing and entertaining.

§ 65-4. Permit required.

No licensee for the sale of liquor to be consumed on his licensed premises shall permit on his licensed premises any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the municipality in which the licensed premises are situated a special amusement permit signed by at least a majority of the municipal officers.

§ 65-5. Application for permit.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state:

A. The name of the applicant.

B. The applicant's residence address.

C. The name of the business to be conducted.

D. The applicant's business address.

E. The nature of the applicant's business.

F. The location to be used.

G. All places of residence of the applicant during the past five (5) years.

H. Whether the applicant has ever had a license to conduct the business therein described either denied or revoked, and if so, the applicant shall describe those circumstances specifically.

I. Whether the applicant, including all partners or corporate officers, has ever been convicted of a felony, and if so, the applicant shall describe specifically those circumstances.

J. Any additional information as may be needed by the municipal officers in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.

§ 65-6. Issuance of permit.

A. No permit shall be issued for any thing or act or premises if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws or rules and regulations of the municipality.

B. The fee for a special amusement permit shall be set by the Town Council by resolution.[1]

C. The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing at which the testimony of the applicant and that of any interested members of the public shall be taken.

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

D. The municipal officers shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare or would violate municipal ordinances or rules and regulations, articles or bylaws.

E. A permit shall be valid only for the license year of the applicant's existing liquor license.

§ 65-7. Conduct constituting offenses by licensees.

A. Tumultuous conduct. The licensee shall not knowingly allow on any licensed premises any person or persons to disturb, tend to disturb or aid in disturbing the peace of others of ordinary sensibilities or to be disorderly by violent, tumultuous, offensive or obstreperous conduct; or permit to gather a crowd or audience or patrons to witness any entertainment, amusement or show so as to create a dangerous condition because of fire or other risks in derogation of the public health, comfort, convenience, safety or welfare.

B. Riots. The licensee shall not allow on any licensed premises any public entertainment or amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance.

C. Unnecessary noise. The licensee shall not allow on any licensed premises the making, creation or maintenance of excessive, unnecessary or unreasonably loud noise which disturbs, annoys, injures, prejudices or endangers the comfort, repose, health, peace or safety of individuals of ordinary sensibilities or the public in general or the property rights of others, and which noise affects and is a detriment to the public health, comfort, convenience, safety, welfare or prosperity of the residents of the municipality.

D. Nuisances. The licensee shall not allow any licensed premises to be so conducted or operated as to amount to a nuisance in fact under any ordinances or any sections of any ordinances, articles, bylaws or rules and regulations of the municipality or under any statutes of the State of Maine.

Chapter 4

PETITIONS

ARTICLE I
Petitions Filed Pursuant to Charter Sections C901 and C903

§ 4-1. Section C901 petitions.

§ 4-2. Section C903 petitions.

§ 4-3. Council review.

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

GENERAL REFERENCES

Initiative and referendum — See Charter, Art. IX.
Administration of government — See Ch. 3.

ARTICLE I
Petitions Filed Pursuant to Charter Sections C901 and C903
[Adopted 9-8-2005 by Ord. No. 2-2005]

§ 4-1. Section C901 petitions.

Petitions pursuant to § C901 of the Charter shall be administered as follows:

A. Request for petition blanks.

(1) Any five registered voters may begin referendum proceedings pursuant to § C901 of the Charter by submitting a written request for petition blanks to the Town Clerk, or the Clerk's designee.

(2) The written request for petition blanks must include, or have attached thereto, the full text of the ordinance, order or resolve sought to be reconsidered. The written request must also include the printed name and address of each individual signing the request so that the Town Clerk may contact them about the proceedings.

(3) Upon filing of the request for petition blanks, the request becomes the property of the Town, and the Town Clerk shall mark the request with the time and date of filing. No changes, additions or deletions to the request shall be allowed after filing, and the request, and all documents related to the request, shall be maintained by the Town Clerk in a secure location accessible only by the Town Clerk or the Clerk's designee. The request and related documents may only be examined in the presence of the Town Clerk or the Clerk's designee.

(4) Action by Town Clerk upon filing; review.

(a) The Clerk shall within a reasonable time, determine whether the request has been signed by five registered voters of the Town, whether the full text of the ordinance, order or resolve sought to be reconsidered is included in the request or attached to it, and whether consideration of the subject matter is prohibited by § C906 of the Charter. Copies of the request shall be provided to members of the Council upon request. Copies of the request shall be provided to the public upon payment of photocopy charges. The Town Clerk may seek legal advice concerning the sufficiency of the request and the validity of the signatures with the permission of the Town Manager.

[1] If the Town Clerk determines that the request is not in proper form, has not been signed by five registered voters of the

Town, or consideration of the subject matter is prohibited by § C906 of the Charter, the Town Clerk shall inform, in writing, the individuals who signed the request, the Town Manager and members of the Town Council of the decision and that petition blanks will not be issued pending further action of the Town Council.

[2] If the Town Clerk determines that the request is in proper form, has been signed by five registered voters of the Town, and consideration of the subject matter is not prohibited by § C906 of the Charter, the Clerk shall inform, in writing, the individuals who signed the request, the Town Manager and members of the Town Council of the decision and prepare petition blanks.

(b) The decision of the Town Clerk shall be reviewed by the Town Council at its next meeting. Review by the Town Council shall be pursuant to § 4-3 of this chapter.

B. Size and style of petition blanks; circulation; filing.

(1) Each petition blank shall be uniform in size and style and shall:

(a) Contain or have attached thereto throughout its circulation, the full text of the ordinance, order or resolve sought to be reconsidered;

(b) Be signed only by registered voters of the Town, and the signature shall be followed by the voter's name printed in a legible manner along with his address;

(c) Contain a statement by the circulator thereof that he personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his presence, that he

believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance, order or resolve sought to be reconsidered. The statement of the circulator shall be made under oath by affidavit.

(2) The completed petition blanks shall be assembled by the circulators as one instrument for filing and must be filed with the Town Clerk or the Clerk's designee, at the Town Office within 10 days after the enactment of any such ordinance, order or resolve, or the next business day should the 10th day fall on a nonbusiness day. "Assembled by the circulators as one instrument for filing" means that all of the petition sheets are filed with the Town Clerk at the same time. Town office personnel may take the oath of circulators. All such inquiries shall be directed to the Town Manager concerning procedures.

(3) Upon filing of the petition with the Town Clerk, the petition becomes the property of the Town, and the Town Clerk shall mark each sheet of the petition with the time and date of filing. No changes, additions or deletions to the petition shall be allowed after filing, and the petition, and all documents related to the petition, shall be maintained by the Town Clerk in a secure location accessible only by the Town Clerk or the Clerk's designee. The petition and related documents may only be examined in the presence of the Town Clerk or the Clerk's designee. Copies of the petition shall be provided to members of the Council upon request. Copies of the petition shall be provided to the public upon payment of photocopy charges. The Town Clerk may seek legal advice concerning the sufficiency of the petition and the validity of the signatures with the permission of the Town Manager.

(4) Action by Town Clerk upon filing; review.

(a) The Clerk shall within a reasonable time, determine whether each sheet of the petition conforms to Subsection B(1) and whether the petition has been signed by registered voters of the Town numbering at least 20% of the number of votes cast in the Town at the last gubernatorial election.

[1] If the Town Clerk determines that the petition was not filed in a timely manner, is not in proper form, or has not been signed by the required number of voters of the Town, the Town Clerk shall inform, in writing, the individuals who signed the request, the Town Manager and members of the Town Council of the decision, and no further action concerning the petition shall be taken pending further action by the Town Council.

[2] If the Town Clerk determines that the petition was filed in a timely manner, is in proper form and has been signed by the required number of voters of the Town, the Clerk shall inform, in writing, the individuals who signed the request for petition blanks, the Town Manager and members of the Town Council of the decision and request the Town Council to call a public hearing concerning the petition pursuant to Subsection C(1).

(b) The decision of the Town Clerk shall be reviewed by the Town Council at its next meeting. Review by the Town Council shall be pursuant to § 4-3 of this chapter.

C. Action by Town Council; public hearing.

(1) Upon receipt of the determination by the Town Clerk that the petition meets the requirements of the Charter and this chapter, the Town Council shall call a public hearing concerning the petition to be held within 14 days from the date of the filing of such petition with the Town Clerk. The first order of business by the Council at the public hearing shall be consideration of the report of the Town Clerk concerning the petition which shall either be accepted, accepted with modification or rejected. Further proceedings concerning the petition shall be consistent with the order of the Council accepting or rejecting the report of the Town Clerk.

(2) Within 14 days of the public hearing conducted pursuant to Subsection C(1) and determination by the Council that the petition is in accordance with the requirements of the Charter and this chapter, the Town Council shall call a special municipal election for the purpose of submitting to a referendum vote the question of adopting such ordinance, order or resolve. The form of the ballot shall be as set out in C904 of the Charter.

D. Upon determination by the Town Council that the petition meets the requirements of the Charter and this chapter and that a referendum election will be held, the referred ordinance, order or resolve shall be suspended from going into operation until it has received a vote of the majority of voters voting on said question.

§ 4-2. Section C903 petitions.

Petitions pursuant to § C903 of the Charter shall be administered as follows:

A. Request for petition blanks.

(1) Any five registered voters may begin initiative proceedings pursuant to Section C903 of the Charter by submitting a written request for petition blanks to the Town Clerk, or the Clerk's designee.

(2) The written request for petition blanks must include, or have attached thereto, the complete title and text of the proposed ordinance. The written request must also include the printed name and address of each individual signing the request so that the Town Clerk may contact them about the proceedings.

(3) Upon filing of the request for petition blanks, the request becomes the property of the Town, and the Town Clerk shall mark the request with the time and date of filing. No changes, additions or deletions to the request shall be allowed after filing, and the request, and all documents related to the request, shall be maintained by the Town Clerk in a secure location accessible only by the Town Clerk or the Clerk's designee. The request and related documents may only be examined in the presence of the Town Clerk or the Clerk's designee.

(4) Action by Town Clerk upon filing; review.

(a) The Clerk shall within a reasonable time, determine whether the request has been signed by five registered voters of the Town, whether the complete text of the proposed ordinance is included in the request or attached to it, and whether consideration of the subject matter is prohibited by § C906 of the Charter. Copies of the request shall be provided to members of the Council upon request. Copies of the request shall be provided to the public upon payment of photocopy charges. The Town Clerk may seek legal advice concerning the sufficiency of the request and the validity of the signatures with the permission of the Town Manager.

[1] If the Town Clerk determines that the request is not in proper form, has not been signed by five registered voters of the Town, or consideration of the subject matter is prohibited by § C906 of the Charter, the Town Clerk shall inform, in writing, the individuals who signed the request, the Town Manager and members of the Town Council of the decision and that petition blanks will not be issued pending further action of the Town Council.

[2] If the Town Clerk determines that the request is in proper form, has been signed by five registered voters of the Town, and consideration of the subject matter is not prohibited by § C906 of the Charter, the Clerk shall inform, in writing, the individuals who signed the request, the Town Manager and members of the Town Council of the decision and prepare petition blanks.

(b) The decision of the Town Clerk shall be reviewed by the Town Council at its next meeting. Review by the Town Council shall be pursuant to § 4-3 of this chapter.

B. Size and style of petition blanks; circulation; filing.

(1) Each petition blank shall be uniform in size and style and shall:

(a) Contain or have attached thereto throughout its circulation the complete text of the proposed ordinance;

(b) Be signed only by registered voters of the Town, and the signature shall be followed by the voter's name printed in a legible manner along with his address;

(c) Contain a statement by the circulator thereof that he personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the proposed ordinance. The statement of the circulator shall be made under oath by affidavit.

(2) The completed petition blanks shall be assembled by the circulators as one instrument for filing. "Assembled by the circulators as one instrument for filing" means that all of the petition sheets are filed with the Town Clerk at the same time. Town office personnel may take the oath of circulators. All such inquiries shall be directed to the Town Manager concerning procedure.

(3) Upon filing of the petition with the Town Clerk, the petition becomes the property of the Town, and the Town Clerk shall mark each sheet of the petition with the time and date of filing. No changes, additions or deletions to the petition shall be allowed after filing, and the petition, and all documents related to the petition, shall be maintained by the Town Clerk in a secure location accessible only by the Town Clerk or the Clerk's designee. The petition and related documents may only be examined in the presence of the Town Clerk or the Clerk's designee. Copies of the petition shall be provided to members of the Council upon request. Copies of the petition shall be provided to the public upon payment of photocopy charges. The Town Clerk may seek legal advice concerning the sufficiency of the petition and the validity of the signatures with the permission of the Town Manager.

(4) Action by Town Clerk upon filing; review.

(a) The Clerk shall within a reasonable time, determine whether each sheet of the petition conforms to Subsection B(1) and whether the petition has been signed by registered voters of the Town numbering at least 20% of the number of votes cast in the Town at the last gubernatorial election.

[1] If the Town Clerk determines that the petition is not in proper form, or has not been signed by the required number of voters of the Town, the Town Clerk shall inform, in writing, the individuals who signed the request, the Town Manager and members of the Town Council of the decision, and no further action concerning the petition shall be taken pending further action by the Town Council.

[2] If the Town Clerk determines that the petition was filed in a timely manner, is in proper form and has been signed by the required number of voters of the Town, the Clerk shall inform, in writing, the individuals who signed the request for petition blanks, the Town Manager and members of the Town Council of the decision and request the Town Council to call a public hearing concerning the petition pursuant to Subsection C(1).

(b) The decision of the Town Clerk shall be reviewed by the Town Council at its next meeting. Review by the Town Council shall be pursuant to § 4-3 of this chapter.

C. Action by Town Council, public hearing.

(1) Upon receipt of the determination by the Town Clerk that the petition meets the requirements of

the Charter and this chapter, the Town Council shall call a public hearing concerning the petition to be held within 14 days from the date of the filing of such petition with the Town Clerk. The first order of business by the Council at the public hearing shall be consideration of the report of the Town Clerk concerning the petition which shall either be accepted, accepted with modification or rejected. Further proceedings concerning the petition shall be consistent with the order of the Council accepting or rejecting the report of the Town Clerk.

(2) Within 14 days of the public hearing conducted pursuant to Subsection C(1) and determination by the Council that the petition is in accordance with the requirements of the Charter and this chapter, the Town Council shall call a special municipal election for the purpose of submitting to a referendum vote the question of adopting such proposed ordinance.

D. Any such proposed ordinance shall be examined by the Town Attorney before being submitted to the voters in accordance with § C903D of the Charter. The form of the ballot shall be as set out in § C904 of the Charter.

§ 4-3. Council review.

A. Review of the sufficiency or validity of petitions shall be conducted by the Town Council in workshop session should the Town Council determine that review is necessary. State election law and procedure shall be a nonbinding guide for the Town Clerk and Town Council in reviewing petitions, but the decision of the Town Council shall be final concerning all such questions.

B. The Town Manager, Town Clerk, and Town personnel involved with handling the petition under review shall all be present at the workshop. The Town Clerk shall ensure that all documents under review as well as the

current Town voting list are available at the workshop as well as all documents necessary to determine the number of votes cast in the Town at the last gubernatorial election.

C. All questions shall be determined by majority vote of the Town Council.

D. No determination of the Town Clerk, Town Manager or other Town personnel shall be binding on the Town Council in interpreting this chapter or the Town Charter.

E. Workshops concerning petitions shall be conducted under the authority of the Town Council pursuant to §§ C204D and C212 of the Charter.

Chapter 5

APPEALS, BOARD OF

§ 5-1. Establishment.

§ 5-2. Terms of members; vacancies.

§ 5-3. Qualifications.

§ 5-4. Conflict of interest.

§ 5-5. Rules; meetings.

§ 5-6. Budget and explanatory message.

§ 5-7. Appeals.

§ 5-8. Powers and duties.

§ 5-9. Compliance with Charter.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-1981 as Art. I of Ch. 5 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Authority for establishment of Board of Appeals — See Charter, § C703.
Zoning — See Ch. 125.

§ 5-1. Establishment.

A. The Board of Appeals is hereby established. The Board of Appeals, also referred to in this chapter as the "Board," shall consist of five members appointed by the Council. Each member shall serve for a term of three years. **[Amended 2-6-1986 by Ord. No. 2-86; 12-3-1998 by Ord. No. 7-98]**

B. The present Board of Appeals for the Town of Millinocket now constituted shall constitute the Board of Appeals under this chapter, and each member thereof shall serve the remainder of his or her present term.

§ 5-2. Terms of members; vacancies.

The Town Council by a majority vote shall, upon the expiration of each member's term, appoint a member of the Board for a three-year term. When a vacancy occurs on the Board of Appeals, it shall be filled by appointment by the Town Council to finish the unexpired term.

§ 5-3. Qualifications.

Board of Appeals' members shall be qualified electors of the town and shall reside in the town during their term of office. Neither a municipal officer nor his or her spouse shall be a member of the Board.

§ 5-4. Conflict of interest.

The Board of Appeals shall determine by a majority vote whether or not a conflict of interest sufficient to disqualify a member from voting thereon exists after a challenge based on conflict of interest is made by a party to the hearing or a member of the Board.

§ 5-5. Rules; meetings. [Amended 12-3-1998 by Ord. No. 7-98]

The Board of Appeals shall adopt rules necessary to the conduct of its affairs. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings and other official actions, all of which shall be a public record.

Meetings of the Board shall be conducted as provided in 30-A M.R.S.A. § 2691. A majority of the Board shall constitute a quorum for the transaction of business.

§ 5-6. Budget and explanatory message.

The Board of Appeals shall submit a budget and explanatory budget message to the Town Manager at least 45 days prior to the new fiscal year, in accordance with the procedure set forth in § C502 of the Town Charter.

§ 5-7. Appeals. [Amended 12-3-1998 by Ord. No. 7-98]

An appeal may be taken from any decision of the Code Enforcement Officer to the Board of Appeals and from the Board of Appeals to the Superior Court pursuant to 30-A M.R.S.A. § 2691.

§ 5-8. Powers and duties.

The Board of Appeals shall have the following powers.

A. Administrative review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Inspector in the enforcement of any provision authorizing such appeals.

B. Exceptions. To hear and decide only such exceptions upon which the Board is required to pass under the terms of any provision.

C. Variances. To hear and decide, upon appeal, such variances as may be authorized by any provision. A variance may be granted by the Board only where strict application of the ordinance or a provision thereof to the petitioner and his or her property would cause undue hardship. The words "undue hardship" as used in this subsection mean:

(1) That the land in question cannot yield a reasonable return unless a variance is granted.

(2) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

(3) That the granting of a variance will not alter the essential character of the locality.

(4) That the hardship is not the result of action taken by the applicant or a prior owner.

§ 5-9. Compliance with Charter.

The Board of Appeals shall operate subject to all provisions of the Town Charter with respect to operation of the town offices, departments or agencies.

Chapter 7

BUDGET

ARTICLE I
Presentation and Approval for Planned Capital Expenditures and/or Indebtedness

§ 7-1. Process established.

§ 7-2. School Department.

§ 7-3. Other departments, agencies, offices, and wastewater treatment.

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

ARTICLE I
Presentation and Approval for Planned Capital Expenditures and/or Indebtedness
[Adopted 1-9-2003 by Ord. No. 7-2002]

§ 7-1. Process established.

The following process shall be used by the various departments, offices, and agencies of the Town in the presentation of any proposed capital budget items and/or proposed indebtedness to finance them.

§ 7-2. School Department.

The School Department shall present its overall budget as defined in Article IV, Section C405 of the Town Charter. As part of this presentation, the School Department shall make special presentation by each affected line item category of any proposed

capital expenditure or proposed indebtedness, either of which is $5,000 or more. The Town Council shall consider these proposals within the scope of the entire line item category, per the requirements of C405, Subsection C. Once the budget for each line item category is approved, the School Committee shall be authorized to expend all such funds so voted and shall be empowered to make capital expenditures and to enter into appropriate forms of indebtedness (loans, lease/purchase agreements containing nonappropriation clauses, capital leases, etc.) as are prudent and necessary to complete such acquisitions. The Town Council shall approve all expenditures that require specific approval of the Town Council, bonding, and/or the pledging of the full faith and credit of the Town. The requirements of this section shall not apply to major or significant repair or maintenance items, even if such items exceed $5,000 in cost.

§ 7-3. Other departments, agencies, offices, and wastewater treatment.

All other municipal departments, agencies, offices, and wastewater treatment shall present their overall budgets to the Town Council per the requirements of Article V of the Town Charter. The Town Manager shall make special presentation of each proposed capital expenditure or proposed indebtedness to finance such expenditures. The total capital expenditure budget and/or indebtedness method, if any, to finance it shall require the approval of the Town Council as part of the budget adoption process. The Town Council shall then approve each specific capital expenditure and/or appropriate indebtedness method to finance it during the fiscal year as each item is proposed for purchase.

Chapter 9

CEMETERY COMMISSION

§ 9-1. Establishment; appointment; vacancies.
§ 9-2. Qualifications.
§ 9-3. Powers and duties.
§ 9-4. Meetings.
§ 9-5. Chairman; Vice Chairman; vacancies.
§ 9-6. Budget and explanatory message.
§ 9-7. Cemetery Superintendent; powers and duties.
§ 9-8. Compliance with Charter.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-81 as Art. II of Ch. 5 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Creation of advisory commissions — See Ch. 3, § 3-27.

§ 9-1. Establishment; appointment; vacancies.

There shall be a Cemetery Commission, which shall consist of five (5) members appointed by the Town Council for five (5) years. Should a vacancy occur in said Commission, the vacancy shall be filled by appointment by the Town Council to finish the unexpired term. The present Commission shall constitute the Cemetery Commission under this chapter, and each member thereof shall serve the remainder of his or her present term.

§ 9-2. Qualifications.

Commission members shall be qualified electors of the town and shall reside in the town during their term of office.

§ 9-3. Powers and duties.

The Cemetery Commission shall have the following powers and duties:

A. Operation of cemetery. Be responsible for the operation of the Millinocket Cemetery, within the limitations of statutory authority, the Millinocket Town Charter and the provisions of this chapter.

B. Appointment/removal of Superintendent. Make recommendations in the appointment and removal of the Cemetery Superintendent and other cemetery employees.

C. Employee regulations. In conjunction with the Town Manager or his designee, adopt and prescribe rules and regulations governing the duties of the Superintendent and other cemetery employees, subject to the approval of the Council.

D. Rules governing use. Make, alter and repeal rules and regulations, subject to the approval of the Town Council, as to the use of the cemetery by the public and for such other purpose as may be required to carry out the responsibility of the Commission.

E. Fee schedule. Recommend from time to time for Council approval prices to be charged for plots and opening and closing of graves.

§ 9-4. Meetings.

The Cemetery Commission shall, at its first meeting or as soon thereafter as possible, establish by rules and regulations a regular place and time for holding its regular meetings and shall meet regularly at least once a month. It shall also provide a method for calling special meetings. Actions of the Commission shall be recorded

by the Chairman and a copy thereof filed with the Town Council within a reasonable time after such action is taken.

§ 9-5. Chairman; Vice Chairman; vacancies.

At its first meeting or as soon thereafter as practicable, the Cemetery Commission shall elect, by majority vote of the entire Commission, one of its members to serve for the ensuing year as Chairman and one of its members to serve as Vice Chairman. The Commission may fill, for an unexpired term, any vacancy in the office of Chairman or Vice Chairman that may occur.

§ 9-6. Budget and explanatory message.

The Cemetery Commission shall submit to the Town Manager a budget and explanatory budget message in accordance with the procedure set forth in § C502 of the Town Charter and at least forty-five (45) days prior to the new fiscal year.

§ 9-7. Cemetery Superintendent; powers and duties.

The Cemetery Superintendent shall be the chief administrative officer for the Cemetery Commission and shall be responsible to the Manager for the proper administration of all cemetery affairs. He shall have the power and be required to:

A. Control over employees. Exercise such authority as the Town Manager may grant to appoint, prescribe the duties and removal of employees.

B. Budget. Prepare a budget annually, submit it to the Cemetery Commission and be responsible for its administration after adoption by the Council.

C. Relation to Commission. Attend the meetings of the Commission, keep the Commission advised of the financial condition and future needs of the cemetery and make such recommendations as may seem to him desirable.

D. Purchasing Agent. Act as Purchasing Agent for the Commission to the extent that the Town Manager may grant such authority in writing.

E. Other duties. Perform such duties as may be prescribed by law, ordinance or required of him by the Commission, not inconsistent with this chapter, including but not limited to:

(1) Providing for attendance at all funerals and execution of proper forms for filing with the Town Clerk.

(2) Operation of the vault and providing for burials therefrom.

(3) Maintaining the cemetery to standards set by the Town Council from time to time.

(4) Authorizing assignment of lots, the money to be paid by the purchaser to the Town Treasurer.

(5) Maintaining suitable plans and maps to locate specific burial plots and providing adequate ground reference points with respect to said plots.

§ 9-8. Compliance with Charter.

The Commission shall operate subject to all provisions of the Town Charter with respect to operation of the town offices, departments or agencies.

Chapter 17

LIBRARY BOARD OF TRUSTEES

§ 17-1. Establishment of Millinocket Memorial Library.
§ 17-2. Membership; appointment; term.
§ 17-3. Qualifications.
§ 17-4. Powers and duties.
§ 17-5. Compensation of members.
§ 17-6. Meetings.
§ 17-7. Vacancies.
§ 17-8. Rules and procedure.
§ 17-9. Secretary of Board.
§ 17-10. Appointment of Librarian.
§ 17-11. Removal of Librarian.
§ 17-12. Budget and explanatory message.
§ 17-13. Compliance with Charter.
§ 17-14. Qualifications and powers of Librarian; absence.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-81 as Art. III of Ch. 5 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Agencies created by town ordinance — See Ch. 3, § 3-2D.

§ 17-1. Establishment of Millinocket Memorial Library.

There shall be a Millinocket Memorial Library, the head of which shall be the Library Board of Trustees, which shall consist of members appointed by the Town Council and responsible to the Town Manager. The present Board shall constitute the Board of Trustees under this chapter, and each member thereof shall serve the remainder of his or her present term.

§ 17-2. Membership; appointment; term.

The Library Board of Trustees shall be composed of seven (7) members, each of whom shall be appointed for a term of seven (7) years or until his or her successor is appointed and qualified. Trustees shall not be eligible to serve two (2) full terms in succession. The Board and Town Clerk shall maintain an up-to-date list of Trustees and their terms.

§ 17-3. Qualifications.

Trustee members shall be qualified electors of the town and shall reside in the town during their term of office. They shall comply with the provisions of 30 M.R.S.A. § 2251. If any member shall cease to possess any of the above qualifications or shall be convicted of a crime involving moral turpitude, his office shall immediately become vacant.

§ 17-4. Powers and duties.

A. The Library Board of Trustees shall be responsible to the Town Manager for the operation of the Millinocket Memorial Library for the inhabitants of the Town of Millinocket, within the limitations of statutory authority, the Millinocket Town Charter and the provisions of this chapter.

B. The Library Board of Trustees shall have power to:

(1) Advise the Manager in the appointment and fixing of the compensation of and removal of the Librarian and the employees serving under the Librarian.

(2) Make, alter and repeal rules and regulations for the purpose of carrying out the responsibilities of the Trustees, with the approval of the Town Council.

(3) Inquire into the conduct of any activities of the library.

§ 17-5. Compensation of members.

Compensation of the Library Board of Trustees is forbidden except for travel expense.

§ 17-6. Meetings.

A. Induction of Library Board of Trustees into office. The Library Board of Trustees shall meet at the usual place for holding meetings at 7:00 p.m. on the first Wednesday of the month following the enactment of this chapter, and at such meeting Trustees-elect shall be sworn to the faithful discharge of their duties by the Town Clerk or Justice of the Peace.

B. Regular meetings. The Library Board of Trustees shall, at its first meeting or as soon thereafter as possible, establish by rules and regulations a regular place and time for holding its regular meetings and shall meet regularly at least once a month. It shall also provide a method for calling special meetings.

C. Attendance at meetings. Whenever a Library Board of Trustee member shall be absent from more than three (3) consecutive regular meetings of the Board without suitable reason therefor satisfactory to the Board, the Chairman of the Board of Trustees shall notify the absent member and the Town Council that a vacancy exists, and the Council shall fill such vacancy in the manner herein provided.

D. Chairman. At its first meeting or as soon thereafter as practicable, the Board of Trustees shall elect, by majority vote of the entire Board of Trustees, one of its members to serve for the ensuing year as Chairman, and the Trustees may fill for an unexpired term any vacancy in the office of the Chairman that may occur. The Chairman shall not succeed himself, i.e., he

cannot serve two (2) full terms in succession. The Chairman shall preside at the meeting of the Board of Trustees and shall be recognized as head of the Board of Trustees for all ceremonial purposes. In the temporary absence or disability of the Chairman, the Board of Trustees may elect a Chairman Pro Tempore from among its members, and he shall have all the powers of the Chairman during such temporary absence or disability of the Chairman.

E. Quorum. A majority of the Library Board of Trustees shall constitute a quorum for the transaction of business. If a quorum is not present and those who are present adjourn the meeting with the intent to reconvene at a time when a quorum will be present, at least twenty-four (24) hours' notice of the reconvening shall be given to all members who were not present at the meeting which was adjourned. Notice shall also be given in the same manner to media representatives.

17-7. Vacancies.

If a seat in the Library Board of Trustees becomes vacant, the cancy shall be filled by appointment by the Town Council for the ıexpired term within sixty (60) days from the date that the vacancy curred.

17-8. Rules and procedure.

The Library Board of Trustees shall provide for keeping a record of ; proceedings and shall determine its own rules of procedure and ake regulations for enforcing the same.

17-9. Secretary of Board.

The Librarian shall act as Secretary of the Board and shall keep a cord of all proceedings of the Board.

§ 17-10. Appointment of Librarian.

The Library Board of Trustees may advise the Manager in the appointment of a Librarian, who shall have the powers and perform the duties provided for in this chapter. The Librarian shall be appointed for an indefinite term. No member of the Board of Trustees shall receive such appointment during the term for which he or she shall have been appointed nor within one (1) year after the expiration of his or her term, nor shall any member of the Board act in that capacity.

§ 17-11. Removal of Librarian.

Removal of the Librarian shall follow the procedure set forth in the Millinocket Personnel Policy, Chapter 2, Article II.

§ 17-12. Budget and explanatory message.

The Library Board of Trustees, at least forty-five (45) days prior to the beginning of each budget year, shall submit to the Town Manager a budget and an explanatory budget message in accordance with the procedure set forth in § C502 of the Town Charter.

§ 17-13. Compliance with Charter.

The Library Board of Trustees shall operate subject to all provisions of the Town Charter with respect to operation of town offices, departments or agencies.

§ 17-14. Qualifications and powers of Librarian; absence.

A. Qualifications. The Librarian shall be chosen by the Manager, giving special consideration to his or her executive and administrative qualifications and to his or her actual experience in or knowledge of accepted practices with respect to the duties of the office as hereinbefore set forth. Other factors outlined in Section 2-203 of the Personnel Policy shall also be considered. At the time of his or her appointment, the Librarian need not be a resident of this town or state.

B. Chief administrator. The Librarian shall be the chief administrative officer of the Millinocket Memorial Library and shall be responsible to the Town Manager for the proper administration of all library affairs. He or she shall have the power and be required to:

(1) Exercise such authority as the Town Manager may grant to appoint, prescribe the duties of and, when necessary for the good of the library, remove employees of the library, pursuant to procedures authorized by the Charter and Personnel Policy.

(2) Prepare, in conjunction with the Board of Trustees, budgetary recommendations and submit same to the Board of Trustees.

(3) Prepare and submit to the Board of Trustees as of the end of the fiscal year a complete report on the finances and administrative activities of the library for the preceding year, a copy of said report to be filed with the Town Manager.

(4) Attend the meetings of the Board of Trustees, except when excused by the Board, keep the Board advised of the financial condition and future needs of the library and make such recommendations as may seem desirable.

(5) Act as Purchasing Agent for the library, to the extent that such authority is delegated by the Manager and subject to the Manager's supervision.

(6) Perform such other duties as may be prescribed by law, ordinance or required by the Manager, not inconsistent with this chapter or the Charter.

C. Absence of Librarian. The Librarian may, with the consent of the Town Manager, designate by letter filed with the Town Clerk a qualified person to perform his or her duties during his or her temporary absence or disability. In the event that the Librarian fails to make such a designation, the Town Manager may appoint any qualified employee to perform the duties of the Librarian until he or she shall return or his or her disability shall cease.

Chapter 21

NURSING COMMISSION

§ 21-1. Establishment; appointment.
§ 21-2. Membership; term.
§ 21-3. Qualifications.
§ 21-4. Vacancies.
§ 21-5. Responsibilities.
§ 21-6. Compensation of members.
§ 21-7. Powers and duties.
§ 21-8. Budget and explanatory message.
§ 21-9. Compliance with Charter.
§ 21-10. Meetings.
§ 21-11. Nurse.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-81 as Art. IV of Ch. 5 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Creation of advisory commissions — See Ch. 3, § 3-27.

§ 21-1. Establishment; appointment.

There shall be a Millinocket Nursing Commission, which shall consist of members appointed by the Town Council and responsible to the Manager. The responsibility of the Nursing Commission is to oversee the activities of the District Nurse. The present Commission

shall constitute the Nursing Commission under this chapter, and each member thereof shall serve the remainder of his or her present term.

§ 21-2. Membership; term.

The Millinocket Nursing Commission shall be composed of five (5) members, one of which shall be a qualified nurse. Each member shall be appointed for a term of five (5) years or until his or her successor is appointed and qualified.

§ 21-3. Qualifications.

Commission members shall be qualified electors of the town and shall reside in the town during their term of office. They shall comply with provisions of 30 M.R.S.A. § 2251 with respect to conflicts of interest. If a member shall cease to possess any of the above qualifications or shall be convicted of a crime involving moral turpitude, his or her office shall immediately become vacant.

§ 21-4. Vacancies.

Whenever a vacancy occurs, the vacancy shall be filled by appointment by Town Council for the unexpired term within sixty (60) days from the date that the vacancy occurred.

§ 21-5. Responsibilities.

The Millinocket Nursing Commission shall be responsible to the Town Manager for the performance of the Millinocket District Nurse and the Public Health Nurse, who shall operate within budgetary limitations and the limitations of statutory authority, the Millinocket Town Charter and the provisions of this chapter.

§ 21-6. Compensation of members.

The Commission members shall receive no compensation for their services.

§ 21-7. Powers and duties.

A. The Millinocket Nursing Commission shall have power to:

(1) Advise the Manager in the appointment of, fixing the compensation of and removal of the Nurse and employees serving under the Nurse. The Nurse shall have the powers and perform the duties provided for in this chapter. The Nurse shall serve for an indefinite term. No member of the Nursing Commission shall receive such appointment during the term for which he or she shall have been appointed nor within one (1) year after the expiration of his or her term, nor shall any member of the Commission act in that capacity. A first substitute and second substitute who are qualified nurses shall also be on call in the absence of the regular Nurse.

(2) Make, alter and repeal rules and regulations for the purpose of carrying out the responsibilities of the Commission, subject to the approval of the Town Council.

(3) Inquire into the conduct of any activities of the Nurse performed in the line of duty.

B. The Millinocket Personnel Policy shall govern the removal of the Nurse.

§ 21-8. Budget and explanatory message.

The Millinocket Nursing Commission, at least forty-five (45) days prior to the beginning of each budget year, shall submit to the Town Manager a budget and an explanatory budget message in accordance with the procedure set forth in § C502 of the Town Charter.

§ 21-9. Compliance with Charter.

The Millinocket Nursing Commission shall operate subject to all provisions of the Town Charter with respect to operation of town offices, departments or agencies.

§ 21-10. Meetings.

A. Induction of Millinocket Nursing Commission into office. The members of the Commission-elect shall be sworn to the faithful performance of their duties by a Justice of the Peace or by the Town Clerk at the first regular meeting following the date of their appointment.

B. Regular meetings. The Millinocket Nursing Commission shall, at its first meeting or as soon thereafter as possible, establish by rules and regulations a regular place and time for holding its regular meetings and shall meet regularly at least once a month. It shall also provide a method for calling special meetings.

C. Attendance at meetings. Whenever a Millinocket Nursing Commission member shall be absent from more than three (3) consecutive regular meetings of the Commission without suitable reason therefor satisfactory to the Commission, the Chairman of the Millinocket Nursing Commission shall notify the absent member and the Town Council that a vacancy exists, and the Town Council shall fill such vacancy in the manner herein provided.

D. Chairman. At its first meeting or as soon thereafter as practicable, the Millinocket Nursing Commission shall elect, by majority vote of the entire Commission, one of its members to serve for the ensuing year as Chairman, and the Commission may fill for an unexpired term any vacancy in the office of the Chairman that may occur. The Chairman shall preside at the meetings of the Millinocket Nursing Commission and shall be recognized as head of the Millinocket Nursing Commission for all ceremonial purposes. In the temporary absence or disability of the Chairman, the Millinocket Nursing Commission may elect a Chairman Pro Tempore from among

its members, and he shall have all the powers of the Chairman during such temporary absence or disability of the Chairman.

E. Secretary. The Secretary of the Commission shall be appointed by the membership of the Commission.

F. Quorum. A majority of the Millinocket Nursing Commission shall constitute a quorum for the transaction of business.

G. Rules and procedures. The Millinocket Nursing Commission shall provide for keeping a record of its proceedings and shall determine its own rules of procedure and make regulations for enforcing the same.

§ 21-11. Nurse.

A. Qualifications. In hiring the Nurse, the Manager shall give special consideration to his or her actual experience in and knowledge of accepted practices in the nursing profession, but other factors outlined in Sec. 2-203 of the Personnel Policy shall also be considered.

B. Head Nurse. The Head Nurse shall be responsible to the Manager for the proper administration of all nurse affairs. He or she shall have the power and be required to:

(1) Prepare, in conjunction with the Nursing Commission, budgetary recommendations and submit the same to the Millinocket Nursing Commission.

(2) Prepare and submit to the Millinocket Nursing Commission as of the end of the fiscal year a complete report on the finances and administrative activities of the Nurse for the preceding year, a copy of said report to be filed with the Town Manager.

(3) Attend the meetings of the Millinocket Nursing Commission, except when excused by the Commission, keep the Commission advised of the financial condition and future needs of the Nurse and make such recommendations as may seem desirable, sending copies of those recommendations to the Manager.

(4) Act as Purchasing Agent for the Millinocket Nursing Commission to the extent that such authority is delegated by the Manager and subject to the Manager's supervision.

(5) Perform such other duties as may be prescribed by law, ordinance or required of him or her by the Nursing Commission, not inconsistent with this chapter or the Charter.

C. Absence of Nurse. In the absence of the Head Nurse, his or her duties would be undertaken by the first qualified substitute, with the second qualified substitute to fill in when necessary.

D. Duties of District Nurse. The duties of the Millinocket District Nurse will be to furnish nursing assistance to residents of the Town of Millinocket under the direction of the Millinocket Nursing Commission. These duties would include assistance to the Town Welfare Department, local doctors, local school health clinics and state health departments such as crippled children, tuberculosis, premature births, etc. In each instance the Nurse will first call to determine what is needed. All follow-up calls made will be under the direction of a local medical doctor. A minimum charge for a visit by the Nurse will be one dollar ($1.) if the patient is able or desires to pay for the service; otherwise the service is furnished free of charge.

E. An answering service shall be maintained by the Millinocket Nursing Commission. It will be the duty of the Nurse to provide the answering service with the calls to be made each day and where the Nurse may be contacted. If assistance of the District Nurse is needed during the day, the answering service will have the responsibility of contacting the Nurse to give him or her the message.

F. All moneys collected from patients will be turned over to the Town of Millinocket monthly.

G. Professional liability insurance for the Nurses will be provided by the Town of Millinocket.

H. All bills, including supplies, telephone, snow removal, answering service and traveling expense, will be paid by the Town of Millinocket.

I. Service will be maintained by the District Nurse six (6) days a week, Monday through Saturday. Workday will be from 8:00 a.m. to 4:00 p.m. Regular Nurse will have a forty-hour week, with substitute Nurse covering on the day off and on vacations.

J. Benefits.

(1) Sick leave time. The Nurse shall be a weekly salaried employee as stated in the Personnel Policy.

(2) Vacation and holiday schedule. The Nurse shall be a weekly salaried employee as stated in the Personnel Policy.

Chapter 23

PLANNING BOARD

§ 23-1. Establishment.

§ 23-2. Membership; appointment; terms; vacancies.

§ 23-3. Chairman and Secretary; other offices; terms.

§ 23-4. Disqualification from voting.

§ 23-5. Meetings; quorum; minutes.

§ 23-6. Powers and duties.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-1981 as Ch. 12 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Charter, § C701.

§ 23-1. Establishment.

Pursuant to the Maine Constitution, Art. 8, Pt. 2, and 30 M.R.S.A. § 1917, the Town of Millinocket hereby establishes the Millinocket Planning Board.

§ 23-2. Membership; appointment; terms; vacancies.

A. Appointment by municipal officers. Appointments to the Board shall be made by the municipal officers.

B. Number of members. The Board shall consist of seven (7) members and two (2) alternates, who shall be allowed to participate fully in Board discussions and, when appointed by the Chair or Acting Chair to replace an absent or excused regular member, allowed to vote as a

regular member. **[Amended 1-12-1995 by Ord. No. 9-94]**

C. Term. The term of each member shall be five (5) years.

D. Vacancy. When there is a permanent vacancy, the municipal officers shall, within sixty (60) days of its occurrence, appoint a person to serve for the unexpired term.

E. Municipal officers as members. No municipal officer may serve as a member.

§ 23-3. Chairman and Secretary; other offices; terms.

The Board shall elect a Chairman 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 (1) year, with eligibility for reelection.

§ 23-4. Disqualification from voting.

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 members who are being challenged.

§ 23-5. Meetings; quorum; minutes.

A. Regular meetings. The Chairman shall call at least one (1) regular meeting of the Board each month, or the Board shall meet as required.

B. Quorum. No meeting of the Board shall be held without a quorum consisting of four (4) members.

C. Rules; minutes. The Board shall adopt rules for transactions 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.

§ 23-6. Powers and duties.

A. Comprehensive Plan. The Board shall prepare a Comprehensive Plan pursuant to 30 M.R.S.A. §§ 4961 and 4962.

B. Other duties. The Board shall perform such duties and exercise such powers as are provided by town ordinance and the laws of the State of Maine.

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

Chapter 26

RECREATION COMMISSION

§ 26-1. Establishment
§ 26-2. Membership; appointment; term.
§ 26-3. Qualifications.
§ 26-4. Vacancies.
§ 26-5. Powers and duties.
§ 26-6. Compensation.
§ 26-7. Meetings.
§ 26-8. Compliance with Charter.
§ 26-9. Recreation Director.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-81 as Art. V of Ch. 5 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Creation of advisory commissions — See Ch. 3, § 3-27.

§ 26-1. Establishment

There shall be a Recreation Commission, which shall consist of members appointed by the Town Council and responsible to the Manager. The responsibility of the Recreation Commission is to oversee the activities of the Recreation Director. The present Commission shall constitute the Recreation Commission under this chapter, and each member thereof shall serve the remainder of his or her present term.

§ 26-2. Membership; appointment; term.

The Recreation Commission shall be composed of seven (7) members, each of whom shall be appointed by the Millinocket Town Council. Members shall be appointed for three-year staggered terms or until their successor is appointed and qualified.

§ 26-3. Qualifications.

Commission members shall be qualified electors of the town and shall reside in the town during their term of office. They shall comply with the provisions of 30 M.R.S.A. § 2251 with respect to conflicts of interest, and if a member ceases to possess any of the above qualifications or shall be convicted of a crime involving moral turpitude, his or her office shall immediately become vacant.

§ 26-4. Vacancies.

If a seat in the Commission becomes vacant, the vacancy shall be filled by appointment by the Town Council for the unexpired term within sixty (60) days from the date that the vacancy occurred.

§ 26-5. Powers and duties.

The Recreation Commission shall be responsible to the Town Manager for the operation of recreational programs for the inhabitants of the Town of Millinocket, within the limitations of statutory authority, the Millinocket Town Charter and the provisions of this chapter. The Commission's powers and duties include the following:

A. Advise the Manager in the compensation of, appointment of and removal of the Recreation Director and employees serving under the Director.

B. Make, alter and repeal rules and regulations for the purpose of carrying out the responsibilities of the Commission, with the approval of the Council.

C. Inquire into the conduct of any activities of the Department.

D. Submit to the Town Manager a budget and an explanatory budget message, in accordance with the procedure set forth in § C502 of the Town Charter, at least forty-five (45) days prior to the beginning of each budget year.

§ 26-6. Compensation.

Commissioners shall receive no compensation for their services.

§ 26-7. Meetings.

A. Induction of Commisioners into office. The Commission shall meet at the usual place for holding meetings at 7:00 p.m. on the first Wednesday of the month following the enactment of this chapter, and at such meeting Commissioners-elect shall be sworn to the faithful discharge of their duties by a Justice of the Peace or by the Town Clerk.

B. Regular meetings. The Commission shall, at its first meeting or as soon thereafter as possible, establish by rules and regulations a regular place and time for holding its regular meetings and shall meet regularly at least once a month. It shall also provide a method for calling special meetings. Actions of the Commission shall be recorded by the Recreation Director, and a copy thereof shall be filed with the Town Council within a reasonable time after such action is taken.

C. Attendance at meetings. Whenever a Commission member shall be absent for more than three (3) consecutive regular meetings of the Commission without suitable reason therefor satisfactory to the Commission, the Chairman of the Commission shall notify the absent member and the Town Council that a vacancy exists, and the Council shall fill such vacancy in the manner herein provided.

D. Chairman. At its first meeting or as soon thereafter as practicable, the Commission shall elect, by majority vote of the entire Commission, one of its members to serve for the ensuing year as Chairman, and the Commission may fill for an unexpired term any vacancy in the office of Chairman that may occur. The Chairman shall preside at the meetings of the

Commission and shall be recognized as head of the Commission for all ceremonial purposes. In the temporary absence or disability of the Chairman, the Commission may elect a Chairman Pro Tempore from among its members. He or she shall have all the powers of Chairman during such temporary absence or disability of the Chairman.

E. Quorum. A majority of the Commissioners shall constitute a quorum for the transaction of business. If a quorum is not present and those who are present adjourn the meeting with the intent to reconvene when a quorum will be present, at least twenty-four (24) hours' notice of the reconvening shall be given to all members who were not present at the meeting which was adjourned. Notice shall also be given in the same manner to media representatives.

F. Rules and procedure. The Commission shall provide for keeping a record of its proceedings and shall determine its own rules of procedure and make regulations for enforcing the same.

§ 26-8. Compliance with Charter.

The Commission shall operate subject to all provisions of the Town Charter with respect to operation of town offices, departments or agencies.

§ 26-9. Recreation Director.

A. Appointment. The Manager shall appoint a Recreation Director for an indefinite term, who shall have the powers and perform the duties provided in this chapter. No member of the Commission shall receive such appointment during the term for which he or she shall have been appointed nor within one (1) year after the expiration of his or her term, nor shall any member of the Commission act in that capacity.

B. Removal. Removal of the Director shall be in accordance with the Personnel Policy.

C. Qualifications. In hiring the Director, the Manager shall give special consideration to his or her executive and administrative qualifications and to his or her actual experience and knowledge of accepted practices with respect to the duties of the office as set forth below. Other factors as outlined in Sec. 2-203 of the Personnel Policy shall also be considered. At the time of his or her appointment, the Director need not be a resident of the town or state.

D. Chief administrator. The Recreation Director shall be the chief administrative officer of the Recreation Department and shall be responsible to the Manager for the proper administration of all departmental affairs. He shall have the power and be required to:

(1) Exercise such authority as the Manager may grant to appoint, prescribe the duties of and, when necessary for the good of the recreation program, remove employees of the Recreation Department.

(2) Prepare a budget annually, submit it to the Recreation Commission and be responsible for its administration after adoption.

(3) Prepare and submit to the Recreation Commission as of the end of the fiscal year a complete report on the finances and administrative activities of the Department for the preceding year, a copy of said report to be filed with the Town Manager.

(4) Attend the meetings of the Commission, except when his removal is being considered, keep the Commission advised of the financial condition and future needs of the Department and make such recommendations as may seem desirable to him or her.

(5) Act as Purchasing Agent for the Commission to the extent that the Town Manager may grant such authority in writing.

(6) Act as Clerk of the Commission and keep a public record of all proceedings of the Commission.

(7) Perform such other duties as may be prescribed by law or ordinance or required of him by the Manager, not inconsistent with this chapter.

E. Absence. The Director may, with the consent of the Town Manager, designate by letter filed with the Town Clerk a qualified person to perform his or her duties during his or her temporary absence or disability. In the event that the Director fails to make such a designation, the Town Manager may appoint any qualified employee to perform the duties of the Director until he or she shall return or his or her disability shall cease.

Chapter 27

SALARIES AND COMPENSATION

ARTICLE I
Town Council

§ 27-1. Intent.

§ 27-2. Authority.

§ 27-3. Establishment of compensation.

§ 27-4. Amount.

§ 27-5. Other compensation and expenses.

§ 27-6. Effective date of salary increases.

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

GENERAL REFERENCES

Administration of government — See Ch. 3.

ARTICLE I
Town Council
[Adopted 2-24-2000 by Ord. No. 2-2000]

§ 27-1. Intent.

It is the intent of this article to set the compensation for members of the Millinocket Town Council.

§ 27-2. Authority.

Authority for this article is found in Article II, § C205 of the Millinocket Town Charter.

§ 27-3. Establishment of compensation.

The Council shall establish its compensation through amendment to this article, using the ordinance process.

§ 27-4. Amount. [Amended 5-24-2007 by Ord. No. 1-2007]

Regular Council members will be paid the amount of $1,200 per year; the Council Chairperson will be paid the amount of $1,600 per year.

§ 27-5. Other compensation and expenses.

Members of the Council will be eligible to receive expenses for travel and other costs incurred for the benefit of the town upon approval of the full Council.

§ 27-6. Effective date of salary increases. [Amended 5-24-2007 by Ord. No. 1-2007]

These increases will commence with the Town Council seated following the November 2007 General Election.

Chapter 29A

WARRANT REVIEW AND APPROVAL

§ 29A-1. Appointment; purpose.
§ 29A-2. Meeting time.
§ 29A-3. Review to be in open session; questions; signing of warrant.
§ 29A-4. Presentation of warrant; approval for payment.
§ 29A-5. Inability of member to fulfill assignment.
§ 29A-6. Meetings to be publicly listed.
§ 29A-7. Review by other Councilors.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 12-11-2003 by Ord. No. 5-2003. Amendments noted where applicable.]

GENERAL REFERENCES

Administration of government — See Ch. 3.

§ 29A-1. Appointment; purpose.

The Millinocket Town Council Chairperson shall appoint at each regular Council meeting two Councilors as an ad-hoc Warrant Subcommittee to review the warrants to be considered at the next regular Council meeting.

§ 29A-2. Meeting time. [Amended 9-22-2005 by Ord. No. 3-2005]

A. The Warrant Subcommittee shall meet in the Town Manager's Office 45 minutes prior to the start of the

regular Town Council meeting of the meeting day for the next regular Council meeting to review the warrants to be considered at that Council meeting.

B. If the time of this regular Council meeting is changed from its normal 4:30 p.m. start time, the Warrant Subcommittee shall meet 45 minutes prior to the start of such meeting.

§ 29A-3. Review to be in open session; questions; signing of warrant.

A. The Warrant Subcommittee shall review the warrants in open session. Other Councilors, the public, and the media may be present. After the Warrant Subcommittee has finished its review, other Councilors, members of the public, or the media may examine the warrants.

B. The Town Manager or his designee will provide the Warrant Subcommittee with answers to any questions it may have about any item contained in the warrants. Routine bills that are higher than normal are to be flagged by the Town Manager for discussion by the Warrant Committee. Nonroutine warrants are to be referred to the entire Council for review before considering such warrants for approval. Should a special project experience a significant cost overrun of 10% or more, the Town Manager shall prepare a memo to the Town Council to explain the cause(s) of the overrun at least two days prior to the meeting of the Warrant Committee, when possible. **[Amended 9-22-2005 by Ord. No. 3-2005]**

C. Upon completion of the warrant inspection, the Warrant Subcommittee shall sign the warrants.

§ 29A-4. Presentation of warrant; approval for payment.

A. At the regular meeting, one of the Warrant Subcommittee members shall offer an order to approve

each warrant. The presenter shall present the full Council with the Warrant Subcommittee's recommendation to approve or disapprove the warrant as presented or as amended.

B. The warrant(s) shall only be approved for payment upon a majority vote of the Town Council, after which a majority of the Council shall sign the warrant(s).

§ 29A-5. Inability of member to fulfill assignment.

Should a Warrant Subcommittee member not be able to fulfill the assignment, (s)he shall inform the Council Chairperson, and the Chairperson shall appoint another Council member to replace him/her.

§ 29A-6. Meetings to be publicly listed.

Meetings of the Warrant Subcommittee shall be publicly listed on the Town Council meeting agenda.

§ 29A-7. Review by other Councilors.

Nothing in this policy shall prevent other members of the Town Council from reviewing the warrants at their leisure in the discharge of their fiduciary duties.

Chapter 29

TRANSPORTATION, DEPARTMENT OF

§ 29-1. Establishment; supervision.

§ 29-2. Transportation Commission.

§ 29-3. Airport Manager.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-1981 as Art. VI of Ch. 5 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Creation of advisory commissions — See Ch. 3, § 3-27.
Airport — See Ch. 33.

§ 29-1. Establishment; supervision.

There shall be a Department of Transportation, which shall be headed by a Transportation Commission, members of which shall be appointed annually in the month of March by the Council. The present Commission shall constitute the Transportation Commission under this chapter, and each member thereof shall serve the remainder of his or her present term.

§ 29-2. Transportation Commission.

A. Composition. The Commission shall consist of five (5) members who shall serve for terms of three (3) years. Initial appointments shall be as follows: one (1) member appointed for one (1) year, two (2) members appointed for two (2) years and two (2) members appointed for three (3) years, respectively. The Board shall elect a Chairman and a Secretary from its own membership. Vacancies in the membership shall be filled by the Council within a

reasonable time after the vacancies occur. **[Amended 5-22-1986 by Ord. No. 6-86]**

B. Conflict of interest. No member of the Commission shall profit directly or indirectly from airport activities under Commission control.

C. Rules. The Commission shall determine its own rules of procedure.

D. Duties. Duties of the Commission shall include but not be limited to the following:

(1) Advise the Council as to both air and ground transportation needs of the town and recommend desirable improvements.

(2) Keep advised as to air and ground transportation developments at both federal and state levels.

(3) Have knowledge of state and federal programs designed to aid towns in construction, maintenance and operation of transportation facilities.

(4) Operate and maintain the Millinocket Municipal Airport and, with respect thereto, give full consideration to the fact that justification for using public funds for the support of the airport is to:

(a) Provide safe air transportation to and from other landing facilities for its citizens and for the businesses and industries which support its citizens.

(b) Encourage incidental aeronautical activities not inconsistent with Subsection D(4)(a) above.

(5) In operating and maintaining the airport, the following specific duties and obligations:

(a) Administer the airport budget as approved by the Town Council, to the extent authorized by the Manager and subject to the Manager's supervision.

(b) Recommend a budget to the Town Council and present it to the Town Manager as provided by Article V of the Town Charter.[1]

(Cont'd on page 2903)

1 Editor's Note: The Charter is included at the beginning of this volume.

(c) Establish and maintain emergency procedures with police, fire, ambulance, hospital and civil defense agencies and local maintenance departments.

(d) Maintain all airport property with particular reference to glide zone areas, safety strips, runways, ramps, tie-down areas, fences, signs, roadways, lighting structures and installations, buried cables, water wells, drainage systems, hangars, navigational aids, weather installations, petroleum installations, sewerage facilities, airport buildings and equipment and all off-airport safety navigational aids.

(e) Keep insurance in force covering all airport property and provide adequate liability insurance.

(f) Develop and maintain records as follows:

[1] Land maps showing dimensions of airport property and abutting owners.

[2] Plans showing airport drainage facilities.

[3] Plans showing airport lighting installations and underground cables.

[4] Plans showing location of all buildings and structures on the airport.

[5] Plans showing dimensions of all airport land under lease.

[6] Inventory of all property owned by the town and on airport land.

[7] Plans of all utility lines.

[8] Copies of all leases or agreements pertaining to airport property or the use or maintenance thereof.

[9] Plans of or agreements pertaining to all off-airport facilities for which the town is responsible that affect the airport.

[10] Copies of all laws, rules, regulations or ordinances relating to the operation of the airport.

(6) Develop and administer rules and regulations, subject to approval of the Town Council, for the following purposes:

(a) Ensuring adequate safety practices on the airport.

(b) Providing for accommodation of aeronautically associated clubs and organizations.

(c) Providing for leasing of airport land and buildings, subject to approval of the Town Council.

(d) Providing for regulation and control of commercial activities on airport property and abutting airport property.

(7) Provide all services and facilities required by the Maine Aeronautics Commission from time to time for designation as a commercial airport.

(8) See that all activities conducted on airport property or under the control of the Transportation Commission are in conformity with state and federal laws, rules and regulations, local ordinances and rules and regulations developed by the Commission and approved by the Town Council. (Particular attention is directed to the limitations on granting of "exclusive rights" as set forth in federal laws or regulations.)

E. Duties delegated by Town Manager. For the purposes of carrying out the provisions of this chapter, the Town Manager may authorize the Commission to hire adequate personnel, provide adequate office space and equipment and negotiate concessions on airport property within budgetary limitations.

§ 29-3. Airport Manager.

A. Duties and responsibilities of the Airport Manager are to be limited to:

(1) Buildings and grounds. Overseeing the rental, care and maintenance of hangar, buildings and grounds of airport.

(2) Rental fees. Collecting rental fees of hangars and tie-downs.

(3) Gas and oil. Selling gasoline and oils, and turning in receipts.

(4) Radio. Maintaining radio communications through the Millinocket unicom as needs require.

(5) Special activities. Representing the community in supervision of any special activities involving airport property, i.e., spraying operation, snow removal, brush cutting, field and building maintenance, flying activities, i.e., model flying, parachute jumping, air shows and fly-ins, and generally managing all activities and maintenance problems at the airport for the Town of Millinocket.

(6) Operational recommendations. Recommending operational maintenance and policy needs and changes to the Transportation Commission.

(7) Lighting system. Monitoring the lighting system and handling emergencies in the event of a failure of the automatic system.

B. Fixed base operations. The appointment of an Airport Manager does not preclude the establishment of a fixed base operation or operations. As per Paragraph (6), Subparagraph (c), of the Transportation Charter or bylaws, bid forms for fixed base operation and other lease agreements are to be initiated by the Department of Transportation.

Chapter 30

WELFARE HEARING BOARD

§ 30-1. Membership.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-81 as Art. VII of Ch. 5 of the Millinocket Code. Amendments noted where applicable.]

§ 30-1. Membership.

The Welfare Hearing Board shall be composed of three (3) members of the Millinocket Town Council, and, except for conflict of interest, membership shall be rotated within the Council.

Chapter 33

AIRPORT

§ 33-1. Presumption regarding use of airport property.
§ 33-2. Applicability of ordinances.
§ 33-3. Promulgation of rules and regulations; distribution of copies.
§ 33-4. Business licenses.
§ 33-5. Compliance with building construction regulations.
§ 33-6. Permits and fees.
§ 33-7. Use of buildings.
§ 33-8. Use of airport.
§ 33-9. Exclusive use of airport prohibited.
§ 33-10. Adoption of rules and regulations.
§ 33-11. Responsibilities of Airport Manager.
§ 33-12. Violations and penalties.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-81 as Ch. 3 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Department of Transportation — See Ch. 29.
Building construction — See Ch. 48.
Zoning — See Ch. 125.

§ 33-1. Presumption regarding use of airport property.

Any person using the airport or adjacent areas or found thereon shall be held to have consented to all ordinances of a general nature as being applicable to his conduct in or over the airport in the same manner as applicable to persons within the town limits.

§ 33-2. Applicability of ordinances.

All general ordinances of the town pertaining to the conduct of persons shall be in full force and effect in and on the airport.

§ 33-3. Promulgation of rules and regulations; distribution of copies.

The Town Council may promulgate such rules and regulations as necessary to ensure the orderly conduct of the affairs of the airport. Such rules and regulations, when adopted, shall be printed, and copies of the rules and regulations shall be given to all persons leasing any real property within the airport at the time the lease is entered into or upon adoption.

§ 33-4. Business licenses.

Any person conducting a business for which a license would be required if it were located within the town shall secure a license and pay the fee required. The Town Clerk or person authorized to issue such license may designate a deputy for the purpose of issuing such license and receiving a fee therefor.

§ 33-5. Compliance with building construction regulations.

All buildings constructed within the airport shall be constructed in compliance with the ordinances pertaining to such construction within the town limits.[1]

[1] Editor's Note: See Ch. 48, Building Construction.

§ 33-6. Permits and fees.

Permits shall be secured for each construction project in the same manner as though it were being built in the town, and the fees for such construction shall be similarly paid.

§ 33-7. Use of buildings.

The regulations concerning the use of buildings in the town shall apply to buildings in the airport just as though they were in the town.

§ 33-8. Use of airport.

A. Each lessee shall observe and obey all rules and regulations governing the conduct and operation of the airport, promulgated from time to time by the Town Council, which are reasonably required for the prudent and efficient operation of the airport and are not inconsistent with the reasonable exercise by such lessee of any right or privilege granted to it hereunder or under any agreement between such lessee and town relating to the airport or any part thereof, nor inconsistent with safety nor with the rules and regulations of any federal or state agency having jurisdiction with respect thereto, nor inconsistent with the procedures prescribed or approved from time to time by the Federal Aviation Administration or any other governmental authority having jurisdiction over operations at the airport.

B. The town, however, shall have no control over the rates, fares or charges that any lessee may prescribe in connection with the conduct of its business.

C. The town shall keep each lessee supplied with five (5) sets of the current airport rules and regulations applicable to such lessee. Except in cases of emergency, no such rule or regulation shall be applicable to any lessee unless it has been given fifteen (15) days' notice of the adopting thereof and an opportunity to be heard.

§ 33-9. Exclusive use of airport prohibited. [Amended 6-14-83 by Ord. No. 7-83]

No rules or regulations shall be promulgated to grant or authorize exclusive use of the airport.

§ 33-10. Adoption of rules and regulations.

All such rules and regulations shall be adopted only in accordance with Maine law and the Millinocket Town Charter.

§ 33-11. Responsibilities of Airport Manager.

A. The Manager of the leased operator shall be engaged as the Airport Manager for the town. His responsibilities shall include but not be limited to:

(1) Maintenance of radio communications with aircraft using the Millinocket Airport.

(2) Supervision of all special activities involving airport property, including but not limited to spraying operations, snow removal, brush cutting, model flying, parachute jumping, air shows and fly-ins.

(3) Recommending maintenance and other operational policies to the town.

(4) Monitoring lighting and handling emergencies in the event of failure of the automatic system.

B. The precise services of the Manager may be extended or curtailed from time to time by the Town Council.

C. The Airport Manager shall devote his entire time, attention and energies to the duties set forth herein and shall not during the term of his agreement be engaged in any other business activities except those of the lessee.

§ 33-12. Violations and penalties.

Anybody found in violation of this chapter shall pay a fine of not less than twenty-five dollars ($25.) and not more than one hundred dollars ($100.), which shall be recovered for the use of the town through the filing of a legal complaint by the town's authorized agent.

PART II

GENERAL LEGISLATION

Chapter 35

ALARM SYSTEMS

§ 35-1. Title.
§ 35-2. Purpose.
§ 35-3. Definitions.
§ 35-4. Permit required.
§ 35-5. Application procedure.
§ 35-6. Fees.
§ 35-7. Prohibited systems.
§ 35-8. Approval and inspection by Chief.
§ 35-9. Municipal fire alarm system; fees.
§ 35-10. Response to alarm by owner.
§ 35-11. Nonemergency alarms.
§ 35-12. Revocation of permit.
§ 35-13. Appeals.
§ 35-14. Violations and penalties.
§ 35-15. Applications for existing systems.
§ 35-16. Initial applications and renewals.
§ 35-17. Burglar and security alarm systems.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 9-14-82 as Art. VII of Ch. 9 of the Millinocket Code. Amendments noted where applicable.]

§ 35-1. Title.

This chapter shall be known and may be cited as the "Alarm System Ordinance" of the Town of Millinocket, Maine.

§ 35-2. Purpose.

This chapter recognizes the need for regulation of the installation and use of alarm systems in order to assure compatibility with the equipment at the Millinocket Fire Department Communications Center, to avoid use of improper equipment, to assure adequate and proper installation of equipment, to minimize false alarms or other interference with the orderly conduct of town business and to clarify the rights and responsibilities of the property owner, the provider and the town.

§ 35-3. Definitions.

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

ALARM SYSTEM — Any mechanism, equipment or device designed to automatically transmit a signal, message or warning indicating fire, burglary, health emergency or like need for police, fire or ambulance from a private facility through telephone facilities to the Fire Department Communications Center.

AUDIBLE ALARM SYSTEM — An alarm which causes an audible alarm signal to sound at or near the alarm premises for the purpose of obtaining emergency response by the Police or Fire Departments.

CENTER — The Millinocket Fire Department Communications Center.

CHIEF — The Chief of the Millinocket Fire Department.

FALSE ALARMS — Signals transmitted by an alarm system as a result of human error or equipment malfunction. A deliberate "false alarm" is a criminal offense.

MUNICIPAL SYSTEM — The Town of Millinocket municipal fire alarm system.

PERMANENTLY CONNECTED ALARM SYSTEM — An alarm system which transmits a signal to the center by means of a wire or cable connection or radio equipment which is used only or primarily for that purpose.

PROVIDER — The private alarm company or companies retained by the Town of Millinocket to provide alarm-receiving equipment installed at the center.

TELEPHONIC ALARM SYSTEM OR DIALER — An alarm system which operates automatically through the use of public telephone facilities to connect to a telephone within the center or other location.

§ 35-4. Permit required.

No person shall install, operate, maintain, alter or replace an alarm system within the town after the effective date of this chapter without holding an effective permit therefor signed by the Chief of the Fire Department.

§ 35-5. Application procedure.

A. Application for an alarm system permit shall be made to the Chief of the Fire Department by the owner of the premises to be protected, upon forms to be prepared by the town, accompanied by:

(1) Prepayment of appropriate fees.

(2) Copies of signed contracts with the provider.

(3) Copies of the provider information sheet.

(4) Tender of an agreement, signed by the applicant, releasing and discharging the Town of Millinocket, its officers, agents and employees from any and all liability arising from the failure of such alarm system to operate properly or from any failure to respond to an alarm sent by such system or from any other act or omission by the

town, its officers, agents and employees except any knowing and intentional act or omission.

B. The application shall require the full name, telephone number and address of the owner of the premises to be protected, of his designated agent within the town and of the proposed installer, who must have the capacity to maintain and service such alarm system from a point where the following response schedule can be met:

(1) Requests for emergency repair service made before 12:00 noon on any given day will be serviced before 12:00 noon on the following day.

(2) Any request for service made between 12:00 noon and 5:00 p.m. on any given day will be serviced between 12:00 noon and 5:00 p.m. on the following day.

(3) Requests for service made after 5:00 p.m. on any given day will be serviced as soon as possible and no later than twenty-four (24) hours after the request for service is made.

C. The application shall also require a description of the principal use of the premises to be protected, a description of the proposed system and the location of its installation and other such data as the Chief may reasonably require in order to assume the use of appropriate equipment and its proper installation.

D. The Chief shall issue any permit with such conditions as he deems reasonably designed to assure the foregoing objectives and the Chief shall establish procedures and guidelines for processing such applications, as endorsed by the Town Council.

§ 35-6. Fees.

The annual service fee shall be fixed and may be changed by order of the Town Council. Such fee shall apply to each alarm system connected from the same premises or by the same owner and to any dialer system programmed to activate the center telephones. For any alarm system installed after June 30 of the calendar year, the fee shall be one-half (½) of the regular fee. Such fees shall be for the calendar

year. Annual renewal fees are due and payable on or before January 31 of each year.

§ 35-7. Prohibited systems.

No system shall be permitted which automatically transmits to the center telephone lines except to a number designated by the permit or as otherwise approved by the Chief. Each alarm shall be reported individually, and no system shall be permitted which uses a constant signal for one type of alarm and a pulsating signal for another.

§ 35-8. Approval and inspection by Chief.

A. No alarm system shall be placed in operation until its location, equipment and installation have been finally approved by the Chief as conforming to the terms of the permit and the provisions of this chapter. Thereafter, the Chief or his designated representative may inspect or cause the inspection by a qualified person of any alarm system to determine that its condition, location and use comply with its permit and this chapter and to assure that it will not interfere with the operation of the center. Access will be permitted at all reasonable hours for such purpose. Any deficiency noted shall be reported to and promptly corrected by the owner.

B. Information concerning any alarm system shall be confidentially maintained, and the release of any such information is prohibited except to center personnel and those authorized in writing by the owner.

C. If necessary, the Chief may use District Court Civil Rule 80E to inspect an alarm system.

§ 35-9. Municipal fire alarm system; fees.

A. The municipal fire alarm system is maintained primarily as an alternate fire alarm system for the citizens of Millinocket through the street fire alarm boxes. Connection of an alarm system to the municipal system is authorized for specific high-hazard locations as designated by the Chief. Such systems

must meet all other specifications and requirements as set out by this chapter and must connect to the municipal system using a local energy box. Such box shall be furnished at the expense of the owner of the premises to be protected and become the property of the Town of Millinocket Fire Department.

B. The initial fee for connection to the municipal system shall be fixed and may be changed by order of the Town Council and is initially fixed at one hundred dollars ($100.). Systems installed after June 30 of the calendar year shall pay a fee of fifty dollars ($50.). Annual renewal fees shall be fixed at fifty dollars ($50.) and are due and payable on or before January 31 of each year.

C. All such systems are subject to the same permit requirements as systems connected to the center.

§ 35-10. Response to alarm by owner.

The property owner or his designated agent, as kept on file at the center, shall respond to each alarm at the request of the appropriate Department for the purpose of securing the premises.

§ 35-11. Nonemergency alarms.

A. Any permit holder whose alarm system causes the transmittal of a nonemergency alarm more than three (3) times in any calendar year, after a thirty-day start-up period for new installations, shall pay a fee of twenty-five dollars ($25.) for each instance of a nonemergency burglar alarm and one hundred dollars ($100.) for each instance of a nonemergency fire or ambulance alarm in excess of that number, upon written demand by the Chief. The Chief shall give suitable written warning to any permit holder or his designated agent whose alarm system sends a third nonemergency alarm in any calendar year.

B. Nonemergency alarms shall include but shall not be limited to false alarms caused by malfunction of equipment, accidental or negligent activation of the alarm or improperly monitored

equipment. In the event that an alarm is activated as a result of a natural or unnatural event beyond the owner's control (disruption by electrical service, interruption due to storm, motor vehicle accident and the like), no fee shall be imposed.

C. The Chief shall give written notice that a nonemergency alarm fee is being charged and must be paid by a definite date, state the circumstances and solution and schedule a meeting with the owner to explain circumstances and hear the owner's explanation.

§ 35-12. Revocation of permit.

A. The Chief may revoke the permit for any alarm system in the event that:

(1) Payment of any fee (renewal or nonemergency alarm) is not made within thirty (30) days after the due date.

(2) Any deficiency mentioned in this chapter and reported to the owner is not corrected within a reasonable period of time as determined by the Chief, according to the nature and scope of the deficiency.

(3) Such alarm system persistently causes an excessive number of nonemergency alarms or otherwise persistently interferes with the orderly operation of the center.

(4) The owner or his designated agent refuses reasonable access for inspection of such system.

(5) Such system is placed in operation without the final approval of the Chief.

(6) Any data provided in the application for such system is found to be or have been willfully falsified or through gross negligence of the applicant.

B. Such revocation shall not be effective until the Chief has given the permit holder actual written notice of the reason therefor and reasonable opportunity to rectify the same.

§ 35-13. Appeals.

In the event of the refusal to issue or the revocation of any permit hereunder, the permit holder or applicant may appeal, in writing, to the Town Manager within ten (10) business days after actual notice of such decision is given to the permit holder or applicant or his designated representative or agent. The Town Manager may affirm, modify or rescind such decision if he finds such decision not to be in agreement with the provisions of this chapter, and his action thereon shall be final and conclusive.

§ 35-14. Violations and penalties.

In addition to the foregoing grounds for revocation of a permit hereunder, the following events shall each constitute a civil violation, punishable in proceedings before the District Court by a fine not exceeding one hundred dollars ($100.) and recoverable to the town's use:

A. The installation, operation, maintenance, alteration or replacement of an alarm system in the absence of an effective permit therefor issued and signed by the Chief.

B. The falsification of any data provided in an application for an alarm system, done willfully or through gross negligence.

C. The release of any information concerning any alarm system except to center personnel and those authorized in writing by the owner.

§ 35-15. Applications for existing systems.

Permit applications for existing alarm systems must be filed within sixty (60) days after the effective date of this chapter.

§ 35-16. Initial applications and renewals.

Initial applications and renewals shall be upon such forms as comply with this chapter and may be administratively changed or modified from time to time upon recommendation of the Chief and approval of the Town Manager. Renewals may be automatic upon

payment of the annual fee, except where changes have been made in the system since the issuance of the immediate first permit. In such case, a new application must be submitted.

§ 35-17. Burglar and security alarm systems.

In each instance of an application involving a burglar alarm or other security device (nonfire security), the Chief of Police will be notified. He shall review the application, inspect the premises and offer any comments to the officer approving the application, recommending approval. If the Chief of Police recommends disapproval, he shall list the reasons and recommend alternatives.

Chapter 38

ALCOHOLIC BEVERAGES

ARTICLE I
Bottle Clubs

§ 38-1. License required; location.
§ 38-2. Definitions.
§ 38-3. Fees.
§ 38-4. Application for license.
§ 38-5. Inspections and reports by town officials.
§ 38-6. Notice of public hearing.
§ 38-7. Nontransferability of license.
§ 38-8. Display of license.
§ 38-9. Expiration of license.
§ 38-10. Suspension or revocation of license.
§ 38-11. Appeals.
§ 38-12. Violations and penalties.
§ 38-13. Hours of operation.
§ 38-14. Application form.

[HISTORY: Adopted by the Town Council of the Town of Millinocket: Art. I, 8-10-82 as Art. V of Ch. 9 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Curfew — See Ch. 58.
Entertainment licenses — See Ch. 65.

ARTICLE I
Bottle Clubs
[Adopted 8-10-82 as Art. V of Ch. 9 of the Millinocket Code]

§ 38-1. License required; location.

A. No person, firm or corporation shall keep, maintain, operate, lease or otherwise furnish, either to its members and guests or to the general public, any premises in the Town of Millinocket for use as a bottle club without first having obtained a license therefor, to be issued by the Town Clerk after approval of the Town Council in accordance with this Article.

B. No license shall be granted to any club which will be located within three hundred (300) feet of a residence, excluding the owner's or operator's.

§ 38-2. Definitions.

A. Unless otherwise defined herein or in the text, all words used will have their common meaning.

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

BOTTLE CLUB:

(1) Any establishment or premises which is operated on a regular basis in the following manner:

(a) No alcoholic beverages are sold on the premises.

(b) All members, guests or members of the public must provide their own alcoholic beverages for consumption on the premises.

(c) Fees or other charges are imposed on all members, guests or members of the public for admission to the premises or for setups, i.e., liquid mixers, cups, ice and other items associated with the consumption of alcoholic beverages, or for any other reason.

(2) Includes but is not limited to all such premises designated for municipal regulation under 28 M.R.S.A. §§ 2 (1-A) and 4.

OFFICER — Any officer, director, stockholder, owners, manager or person who either has a financial interest of any nature in a bottle club or directs any policy of a bottle club.

PERSON — Any individual, person, firm, corporation, association, partnership or organization.

§ 38-3. Fees.

The annual license fee for a bottle club shall be established by the Town Council by resolution. Changes in fees shall be made by Town Council resolution.

§ 38-4. Application for license.

A. Every applicant for a bottle club license shall:

(1) Complete and file an application on a form prescribed by the Town Manager and Town Council.

(2) Deposit the prescribed license fee in advance with the Town Clerk.

(3) Submit with the completed application to the Town Clerk the following:

(a) An attested copy of the Articles of Incorporation and bylaws if the applicant is a corporation, of the Articles of Association and bylaws if the applicant is an association, or partnership documents if the applicant is a partnership, as well as a list of all principal officers of the bottle club.

(b) An affidavit which will identify all principal officers and their places of residency at the present time and for the immediately preceding three (3) years.

(c) A description of the premises for which a license is desired and such other material information, description or plan of that part of the premises where liquor will be consumed.

B. If an application should be denied or withdrawn, the license fee shall be refunded to the applicant.

§ 38-5. Inspections and reports by town officials.

A. Upon receipt of each application for a bottle club license:

(1) The Town Manager shall verify that the premises of the proposed bottle club comply with the applicable ordinances of the Town of Millinocket, including, but not by way of limitation, the Building Code, Electrical Code, Plumbing Code and Zoning Ordinance,[1] and shall report his findings in writing.

(2) The Health Officer shall cause an inspection to be made of the proposed location of the bottle club for the purpose of determining whether the applicable ordinances relating to health and safety have been complied with. A report of his findings shall be made in writing.

(3) The Fire Chief and Police Chief shall cause an inspection to be made of the proposed location of the bottle club for the purpose of determining if town ordinances concerning fire and safety have been complied with. They shall submit a report of their findings in writing.

B. All reports required under this section shall be filed with the Town Clerk.

§ 38-6. Notice of public hearing.

After receipt of the written reports required by § 38-5, the Town Clerk shall give notice of a public hearing on the application in the form and manner and to the persons herein specified.

[1] Editor's Note: See Ch. 48, Building Construction, and Ch. 125, Zoning.

A. The notice shall include the time and place of such hearing, the nature of the matter to be heard and the address or location of the property involved. Where notice by mail is required, it shall be mailed at least seven (7) days in advance of the hearing date by regular United States Mail.

B. Notices.

(1) Notice shall be given to each of the following:

(a) The applicant.

(b) All residents of the town by publication in a newspaper of general circulation in the town at least once not more than thirty (30) nor less than fifteen (15) days before the date of the hearing.

(c) The owners of property within three hundred (300) feet of such parcel or tract by mail.

(2) For the purpose of this section, the "owners of property" shall be considered to be the parties listed by the Assessor's office of the Town of Millinocket as those against whom taxes are assessed.

(3) Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the Town Council.

§ 38-7. Nontransferability of license.

A separate license must be obtained for each bottle club. Each license shall authorize the operation of such an establishment only at the location described in such license and in conformity with all applicable ordinances and laws. No license shall be transferred to another person or to any other location.

§ 38-8. Display of license.

Every bottle club shall exhibit its license at all times in a conspicuous place on its premises.

§ 38-9. Expiration of license.

All licenses issued pursuant to this Article shall expire on the last day of April each year.

§ 38-10. Suspension or revocation of license.

A license to operate a bottle club, as provided for by this Article, may be denied, suspended or revoked by the Town Council for either violation of or failure to comply with any of the provisions of this Article or any other ordinance of the town. Determination of the severity of the violation and whether or not a denial, suspension or revocation is warranted shall be made by the Town Council after notice and hearing.

§ 38-11. Appeals.

An appeal from any final decision of the Town Council shall be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

§ 38-12. Violations and penalties.

In addition to any action which the Town Council may take, violation of any provision of this Article shall be a civil violation and a fine not exceeding two hundred dollars ($200.) may be imposed. Each day that a violation continues will be treated as a separate offense. All fines collected hereunder shall inure to and be recovered by the Town of Millinocket.

§ 38-13. Hours of operation.

The hours a bottle club shall be open for business shall be no earlier than 9:00 p.m. to closing no later than 1:00 a.m. the following morning. During the hours that a bottle club must remain closed, no members, guests or other persons, other than regular employees, may be on or remain therein, and the use by anyone of the premises or facilities of a bottle club for the drinking of alcoholic beverages during such hours when a bottle club must remain closed is prohibited.

§ 38-14. Application form.

The application form, per se, shall be recommended by the Town Manager and approved by the Town Council by resolution, and may be changed in the same manner from time to time.

Chapter 42

BANDSTAND

§ 42-1. Use by nonprofit organizations by permit authorized.
§ 42-2. Issuance of permit; validity.
§ 42-3. Factors in considering granting of permit.
§ 42-4. Written report of Chief of Police.
§ 42-5. Permit required.
§ 42-6. Violations and penalties.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 2-14-84 as Ord. No. 4-84. Amendments noted where applicable.]

§ 42-1. Use by nonprofit organizations by permit authorized.

The bandstand may be used by permit by a nonprofit organization for the purpose of the playing of music or putting on plays. Tickets may be sold or contributions solicited, provided that the receipts are used solely for the nonprofit organization's basic tenets. Nonprofit organizations include Town of Millinocket departments, commissions, agencies, etc.

§ 42-2. Issuance of permit; validity.

The Recreation Director, after consulting with the Chief of Police, may issue a permit to use the bandstand, which permit shall be valid for only the date (s) indicated and for the hours indicated. No permit shall authorize use before 1:00 p.m. nor after 11:00 p.m. The application for a permit will be designed by the Recreation Director and Chief of Police.

§ 42-3. Factors in considering granting of permit.

In deciding whether to grant or deny a permit with conditions, the Director shall consider the following factors:

A. Size of group performers.

B. Type of performance.

C. Name of group organization.

D. Anticipated size of the audience.

§ 42-4. Written report of Chief of Police.

Prior to making a decision, the Director shall receive a written report from the Chief of Police indicating the Department's ability to provide adequate law enforcement and traffic control for the performance based upon information provided by the applicant relating to the time of day and day of the week of the performance and the anticipated size of the audience.

§ 42-5. Permit required.

No person shall sit, stand, lie, nor in any other manner use the bandstand for any purposes without a valid permit.

§ 42-6. Violations and penalties.

Persons using the bandstand for any reason at any time without a valid permit will be considered to be trespassing and, upon conviction, will be fined no less than twenty-five dollars ($25.) nor more than one hundred dollars ($100.), recoverable to the Town of Millinocket.

Chapter 48

BUILDING CONSTRUCTION

§ 48-1. Adoption of code by reference.
§ 48-2. Repealer.
§ 48-3. Additions, insertions and changes.
§ 48-4. Alternative building process requirements.
§ 48-5. Renovations.
§ 48-6. Building permit checklist.
§ 48-7. Saving clause.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 1-12-1995 as Ord. No. 8-94.[1] Amendments noted where applicable.]

GENERAL REFERENCES

Board of Appeals — See Ch. 5.
Floodplain management — See Ch. 68.
Mobile home parks and manufactured housing — See Ch. 83.
Sewers — See Ch. 104.
Zoning — See Ch. 125.

§ 48-1. Adoption of code by reference.

There is hereby adopted for the purposes of regulating the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures, the Building Code known as the "BOCA National Building Code, Eleventh Edition, 1990," as published by the Building Officials and Code Administrators International, Inc.,

[1] Editor's Note: This ordinance also provided for the repeal of former Ch. 48, Building Construction, adopted 7-21-1981 as Ch. 6 of the Millinocket Code, amended 8-9-1990 by Ord. No. 3-90.

excepting such portions as are hereinafter added, deleted, modified or amended. Not fewer than three copies of the code have been and now are filed in the office of the Clerk of the Town of Millinocket. This BOCA National Building Code, as amended, is hereby incorporated by reference as if set up at length in these ordinances.

§ 48-2. Repealer.

All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

§ 48-3. Additions, insertions and changes.

The following sections of the Building Code, 1990 Edition, are hereby revised as follows:

A. Section 100.1. Insert words: "Town of Millinocket."

B. Section 100.2 is amended to read as follows: **[Amended 8-22-2002 by Ord. No. 2-2002]**

100.2 Scope: Except as noted in § 48-4 below, these regulations shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all new commercial and industrial buildings and structures and shall apply to existing commercial buildings and structures, except as such matters are otherwise provided for in other ordinances or statutes, or in the rules and regulations authorized for promulgation under the provisions of this code.

With respect to existing commercial buildings, these regulations apply only to:

(1) New additions which increase the building foot print.

(2) Any structural alteration or change of use which may affect the structural integrity of the building.

Articles VIII, IX and X of this code, concerning means of egress, fire-resistive construction and fire-protective systems, and other provisions of these regulations related to fire prevention and fire safety, shall not apply and are superseded by the Life Safety Code adopted by the Town of Millinocket.[2]

The handicapped accessibility and property maintenance provisions of this code shall apply to both existing and proposed commercial and industrial buildings and structures.

C. Section 103.4. Insert words: "September 8, 1990."

D. Section 114.3.1. Insert words: "Article XIII of Chapter 125, Part 2, of the Millinocket Town Code."

E. Section 117.4. Delete the existing language and replace with the following words:

117.4 Violation penalties: 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 the provisions of this code shall be penalized in accordance with 30-A M.R.S.A. § 4452.

F. Section 118.2. Insert words: "an amount consistent with the provisions of 30-A M.R.S.A. § 4452."

G. Section 123.0. Delete the entire section.

H. Section 124. Delete the existing language and replace with the following words:

SECTION 124. BOARD OF APPEAL

An appeal from a decision of the Building Inspector made under this Article shall be to the Millinocket Zoning Board of Appeal or Superior Court in accordance with the provisions of Article XV, Chapter 125, Part 2, of the Millinocket Town Code.

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[2] **Editor's Note: See Ch. 49, Life Safety Code.**

I. Article 29. Delete the entire Article.

§ 48-4. Alternative building process requirements. [Added 8-22-2002 by Ord. No. 2-2002[3]]

For construction of new structures of 5,000 square feet of floor area or less, excluding basements or foundations except as noted in Subsection H below, the applicant may choose to follow the alternative building process requirements outlined in this section as an alternative to the BOCA Code as referenced in § 48-3 above. The following requirements shall apply:

A. Plans. The applicant will submit a detailed drawing and written specifications, including the submission of use classification and life safety code compliance plans, of the proposed project.

B. Plans to be signed. All project plans are to be reviewed and signed by a currently licensed professional engineer or architect.

C. Permit issuance. Submission of the appropriate documentation will result in the issuance of a building permit, upon review by and discretion of the CEO.

D. Inspections. The CEO may inspect the project from time to time, as necessary, and notify the applicant of areas of concern, if any.

E. Certificate of occupancy. The CEO will issue a certificate of occupancy upon satisfactory inspection of the project and evidence of life safety code compliance, unless significant concerns are found with the project.

F. Dispute resolution. In the event that a dispute arises over the project, the CEO will make every attempt to resolve the issue(s) with the applicant and his/her engineer/architect. If the matter(s) cannot be resolved, the CEO may retain another engineer/architect, at the

3 **Editor's Note: This ordinance also redesignated former § 48-4, Savings clause, as § 48-7.**

expense of the applicant, to review the work and render a professional opinion on the issue(s) in dispute.

G. Applicability. This section will apply only to the first 5,000 square feet of new construction of a totally new structure of floor area, excluding basements or foundations. If the initial project is less than 5,000 square feet, the applicant may increase the structure up to 5,000 square feet of total area under this section, subject to the other elements of this section being met by the applicant. Should the new addition increase the square footage above 5,000 total square feet, BOCA will apply to the entirety of the new addition, except as noted in Subsection H below.

H. Waiver. The CEO may grant a waiver for projects constructed under this section up to 6,000 square feet of floor area, excluding basements or foundations, if the CEO determines such waiver to be prudent and reasonable and in the best interests of the Town of Millinocket.

I. Responsibility. The applicant and his/her contractor(s) will be held solely responsible for the quality of work performed and shall sign a waiver of liability and indemnification for the Town of Millinocket upon issuance of the building permit.

§ 48-5. Renovations. [Added 8-22-2002 by Ord. No. 2-2002]

Renovations will be governed by the BOCA Code except as noted below:

A. Renovations totaling $4,000. For renovation projects of $4,000 or less, a building permit will be granted upon presentation of an adequate description of the work to be done. No involvement of an engineer or architect will be necessary for such projects, unless a structural change is required.

B. Governance. Renovations will be governed by the Life Safety Code in Chapter 49 of the Millinocket Code, except for structural changes which will be governed by the BOCA Code.

§ 48-6. Building permit checklist. [Added 8-22-2002 by Ord. No. 2-2002]

The Town will provide the applicant for a building permit a checklist of all items needed to complete the permit process.

§ 48-7. Saving clause.

Nothing in this chapter or in the Building Code hereby adopted shall be construed to affect any suit or proceeding impending in any court or any rights acquired or liability incurred or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in § 48-2 of this chapter; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this chapter.

Chapter 49

LIFE SAFETY CODE

§ 49-1. Adoption of code.
§ 49-2. Conflict with other ordinances.
§ 49-3. Additions, insertions and changes.
§ 49-4. Enforcement and legal action.
§ 49-5. Appeals.
§ 49-6. Violations and penalties.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 11-30-1995 as Ord. No. 3-95. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 48.
Zoning — See Ch. 125, Part 2.

§ 49-1. Adoption of code. [Amended 8-22-2002 by Ord. No. 3-2002]

A certain document, three copies of which are on file in the office of the Town Clerk of the Town of Millinocket, being marked and designated as the current NFPA Life Safety Code, as prepared and published by the National Fire Protection Association, Inc., is hereby adopted as the Life Safety Code of the Town of Millinocket establishing the minimum requirements considered necessary to provide a reasonable degree of safety from fire in buildings and structures, to address those construction, protection and occupancy features necessary to minimize danger to life from fire, smoke, fumes and panic, for the design of egress facilities so as to permit prompt escape of the occupants from buildings or, where desirable, into safe

areas within the building; and providing for the inspection, the issue of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions and terms of such Life Safety Code on file with the Town Clerk, are hereby referred to, adopted and made part hereof as if fully set out in this chapter, subject to the additions and deletions set forth in § 49-3 below.

§ 49-2. Conflict with other ordinances.

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

§ 49-3. Additions, insertions and changes.

The following sections of the Life Safety Code, 1994 Edition, are hereby revised as follows:

A. Chapter 1, Section 1-4.1, is hereby amended as follows:

1-4.1 This code applies to both new construction and existing buildings, except existing single-family owner-occupied dwellings, but including any structure containing one or more residential rental units. For structures containing only one residential rental unit, this Code will apply only to the residential rental unit unless Code problems in such rental unit are caused in whole or in part by deficiencies in the remaining part of the structure, in which case the Code will be applied to the entire structure. This Code shall not apply to industrial occupancies in existence prior to February 25, 1996. **[Amended 8-22-2002 by Ord. No. 3-2002]**

B. Chapter 3, Section 3-2, is hereby amended to read as follows:

3-2 Authority Having Jurisdiction: The Millinocket Code Enforcement Officer or a designee of the Code Enforcement Officer.

C. Chapter 4, Section 4-1.12, is hereby added to read as follows:

4-1.12 Unoccupied. Buildings and structures or parts thereof which have not been occupied by one of the other classifications of this section for more than 12 calendar months shall be classified as unoccupied. Any reoccupancy of a building or structure or part thereof classified as unoccupied by another occupancy

(Cont'd on page 4903)

classification shall be considered a change of occupancy for the purposes of Section 1-6.3.

D. Chapter 21, One- and Two-Family Dwellings, is hereby repealed.

E. Chapter 28, Section 28-1.1, is hereby amended by adding additional language as follows:

28-1.1 Application. The requirements of this chapter shall apply only to new and not to existing industrial occupancies. Industrial occupancies shall include factories making products of all kinds and properties used for operations such as processing, assembling, mixing, packaging, finishing or decorating, repairing or similar operations.

§ 49-4. Enforcement and legal action.

This code shall be enforced by the Millinocket Code Enforcement Officer, and legal action under this code may be instituted by the Millinocket Town Council, each utilizing the procedures set forth in Article XIV of Chapter 125, Zoning, of the Millinocket Town Code.

§ 49-5. Appeals.

Appeals from decisions of the authority having jurisdiction or from enforcement actions of the Code Enforcement Officer under this code may be taken to the Millinocket Board of Appeals in the same manner and under the provisions governing administrative appeals set forth in Article XV of Chapter 125, Zoning, of the Millinocket Town Code.

§ 49-6. Violations and penalties.

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 code commits a civil violation and shall be penalized in accordance with 30-A M.R.S.A. § 4452.

ORDINANCE #1 – 2012

PROVIDING FOR: Amendments to Chapter 50, Property Maintenance Code

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MILLINOCKET, IN COUNCIL ASSEMBLED, that Chapter 50, Property Maintenance Code, for the Town of Millinocket, is amended, as attached.

First Reading: May 10, 2012

Second Reading: May 24, 2012

Passed by the Council: 05-24-2012

Effective Date: 06-24-2012

Attest: Roxann Johnson

ORDINANCE #1-2012

PROVIDING FOR: Amendments to Chapter 50, Property Maintenance Code for the Town of Millinocket

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MILLINOCKET, IN COUNCIL ASSEMBLED, that Chapter 50, Property Maintenance Code for the Town of Millinocket, is amended, as stated below, to wit:

"CHAPTER 50 – PROPERTY MAINTENANCE CODE FOR THE TOWN OF MILLINOCKET

"Section 50-01. General.

A. **Title.** These regulations shall be known as the Property Maintenance Code of the Town of Millinocket, hereinafter referred to as the "Code".
B. **Scope.** This Code is to protect the public health, safety, and welfare on all existing premises in the Town by establishing minimum requirements and standards for premises; fixing the responsibility of owners; and providing for administration, enforcement, and penalties.
C. **Intent.** This Code shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare insofar as they are affected by maintenance of premises. Existing premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health, safety, and welfare as required herein.

"Section 50-02. Definitions. The following words and terms shall, for the purposes of this chapter and as stated elsewhere in this Code, have the meanings shown herein.

A. **Exterior property.** The open space on the premises and on adjoining property under the control of owners or operators of such premises.
B. **Garbage.** The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.
C. **Notice.** A written warning issued by the Code Enforcement Officer to correct a violation of this Ordinance.
D. **Occupant.** Any person living or sleeping in a building or having possession of space within a building.
E. **Order.** A written document issued by the Code Enforcement Officer to correct a violation of this Ordinance, where failure to comply will result in formal legal action.
F. **Owner.** Any person, agent, operator, firm, or corporation having a legal or equitable interest in the property or recorded in the official records of the state, county, or municipality as holding title to the property or otherwise having control of the property including the guardian of the estate of any such

person and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

G. **Person.** An individual, corporation, partnership, or any other group acting as a unit.

H. **Premises.** A lot, plot, or parcel of land including any structures thereon.

I. **Rubbish.** Combustible and noncombustible waste materials, except garbage. The term shall include the residue from the burning of wood, coal, coke, and other combustible materials; paper; rags; cartons; boxes; wood; excelsior; rubber; leather; tree branches; yard trimmings; tin cans; metals; mineral matter; glass; crockery; dust; doors; clothing; construction and demolition debris; and other similar materials.

J. **Yard.** An open space on the same lot with a structure.

"Section 50-03. Exterior Property Areas.

A. **Sanitation.** All exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The occupant shall keep that part of the exterior property, which such occupant occupies or controls, in a clean and sanitary condition.

B. **Weeds.** All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten (10) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation other than trees or shrubs. However, this term shall not include cultivated flowers and gardens.

C. **Motor Vehicles.** Except as provided for in other regulations, not more than one currently unregistered or uninspected motor vehicle shall be parked, kept, or stored on any premises and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the state of being stripped or dismantled. However, a vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes. For purposes of this section, a motor vehicle is any vehicle that is or can be licensed for travel on public ways (i.e., automobiles, trucks, buses, motorized recreational vehicles, motorcycles, etc.).

"Section 50-04. Rubbish and Garbage.

A. **Accumulation of Rubbish or Garbage.** All exterior property and premises of every structure shall be free from any accumulation of rubbish or garbage.

B. **Disposal of Rubbish.** Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

C. **Rubbish Storage Facilities.** The owner of every occupied premises shall supply approved, covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

D. **Disposal of Garbage.** Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage container.

E. **Garbage Facilities.** The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit or an approved leak-proof, covered, outside garbage container.

F. **Containers.** The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak-proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

G. **Composting.** Owners may compost organic material in their yards, provided such composting is done per established procedures that do not promote odor, offense, vermin, or other undesirable effects upon others. Guidelines for proper composting techniques may be obtained from the Town.

"Section 50-05. Notices and Orders.

A. **Notification to Owner or to Person(s) Responsible.** Whenever the Code Enforcement Officer (CEO) determines that there has been a violation of this Code or has grounds to believe that a violation has occurred, notification shall be given to the owner or to the person(s) responsible therefore in the manner prescribed below.

B. **Entry onto Property and into Buildings.**

1. In accordance with Maine law and Title 30-A Section 4452 as in effect from time to time or as replaced by another statute addressing the same subject matter, the CEO is authorized to enter any property at reasonable hours to inspect the property for compliance with this Ordinance.

2. In accordance with Maine law and Title 30-A Section 4452 as in effect from time to time or as replaced by another statute addressing the same subject matter, the CEO is authorized to enter any building at reasonable hours, with the consent of the owner, occupant or agent, to inspect the building for compliance with this Ordinance.

3. In the event the CEO is prevented from entering property for inspection or the owner, occupant or agent does not consent to the CEO entering any building for inspection, the CEO is authorized to apply to any court with jurisdiction for an administrative inspection warrant in accordance with Maine law and Maine Rule of Civil Procedure 80E as in effect from time to time or as replaced by another rule addressing the same subject matter.

C. **Notices and Orders.** A written notice or written order may be given to the owner or person(s) responsible, at the discretion of the CEO.

1. **Notices.** A Notice is a written document to give the owner or person(s) responsible a warning of an apparent violation of this Code. The Notice shall be in writing, include a description of the real estate sufficient for proper identification, contain a statement of the reason(s) for the Notice being issued, and include a corrective action plan and reasonable time frame to allow the required improvements to be made in accordance with

the Code. While not required, a Notice may be issued prior to issuance of an Order. Upon receipt of a Notice for a violation, the owner or person(s) responsible for the property shall have ten (10) business days from the date the Notice is mailed by first class postage to correct the violation. If a responsible person fails to correct the violation in accordance with the corrective action plan, or if the CEO becomes aware of another violation before a responsible person corrects a pending violation, the CEO shall proceed to issue an Order, as described in paragraph 2 below, to compel correction of the pending violation and the subsequent violation.

2. **Orders.** An Order is a written document ordering the owner or person(s) responsible to correct a violation of this Code. The Order shall be in writing, include a description of the real estate sufficient for proper identification, contain a statement of the reason(s) for the Order being issued, and include a corrective action plan with a specific date to complete the required improvements to be made in accordance with the Code. Failure to comply with the Order shall result in legal action. From the date the Order is received by the owner or person(s) responsible for the property shall have ten (10) business days to take corrective action on the violation(s) contained in the Order.
3. **Court.** If the violation(s) contained in the Order are not corrected within ten (10) business days of receipt of the Order sent by certified mail or hand delivered by the Code Enforcement Officer, the CEO will issue a summons to the owner or responsible person for violation of this Code in accordance with Maine law and Rule 80K as in effect from time to time or as replaced by another rule addressing the same subject matter.
4. **Methods of Service.** A Notice or Order shall be deemed to be properly served if a copy thereof is (a) delivered to the owner personally by the CEO or (b) sent by certified mail addressed to the owner or person(s) responsible at the last known address with return receipt requested. Service of such notice in the foregoing manner upon the owner's agent or upon the person(s) responsible for the structure and/or property shall constitute service upon the owner. In cases taken to Court, service of the summons shall be in accordance with Maine law and Rule 80K as in effect from time to time or as replaced by another rule addressing the same subject matter.

D. Means of Appeal. Any person affected by a decision of the CEO resulting in the issuance of an Order issued under this Code shall have the right to appeal to the Millinocket Zoning Board of Appeals, provided that a written application for appeal is filed within ten (10) calendar days of the date the Order was served. An application for appeal shall be based on a claim that no violation of this Code has occurred or the provisions of this Code do not apply, or the requirements of this Code are adequately satisfied by other means. The appellant will pay a fee to the Town of $50.00 to defray the costs of the appeal procedure. Said fee will be reimbursed to the appellant if the appellant prevails.

"**Section 50-06. Yard Maintenance.** The owner or person(s) responsible for the property shall be subject to the following process for corrective action in yards that have Weeds, as described in Section 50-03.B, in excess of ten (10) inches in height. In the event the owner or responsible party does not correct a violation after service of a Notice and/or Order and the CEO issues a summons for violation of this Code, the CEO shall request the Court to order the owner or responsible party to correct the violation and, in the alternative, to authorize the Town , through a contractor or the Millinocket Public Works Department, to mow or cut and remove the weeds in violation of this Code and to assess the cost of such work to the owner or responsible party with a minimum charge of $50.00 and $50.00 per hour or each fraction of an hour thereafter.

"**Section 50-07. Duties and Powers of the Code Enforcement Officer.** In accordance with 30-A M.R.S.A. § 4452, the CEO shall enforce all of the provisions of this Code. The CEO shall issue all necessary Notices and Orders and initiate legal action in Maine District Court, as necessary, to ensure compliance with this Code. Citizen complaints of possible violations of this Code may be made to the CEO for review and, if appropriate, investigation. Citizen complaints may be in writing, by phone, or in person. Citizen complainants may choose to remain anonymous if complaints are submitted verbally or by unsigned instrument. The CEO shall also have the power to identify and take appropriate action on possible violations discovered in the normal course of his/her work. The CEO, in consultation with the Town Manager, may engage legal counsel to prosecute violations of this Code.

"**Section 50-08. Violations.** Any person who shall violate a provision of this Code shall, upon conviction in Maine District Court, be subject to a penalty of $100.00 for each occurrence. Each day that a violation continues shall be deemed a separate occurrence with a maximum penalty as provided in Title 30-A MRSA Section 4452 as in effect from time to time or as replaced by another statute addressing the same subject matter. Any person who violates this Code shall also be responsible for the costs and expenses, including attorney's fees, incurred by the Town in prosecuting and correcting violations of this Code.

IT IS FURTHER ORDAINED that the Town Clerk make appropriate changes to incorporate this Chapter into the Millinocket Code and distribute new pages to all persons known to have a copy of the Code.

First Reading: May 10, 2012

Second Reading: May 24, 2012

Passed by the Council: May 24, 2012

Effective Date: June 24, 2012

Attest: EJC

Chapter 61

DOGS AND OTHER ANIMALS

ARTICLE I
Dogs

§ 61-1. Definitions.

§ 61-2. Running at large prohibited; exceptions.

§ 61-2.1. Adequate shelter required.

§ 61-3. Enforcement; Dog Constable.

§ 61-4. License and tag required.

§ 61-5. Impoundment.

§ 61-6. Registry and notification of owner of impoundment.

§ 61-7. Conditions of release.

§ 61-8. Confinement of certain dogs.

§ 61-9. Barking or howling.

§ 61-10. Violations and penalties.

§ 61-10.1. Dogs on public property; exceptions.

ARTICLE II
Keeping of Animals

§ 61-11. Keeping of swine prohibited.

§ 61-12. Other animals prohibited.

§ 61-13. Violations and penalties.

ORDINANCE #1-2013 - **REVISED**

PROVIDING FOR: Amendment to Chapter 61 of the Code of the Town of Millinocket Entitled "Dogs and Other Animals"

BE IT ORDAINED by the Town Council of Millinocket in Town Council assembled that the Millinocket Code, Chapter 61 be amended as attached

IT IS FURTHER ORDERED that this amendment take effect 30 days after enactment.

1st Reading 3-28-2013 Original

2nd Reading 4-25-2013 Revised

Council Approved 4-25-2013

Effective Date 5-25-2013

Attest: Rebecca Johnson

Revised

ORDINANCE # 1-2013

PROVIDING FOR: An Amendment to Chapter 61 of the code of the Town of Millinocket

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MILLINOCKET that Chapter 61 of the Millinocket Code is amended by adding Article IV as follows:

ARTICLE IV

FEEDING WILD ANIMALS AND FOWL PROHIBITED

61.15 STATEMENT OF PURPOSE. It has been determined that:

A. feeding of wild animals, waterfowl and other birds is both detrimental to those species, causes a public health nuisance and a public safety hazard that is detrimental to the health and general welfare of the public; and

B. feeding of wild animals, waterfowl and other birds is extremely disruptive to the natural feeding habits of those species; and

C. while some individuals enjoy handing out food to wild animals, waterfowl and other birds, the action is detrimental to thosespecies and to the public; and

D. The intentional feeding of wild animals, waterfowl and other birds not only attracts predators, but also can result in such wildlife being concentrated at artificial feeding areas, making them more susceptible to disease transmission and inappropriate human interaction; and

E. Wild animals, waterfowl and other birds fed by humans are drawn into heavy traffic areas seeking handouts and are killed by vehicles or cause accidents to humans;

F. Waste from concentrations of feeding wild animals, waterfowl and other birds causes a human health hazard and disrupts the enjoyment of other property and public places in the vicinity of the concentration of such species.

61.16 Definitions. The following words and terms, as used in this article, shall have the meanings indicated, unless the context indicates otherwise.

A. **Fowl** shall be any bird other than songbirds including but not limited to ducks, geese, pigeons, crows, seagulls and birds of prey such as eagles, hawks and others.

B. **Feed** shall mean give, place, expose, distribute or scatter any edible material with the intention of feeding, attracting or enticing wild animals and/or fowl, but shall not include baiting in the legal taking of wild animals and/or fowl in areas where such baiting is allowed.

C. **Notice.** A written warning issued by the Code Enforcement Officer to correct a violation of this Ordinance.

D. **Occupant.** Any person living or sleeping in a building or having possession of premises within the Town of Millinocket.

E. **Order.** A written document issued by the Code Enforcement Officer to correct a violation of this Ordinance, where failure to comply will result in formal legal action.

Revised

F. **Owner.** Any person, agent, operator, firm, or corporation having a legal or equitable interest in the premises or recorded in the official records of the state, county, or municipality as holding title to the premises or otherwise having control of the premises including the guardian of the estate of any such person and the executor or administrator of the estate of such person if ordered to take possession of real property or premises by a court.

G. **Person.** An individual, corporation, partnership, or any other group acting as a unit.

H. **Premises.** A lot, plot, or parcel of land including any structures thereon.

I. **Wild animals** shall include any animal which is not normally domesticated in this State including but not limited to coyotes, bears, deer, feral cat, foxes, raccoons, skunks, squirrels, mice, rats, other rodents, waterfowl and other birds.

J. **Yard.** An open space on the same lot with a structure.

61.17 Feeding wild animals and fowl prohibited.

A. No person shall scatter or deposit any feed or other attractants on public or private premiseswhich results in attracting wild animals and/or fowl. Leaving feed in a yard for any purpose, including the purpose of feeding domestic animals and pets, in a place where wild animals and/or fowl can access it, shall be a violation of this section if the feed, in fact,attracts wild animals or fowl.

This section shall not apply to birdseed held in receptacles for songbirds which are reasonably designed to prevent, and do prevent, access to the food by wild animals and fowl.

This section shall not apply to providing feed during daytime hours in live traps used to capture feral cats for spaying and/or neutering.

61.18 Feeding of songbirds and other backyard birds permitted.

A. Feeding of songbirds and other backyard birds other than fowl as defined in this article, shall be permitted in yards at such times and in such numbers that:
   1. Such feeding does not create an unreasonable disturbance that affects the rights of surrounding property owners and renders other persons insecure in the use of their property;
   2. Does not create an accumulation of bird feces on the property and surrounding properties;
   3. Does not become an attractant for rodents or other wild animals or fowl; and
   4. Bird feeders are placed at least five feet above the ground.

61.19 Enforcement.

A. This ordinance may be enforced by the Animal Control Officer, Code Enforcement Officer, and Local Health Officer or by any Police Officer of the Town of Millinocket, based upon either personal observation or upon complaint. All enforcement actions

Revised

shall be initiated by serving a citation upon the defendant in accordance with Rule 80(b), Maine Rules of Civil Procedure, as the same may be amended, directing the defendant to appear in district at the date, time and location stated in the citation. All court proceedings under this ordinance shall be conducted in accordance with Rule 80H, Maine Rules of Civil Procedure.

B. Each property owner or occupant of property shall have the duty to remove any feed or device placed on property which is in violation of this ordinance. Failure to remove such feed or devices or to make such modifications within (24) hours after notice from the Town shall constitute a separate violation of this Ordinance for each day after notice is received by the property owner or property occupant until the feed or devices are removed or acceptable modifications to any such devices are made.

C. No person shall hinder, molest, or interfere with anyone authorized or empowered to perform any duties under this ordinance.

61.20 Penalties.

Any person who shall violate a provision of this article shall, upon conviction in Maine District Court, be subject to a penalty of $100.00 for each occurrence. Each day that a violation continues shall be deemed a separate occurrence with a maximum penalty as provided in Title 30-A MRSA Section 4452 as in effect from time to time or as replaced by another statute addressing the same subject matter. Any person who violates this Code shall also be responsible for the costs and expenses, including attorneys fees, incurred by the Town in prosecuting and correcting violations of this Code.

For any first time offense within a one year period, civil proceedings may be waived by the defendant upon payment to the Town of Millinocket a $50 fine within 7 days after the service of the citation upon the defendant. Civil proceedings may not be waived when the defendant has been cited two or more times for a violation within a one year period.

61.21 Severability;

Every section of this ordinance or subdivision or separate part thereof shall be considered a separate provision to the intent that if any portion shall be declared unconstitutional it shall not affect the remaining parts of this ordinance.

Revised

IT IS FURTHER ORDAINED that the Town Clerk make appropriate changes to incorporate this article into the Millinocket Code and distribute new pages to all persons known to have a copy of the Code.

First Reading: _____

Second Reading: 4.25.2013

Effective Date: 5.25.2013

ARTICLE III
Cats and Other Domestic Animals

§ 61-14. Applicability to cats and other domestic animals.

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

ARTICLE I
Dogs
[Adopted 7-21-1981 by Art. I of Ch. 4 of the Millinocket Code.]

§ 61-1. Definitions.

The following terms, as used in this article, shall have the meanings indicated, unless the context indicates otherwise:

AT LARGE — Off the premises of the owner and not under the immediate control of the owner or other person representing the owner, either by a leash, cord, chain or other positive means of restraint.

DANGEROUS DOG **[Added 6-13-1991 by Ord. No. 1-91]**:

A. Any dog:

(1) Which, when unprovoked, approaches any person upon the streets, sidewalks or on any public grounds or places in a vicious or terrorizing manner or in any apparent attitude of attack;

(2) With a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

(3) Which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property.

B. Notwithstanding the foregoing, no dog may be considered to be a "dangerous dog" by reason of any injury or damage sustained by a person when such person was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime; any injury or damage sustained by a domestic animal which, at the time such injury or damage was sustained, was teasing, tormenting, abusing or assaulting the dog; or any injury or damage caused by the dog in protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

DOG — Both male and female canines.

KEEPER — Any person other than the owner of a dangerous/vicious dog who harbors or has in his or her possession a dangerous/vicious dog or manages, controls or cares for a dangerous/vicious dog. **[Added 6-13-1991 by Ord. No. 1-91]**

OWNER — Any person or legal entity having a possessory property right in a dog or who harbors, cares for or exercises control over a dog or knowingly permits a dog to remain on premises occupied by him. **[Amended 6-13-1991 by Ord. No. 1-91]**

UNCONFINED — Outside the confines of a residence commonly occupied by human beings or a commercial or industrial structure or an enclosure of at least six feet in height, with the exception of small dogs which, in the opinion of the Dog Constable, require less height, with secure sides, top and bottom or, if there is no bottom, with sides which extend at least one foot underground and which shall be locked and designed to prevent the escape of the animal or the entry of young children. Signs shall be one foot by one foot on all sides of the

enclosure, stating "WARNING. DANGER: DANGEROUS DOG INSIDE." Similar signs shall be posted at the entrance of all buildings confining a dangerous or vicious dog or dogs. **[Added 6-13-1991 by Ord. No. 1-91]**

VICIOUS DOG **[Added 6-13-1991 by Ord. No. 1-91]**:

A. Any dog owned, harbored or trained primarily or in part for the purpose of dog fighting;

B. Any dog owned, harbored or trained primarily or in part for the purpose of attacking a human being or domestic animal upon command; or

C. Any dog which has bitten, injured or assaulted a human being or domestic animal without provocation on public or private property. This subsection shall apply only to incidents which occur after the effective date of this article.

§ 61-2. Running at large prohibited; exceptions.

No owner or keeper of any dog shall permit such dog to run at large at any time. This section shall not be construed, however, to prevent the use of dogs for legal hunting purposes, field trials or shows or the use of dogs on farms or residences for any lawful purpose not inconsistent with the intent and provisions of this article.

§ 61-2.1. Adequate shelter required. [Amended 6-13-1991 by Ord. No. 1-91]

The owner of every dog within the limits of the Town of Millinocket shall provide adequate shelter for each such animal. "Adequate shelter" shall be defined as an enclosure which is sufficient to protect the animal from rain, snow, wind and extremes of temperature such that the animal does not suffer from exposure to the elements.

§ 61-3. Enforcement; Dog Constable.

It shall be the duty of all municipal police officers to enforce all provisions of this article. Further, there shall be appointed a Dog Constable, who shall have the prime responsibility of enforcing this article. Said Dog Constable shall be appointed by the Town Manager and shall perform under the direction and supervision of the Chief of Police.

§ 61-4. License and tag required.

All dogs kept, harbored or maintained by their respective owners in the Town of Millinocket shall be licensed and tagged in accordance with the appropriate laws of the State of Maine.

§ 61-5. Impoundment.

If shall he the duty of the Dog Constable or municipal police officer to seize any dog found running at large contrary to the provisions of this Article and to impound such dog.

§ 61-6. Registry and notification of owner of impoundment.

A. When impounding any dog, the Dog Constable or police officer shall, at the time of such impounding, make a complete registry, entering the date of impounding, the breed, color, sex and general condition of such dog, as can be reasonably ascertained, and if licensed or unlicensed and the name of the owner or keeper, if known, on a registry form prepared, approved and supplied by the Chief of Police. A copy of this registry form shall be furnished to the poundmaster or kennelkeeper, together with written instructions setting forth conditions under which the dog may be released.

B. When any dog is impounded under the provisions of this article and the owner of the dog cannot be contacted with reasonable diligence or the owner is unknown, the dog

shall be disposed of in accordance with M.R.S.A., Title 7, § 3913, or Title 32, § 4872, and as such sections may be amended or replaced from time to time. **[Amended 6-13-1991 by Ord. No. 1-91]**

C. The person having control of impounding shall keep a record of every dog disposed of by sale or otherwise. Such record shall include: a description which identifies the dog with reasonable certainty, the manner of disposing of the dog and, if the dog was transferred to another person, the name and address of the transferee. In addition, the transferee must sign a statement giving his name, address and the date of delivery or receipt of the dog.

§ 61-7. Conditions of release. [Amended 4-27-2000 by Ord. No. 3-2000]

Any dog impounded under the provisions of this Article shall be released to the owner or keeper thereof on presentation of written authorization from the Dog Constable or a police officer and on further condition that all impoundment charges be paid to the pound or kennelkeeper before release. The fees charged by pound- or kennelkeepers shall not exceed those approved for humane agents from time to time by the State Department of Agriculture. Cats and other domestic animals as described under Article III of this chapter shall be subject to the retrieval of the same fees applied to dogs contained in this section.

§ 61-8. Confinement of certain dogs. [Amended 6-13-1991 by Ord. No. 1-91]

A. Female dogs in heat shall be confined in such manner as to avoid the creation of a nuisance by other dogs congregating in the area. If the owner of a female dog in heat is found in violation of this section, such dog shall be impounded and shall be released on the approval of

the Dog Constable, police officers or Chief of Police if all provisions of § 61-7 and this article have been met.

B. No person shall sell, purchase, possess, rent, lease or harbor a vicious dog within the jurisdiction of the Town of Millinocket other than a vicious dog that has been acquired prior to the effective date of this article and registered as required pursuant to this section.

C. The provisions of this section shall not apply to:

(1) Animal shelters designated by the Department of Health to keep or hold animals, including all shelters operated by the American Society for the Prevention of Cruelty to Animals.

(2) Facilities which are maintained by or are under the control of the town.

(3) Places of public exhibition, contest or show sponsored by a dog club association or similar organization and persons who have brought a dog temporarily within the jurisdiction of the Town of Millinocket for the purpose of showing a dog at such an exhibition, contest or show or for other entertainment purposes as defined in regulations promulgated by the Town Council, provided that the sponsor of the exhibition, contest, show or entertainment has obtained written permission from the Town Council and has provided protective measures adequate to prevent dogs from escaping or injuring the public.

(4) Police dogs belonging to, working for or assigned to the Town of Millinocket or any law enforcement agency.

(5) Persons authorized to enforce the provisions of this article.

D. This section shall not be deemed to prohibit any business transaction concerning a dog that is not physically present in the town.

E. It shall be a violation of this article for the owner or any person who possesses or harbors any dangerous or vicious dog to fail to confine such animal such that the animal is unconfined as defined in this article.

F. Any vicious dog found by the Dog Constable or any police officer to be unconfined shall be impounded in accordance with § 61-6 of this article. If the owner of any such vicious dog does not agree to permanently remove the dog from the limits of the Town of Millinocket within 24 hours, the animal shall be destroyed in a proper and humane manner in accordance with § 61-10. In the event that any such vicious dog is not claimed by the owner within 10 days after impoundment, the animal shall be destroyed in accordance with § 61-10. The owner shall be contacted in accordance with§ 61-6.

G. Muzzling and leashing.

(1) No person shall permit or allow any vicious dog acquired prior to the effective date of this article to remain unconfined on property within the Town of Millinocket or to go beyond the boundaries of such property unless such dog is securely muzzled and restrained with a chain or leash not exceeding three feet in length and is under the direct control and supervision of the owner or keeper of the dog.

(2) No person shall permit or allow any dangerous dog to remain unconfined on property within the Town of Millinocket or to go beyond the boundaries of such property unless such dog is securely muzzled and restrained with a chain or leash not exceeding three feet in length and is under the direct control and supervision of the owner or keeper of the dog.

H. Any dangerous dog found by the Dog Constable or any police officer to be unconfined shall be impounded in accordance with § 61-6 of this article. If the owner of any such dangerous dog does not agree to permanently remove the dog from the limits of the Town of Millinocket within 24 hours, the animal shall be

destroyed in a proper and humane manner consistent with § 61-10. In the event that any such dangerous dog is not claimed by the owner within 10 days after impoundment, the animal shall be destroyed in accordance with § 61-10. The owner shall be contacted in accordance with § 61-6.

I. Any dog shall be immediately impounded upon biting, inflicting injury, assaulting or otherwise attacking a human being or domestic animal without provocation on public or private property. Any such dog shall be destroyed in a proper and humane manner in accordance with § 61-10.

J. Registration.

(1) The owner of any dangerous/vicious dog who acquired such dog prior to the effective date of this section shall register such dog with the office of the Town Clerk no later than 90 days after the effective date of this Article. Dangerous dogs shall be registered annually thereafter during the month of January and prior to January 31 of each year. Vicious dogs acquired prior to the effective date of this section shall also be registered annually thereafter during the month of January and prior to 31st of each year. Failure to register any dangerous/vicious dog shall be a violation of this Article.

(2) The owner of any dog required to be registered shall complete a registration form promulgated by the Chief of Police. The Town Clerk shall inform the Dog Constable and Police Department of any dog registered hereunder.

K. Insurance required.

(1) No owner of any dangerous or vicious dog shall be allowed to register said animal unless such owner produces proof that he has obtained liability insurance in the amount of at least $300,000

covering any damage or injury which may be caused by such dog during the twelve-month period for which registration is sought. The policy shall provide for notice to the town in the event of cancellation of the policy.

(2) The owner of a dangerous or vicious dog shall maintain liability insurance in full force and effect at all times as required by Subsection K(1) of this section, unless he shall cease to own, keep or harbor the dog prior to the expiration of such registration.

(3) Any owner who is not able to produce insurance as required herein concerning any dangerous or vicious dog shall permanently remove the animal from the limits of the Town of Millinocket within 24 hours of the expiration of such insurance coverage or within 24 hours of the effective date of this article, if such insurance coverage cannot be obtained, or shall destroy such animal within said twenty-four-hour time limit. In the event the owner fails to do so, the dog constable or any police officer shall impound the animal and if the owner of such animal fails to produce insurance within an additional 24 hours or fails to agree to permanently remove the animal from the town immediately upon regaining possession of the animal, the Dog Constable shall destroy the animal in a proper and humane manner in accordance with § 61-10.

L. Enforcement. Any police officer or Dog Constable or Animal Control Officer of the Town of Millinocket is authorized to issue a civil summons for the violation of any provision of this article.

§ 61-9. Barking or howling.

No person shall keep or harbor any dog which by loud, frequent or habitual barking, howling or yelping shall disturb the peace and tranquility of any person or persons.

§ 61-10. Violations and penalties. [Amended 6-13-1991 by Ord. No. 1-91]

A. Any owner or keeper of a dog found in violation of any of the provisions of this article shall be guilty of a civil violation and shall be punished by a fine of $50 for the first such offense and $100 for the second such offense. All fines so assessed shall be recovered for the use of the Town of Millinocket.

B. Any dog found in violation of this article on three separate occasions shall be impounded, and, if the owner does not agree to permanently remove the dog from the limits of the Town of Millinocket, the animal shall be destroyed in a proper and humane manner in accordance with this section.

C. In addition to any monetary penalty imposed by a court of competent jurisdiction, the court may order the dog to be euthanized for violation of this article.

§ 61-10.1. Dogs on public property; exceptions. [Added 12-8-1988 by Ord. No. 5-88]

A. No person shall allow any dog owned by him/her or under his/ her control to be on any property utilized by the Town of Millinocket for organized recreation activities. This property shall include but not be limited to softball, soccer, baseball, basketball or football fields, public beaches and designated playgrounds. This subsection would not prohibit any dog trained for the purpose of aiding a sight-impaired person and engaged in that function nor would this subsection prevent persons from walking dogs along roadways or paths outside of recreation compounds.

B. No person shall allow any dog owned by him/her or under his/ her control to enter or remain on the grounds of any educational institution within the Town of Millinocket. This subsection would not prohibit any dog

trained for the purpose of aiding a sight-impaired person and engaged in that function nor would this subsection prevent persons from walking dogs along roadways or paths outside of recreation compounds.

C. Duty to protect the health and safety of the public. No person shall allow any dog owned by him/her or under his/her control to defecate upon a public street, road, sidewalk, park, or other public property within the Town of Millinocket, or upon private property (except for that property owned by the owner of the dog) unless such defecation is immediately removed and disposed of by said owner or controller of the dog in a proper manner. This subsection shall not apply to any dog trained for the purpose of aiding a sight-impaired person and engaged in that function or to any person with a handicap who, by reason of that handicap, is physically unable to comply with the requirements of this subsection. **[Added 8-22-2002 by Ord. No. 4-2002]**

ARTICLE II
Keeping of Animals
[Adopted 7-21-1981 as Art. II of Ch. 4 of the Millinocket Code]

§ 61-11. Keeping of swine prohibited.

Swine of any kind shall not be kept within the limits of the Town of Millinocket. Whenever the Health Officer discovers the continuance of swine on any premises within the Town, he may, by written notice to the occupant(s) of said premises, order the removal of the swine from the premises. The occupant(s) shall remove the swine within 48 hours after receiving the notice.

§ 61-12. Other animals prohibited.

No person shall keep fowl, goats, cattle, sheep or horses of any kind on any premises within the limits of the Town of Millinocket.

§ 61-13. Violations and penalties.

Any person offending against any of the above provisions shall forfeit and pay a sum of not less than $25 nor more than $100. Each day a violation continues shall constitute a separate offense. All fines shall be recovered for the use of the Town.

ARTICLE III
Cats and Other Domestic Animals
[Adopted 4-27-2000 by Ord. No. 3-2000]

§ 61-14. Applicability to cats and other domestic animals.

It is the intent of this section to include cats and other domestic animals (i.e., rabbits, ferrets, birds, etc.) commonly referred to as "pets" under this chapter for the purpose of retrieval of fees incurred in the boarding and care of such animals as contained under Article I, Dogs. Reference is made specifically to § 61-7, Conditions of release, for the retrieval of such fees from owners or keepers of such animals.

CHAPTER 61

Dogs and Other Animals Ordinance

61.15 Statement of Purpose.

61.16 Definitions.

61.17 Feeding wild animals and fowl prohibited.

61.18 Feeding of songbirds and other backyard birds permitted.

61.19 Enforcement.

61.20 Penalties.

61.21 Severability.

ORDINANCE #1-2013 - **REVISED**

PROVIDING FOR: Amendment to Chapter 61 of the Code of the Town of Millinocket Entitled "Dogs and Other Animals"

BE IT ORDAINED by the Town Council of Millinocket in Town Council assembled that the Millinocket Code, Chapter 61 be amended as attached

IT IS FURTHER ORDERED that this amendment take effect 30 days after enactment.

1st Reading 3-28-2013 Original

2nd Reading 4-25-2013 Revised

Council Approved 4-25-2013

Effective Date 5-25-2013

Attest: Roxanne Johnson

Revised

ORDINANCE # 1-2013

PROVIDING FOR: An Amendment to Chapter 61 of the code of the Town of Millinocket

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MILLINOCKET that Chapter 61 of the Millinocket Code is amended by adding Article IV as follows:

ARTICLE IV

FEEDING WILD ANIMALS AND FOWL PROHIBITED

61.15 STATEMENT OF PURPOSE. It has been determined that:

A. feeding of wild animals, waterfowl and other birds is both detrimental to those species, causes a public health nuisance and a public safety hazard that is detrimental to the health and general welfare of the public; and

B. feeding of wild animals, waterfowl and other birds is extremely disruptive to the natural feeding habits of those species; and

C. while some individuals enjoy handing out food to wild animals, waterfowl and other birds, the action is detrimental to thosespecies and to the public; and

D. The intentional feeding of wild animals, waterfowl and other birds not only attracts predators, but also can result in such wildlife being concentrated at artificial feeding areas, making them more susceptible to disease transmission and inappropriate human interaction; and

E. Wild animals, waterfowl and other birds fed by humans are drawn into heavy traffic areas seeking handouts and are killed by vehicles or cause accidents to humans;

F. Waste from concentrations of feeding wild animals, waterfowl and other birds causes a human health hazard and disrupts the enjoyment of other property and public places in the vicinity of the concentration of such species.

61.16 Definitions. The following words and terms, as used in this article, shall have the meanings indicated, unless the context indicates otherwise.

A. **Fowl** shall be any bird other than songbirds including but not limited to ducks, geese, pigeons, crows, seagulls and birds of prey such as eagles, hawks and others.

B. **Feed** shall mean give, place, expose, distribute or scatter any edible material with the intention of feeding, attracting or enticing wild animals and/or fowl, but shall not include baiting in the legal taking of wild animals and/or fowl in areas where such baiting is allowed.

C. **Notice.** A written warning issued by the Code Enforcement Officer to correct a violation of this Ordinance.

D. **Occupant.** Any person living or sleeping in a building or having possession of premises within the Town of Millinocket.

E. **Order.** A written document issued by the Code Enforcement Officer to correct a violation of this Ordinance, where failure to comply will result in formal legal action.

Revised

F. **Owner.** Any person, agent, operator, firm, or corporation having a legal or equitable interest in the premises or recorded in the official records of the state, county, or municipality as holding title to the premises or otherwise having control of the premises including the guardian of the estate of any such person and the executor or administrator of the estate of such person if ordered to take possession of real property or premises by a court.
G. **Person.** An individual, corporation, partnership, or any other group acting as a unit.
H. **Premises.** A lot, plot, or parcel of land including any structures thereon.
I. **Wild animals** shall include any animal which is not normally domesticated in this State including but not limited to coyotes, bears, deer, feral cat, foxes, raccoons, skunks, squirrels, mice, rats, other rodents, waterfowl and other birds.
J. **Yard.** An open space on the same lot with a structure.

61.17 Feeding wild animals and fowl prohibited.

A. No person shall scatter or deposit any feed or other attractants on public or private premiseswhich results in attracting wild animals and/or fowl. Leaving feed in a yard for any purpose, including the purpose of feeding domestic animals and pets, in a place where wild animals and/or fowl can access it, shall be a violation of this section if the feed, in fact,attracts wild animals or fowl.

This section shall not apply to birdseed held in receptacles for songbirds which are reasonably designed to prevent, and do prevent, access to the food by wild animals and fowl.

This section shall not apply to providing feed during daytime hours in live traps used to capture feral cats for spaying and/or neutering.

61.18 Feeding of songbirds and other backyard birds permitted.

A. Feeding of songbirds and other backyard birds other than fowl as defined in this article, shall be permitted in yards at such times and in such numbers that:
   1. Such feeding does not create an unreasonable disturbance that affects the rights of surrounding property owners and renders other persons insecure in the use of their property;
   2. Does not create an accumulation of bird feces on the property and surrounding properties;
   3. Does not become an attractant for rodents or other wild animals or fowl; and
   4. Bird feeders are placed at least five feet above the ground.

61.19 Enforcement.

A. This ordinance may be enforced by the Animal Control Officer, Code Enforcement Officer, and Local Health Officer or by any Police Officer of the Town of Millinocket, based upon either personal observation or upon complaint. All enforcement actions

Revised

shall be initiated by serving a citation upon the defendant in accordance with Rule 80(b), Maine Rules of Civil Procedure, as the same may be amended, directing the defendant to appear in district at the date, time and location stated in the citation. All court proceedings under this ordinance shall be conducted in accordance with Rule 80H, Maine Rules of Civil Procedure.

B. Each property owner or occupant of property shall have the duty to remove any feed or device placed on property which is in violation of this ordinance. Failure to remove such feed or devices or to make such modifications within (24) hours after notice from the Town shall constitute a separate violation of this Ordinance for each day after notice is received by the property owner or property occupant until the feed or devices are removed or acceptable modifications to any such devices are made.

C. No person shall hinder, molest, or interfere with anyone authorized or empowered to perform any duties under this ordinance.

61.20 Penalties.

Any person who shall violate a provision of this article shall, upon conviction in Maine District Court, be subject to a penalty of $100.00 for each occurrence. Each day that a violation continues shall be deemed a separate occurrence with a maximum penalty as provided in Title 30-A MRSA Section 4452 as in effect from time to time or as replaced by another statute addressing the same subject matter. Any person who violates this Code shall also be responsible for the costs and expenses, including attorneys fees, incurred by the Town in prosecuting and correcting violations of this Code.
For any first time offense within a one year period, civil proceedings may be waived by the defendant upon payment to the Town of Millinocket a $50 fine within 7 days after the service of the citation upon the defendant. Civil proceedings may not be waived when the defendant has been cited two or more times for a violation within a one year period.

61.21 Severability;

Every section of this ordinance or subdivision or separate part thereof shall be considered a separate provision to the intent that if any portion shall be declared unconstitutional it shall not affect the remaining parts of this ordinance.

Revised

IT IS FURTHER ORDAINED that the Town Clerk make appropriate changes to incorporate this article into the Millinocket Code and distribute new pages to all persons known to have a copy of the Code.

First Reading: 3.28.2013 original

Second Reading: 4.25.2013

Effective Date: 5.25.2013

Chapter 65

ENTERTAINMENT LICENSES

§ 65-1. Title.
§ 65-2. Purpose.
§ 65-3. Definitions.
§ 65-4. Permit required.
§ 65-5. Application for permit.
§ 65-6. Issuance of permit.
§ 65-7. Conduct constituting offenses by licensees.
§ 65-8. Suspension or revocation of permit.
§ 65-9. Fees.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 9-14-82 as Art. IV of Ch. 9 of the Millinocket Code. Section 65-6B amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Violations and penalties — See Ch. 1, Art. I.
Bottle clubs — See Ch. 38, Art. I.

§ 65-1. Title.

This chapter shall be known and may be cited as the "Entertainment Ordinance" of the Town of Millinocket, Maine.

§ 65-2. Purpose.

The purpose of this chapter is to control the issuance of special permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor.

§ 65-3. Definitions.

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

AVAILABLE TO THE PUBLIC — The matter or performance or act may be purchased or attended on a subscription basis, on a membership fee arrangement or for a separate fee for each item or performance or act, or available merely by being a patron of or present in an establishment that is licensed to sell liquor.

DISSEMINATE — To transfer possession of, with or without consideration.

ENTERTAINMENT — Includes any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

KNOWINGLY — Being aware of the character and the content of the material.

LICENSEE — Includes the holder of a license issued under the alcoholic beverages statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation or other legal entity, or any agent or employee of any such licensee, acting on behalf of any such licensee or left in charge of or in control of such licensee's premises.

MATERIAL — Any book, magazine, newspaper or other printed or written material, or any picture, drawing, photograph, motion picture or other pictorial representation, or any statue or other figure, or any recording, transcription

receiving personal notice to that effect from the Health Officer.

C. Whenever any person shall have been notified to remove any nuisance or substances mentioned in the preceding subsections or to perform any act which it may be his duty to perform for preservation of the health of the town and the time limit for removal or performance of the duty shall have elapsed without compliance with the notice, the Health Officer shall forthwith cause such nuisance to be removed at the expense of the person so notified and said expenses shall be collected by such officer and sued for in the name of the Town Treasurer. The town shall also be entitled to collect any attorneys fees incurred by it. If, in the opinion of the Health Officer, it shall be necessary for the health and comfort of the residents of the town that any particular nuisance shall be removed forthwith, it shall be his duty to cause the same to be removed.

§ 73-22. Refuse on public lands prohibited.

No person shall make use of any land within the bounds of a street, highway or other public place, drain or catch basin for the deposit of any waste material of any kind.

§ 73-23. Parking of garbage collection vehicles.

The parking of garbage collection vehicles is prohibited within 200 feet of any residential or commercial building unless they are emptied, washed and disinfected, except that said vehicles may stop for short periods of time in the performance of collecting garbage or other refuse from residential or commercial buildings or in case of emergency breakdown.

§ 73-24. Deposit of refuse on private property.

No person shall make use of any land within the Town of Millinocket for the disposal of septic sludge, dredge spoils,

liquid waste, agricultural waste or solid waste as defined by Section 400.1(HHHH) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or redefined from time to time, without appropriate licenses and permits from the town and any state agency with jurisdiction over the disposal of such material.

§ 73-25. Violations and penalties.

Any person violating any section of this Article, in addition to any other penalty, shall forfeit and pay the sum of $100 for every six hours the nuisances or substances mentioned in this Article are suffered to continue or remain after due notice of the time limit for their removal and shall be liable to pay the expenses of removal, transportation and disposal as herein provided. Such penalties shall be recovered on complaint for the use of the town and shall include, in addition, any attorney's fees incurred by the town.

§ 73-26. Enforcement.

The Health Officer of the Town of Millinocket, the Chief of Police of the Town of Millinocket, the Public Works Director or their authorized representatives shall enforce this chapter.

(a) The licensee's or any of his agent's or employees' genitals, pubic hair, buttocks, perineum, anal region or pubic hair region.

(b) Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region.

(c) Any portion of the female breast at or below the areola thereof.

(5) Knowingly promote the commission of any of the above-listed acts of this section.

§ 65-8. Suspension or revocation of permit.

The municipal officers may suspend or revoke a special amusement permit which was issued under this chapter if the permit holder is in violation of any provisions of this chapter or has knowingly made an incorrect statement of a material nature on the application for a permit. Determination of the severity of the violation and whether a suspension or revocation is warranted shall be made by the municipal officers after a public hearing preceded by notice to interested parties.

§ 65-9. Fees.

The annual license fee for an amusement permit shall be established by the Town Council by resolution. Changes in fees shall be made by Town Council resolution.

Chapter 66

FEES

ARTICLE I
Nonprofit Housing Facilities
Service Fees

§ 66-1. Intent.

§ 66-2. Authority.

§ 66-3. Service charges; appeals.

§ 66-4. Collection of unpaid fees.

§ 66-5. When effective.

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

GENERAL REFERENCES

General assistance — See Ch. 75.

ARTICLE I
Nonprofit Housing Facilities
Service Fees

§ 66-1. Intent.

It is the intent of this article to create an ordinance to allow the Town of Millinocket to assess a service fee in lieu of property taxes for nonprofit housing facilities in the Town of Millinocket, also known as a "payment in lieu of taxes" (PILOT).

§ 66-2. Authority.

This article is established through the authority provided in 36 M.R.S.A. § 652, paragraph L.

§ 66-3. Service charges; appeals.

The owners of any nonprofit housing facilities located in the Town of Millinocket shall be subject to the payment of a service fee in lieu of property taxes based on the costs of providing municipal services to such facilities.

A. Application. Such payment shall not include any contribution toward the costs of education or welfare but shall apply to all other services provided by the town, including but not limited to police protection, fire protection, ambulance service, public works, sanitation services, general administration, library services and recreation services.

B. Amount. The amount of the service fee shall be 2% of the gross annual revenues of the organization. To qualify for this limitation, the organization shall file with the town a copy of its annual audit showing the revenues of the organization for the year immediately prior to the year which the service fee is levied. At its discretion, the town may also request a copy of the organization's IRS Form 990 Return of Organization Exempt From Income Tax. The gross revenues contained therein shall be used to calculate the fee. Any service fee amount that is in excess of 2% of the gross annual revenues shall be abated by the town.

C. Assessment. The annual assessment of the service fee shall occur at the time property taxes are assessed or upon receipt of the preceding year's audit from the organization, whichever is later. In no case, however, shall the fee for the town's current fiscal year be assessed any later than April 1 of that fiscal year. Should an audit not be available by that time, the previous year's service fee will be charged. This fee will be adjusted per the

requirements of Subsection B above to meet the two-percent maximum. Assessed fees shall be payable within 60 calendar days of initial billing.

D. Appeals. Should an organization believe its service fee to be in error due to noncompliance with this article, it shall have the right to appeal the assessment to the Millinocket Board of Assessment Review if the Tax Assessor is unable or unwilling to make the requested adjustment.

§ 66-4. Collection of unpaid fees.

Unpaid service fees will be collected in a manner consistent with Maine State Law.

§ 66-5. When effective.

This article shall be effective with the town's fiscal 2000 tax year.

Chapter 68

FLOODPLAIN MANAGEMENT

§ 68-1. Purpose; establishment; statutory authority.

§ 68-2. Permit required.

§ 68-3. Application for permit.

§ 68-4. Application fee; expert's fee.

§ 68-5. Review standards for flood hazard development permit applications.

§ 68-6. Development standards.

§ 68-7. Certificate of compliance.

§ 68-8. Review of subdivision and development proposals.

§ 68-9. Appeals and variances.

§ 68-10. Enforcement and penalties.

§ 68-11. Severability.

§ 68-12. Conflicts with other regulations.

§ 68-13. Word usage; definitions.

§ 68-14. Repealer.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 6-9-2005 by Ord. No. 1-2005.[1] Amendments noted where applicable.]

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[1] Editor's Note: This ordinance also replaced former Ch. 68, Floodplain Management, adopted 12-21-1989 by Ord. No. 3-89.

GENERAL REFERENCES

Building construction — See Ch. 48.
Mobile home parks; manufactured housing — See Ch. 83.
Zoning — See Ch. 125.

§ 68-1. Purpose; establishment; statutory authority.

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

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

C. It is the intent of the Town of Millinocket, 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.

D. The Town of Millinocket 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 through 3007, 4352 and 4401 through 4407.

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

F. The areas of special flood hazard, Zones A and AE are identified by the Federal Emergency Management

Agency in a report entitled "Flood Insurance Study - Town of Millinocket, Maine, Penobscot County," dated December 5, 1989, with accompanying Flood Insurance Rate Map, dated December 5, 1989, which are hereby adopted by reference and declared to be a part of this chapter.[2]

§ 68-2. Permit required.

Before any construction or other development (as defined in § 68-13), including the placement of manufactured homes, begins within any areas of special flood hazard established in § 68-1, a flood hazard development permit shall be obtained from the Planning Board and Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Millinocket, Maine.

§ 68-3. Application for permit.

A. The application for a flood hazard development permit shall be submitted to the Code Enforcement Officer and shall include:

(1) The name, address and phone number of the applicant, owner, and contractor;

(2) An address and a map indicating the location of the construction site;

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

(4) A statement of the intended use of the structure and/or development;

[2] Editor's Note: Said report and map are on file in the Town offices.

(5) A statement of the cost of the development including all materials and labor;

(6) A statement as to the type of sewage system proposed;

(7) Specification of dimensions of the proposed structure and/or development;

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

(a) Base flood at the proposed site of, all new or substantially improved structures, which is determined:

[1] In Zone AE, from data contained in the Flood Insurance Study – Town of Millinocket, Maine, as described in § 68-1; or

[2] In Zone A:

[a] From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to §§ 68-6K and 68-8D;

[b] From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a professional land surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or

[c] In the absence of all other data, to be the elevation of the ground at the

intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

(b) Highest and lowest grades at the site adjacent to the walls of the proposed building;

(c) Lowest floor, including basement, and whether or not such structures contain a basement; and

(d) Level, in the case of nonresidential structures only, to which the structure will be floodproofed.

(9) A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in § 68-6;

(10) A written certification by a professional land surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

(11) The following certifications as required in § 68-6 by a registered professional engineer or architect:

(a) A floodproofing certificate (FEMA Form 81-65, 08/99, as amended), to verify that the floodproofing methods for any nonresidential structures will meet the floodproofing criteria of §§ 68-3A(8)(d), 68-6G, and other applicable standards in § 68-6;

(b) A hydraulic openings certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of § 68-6L(2)(a);

(c) A certified statement that bridges will meet the standards of § 68-6M;

(d) A certified statement that containment walls will meet the standards of § 68-6N;

(12) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and

(13) A statement of construction plans describing in detail how each applicable development standard in § 68-6 will be met.

B. The requirements of Subsection A(8) through (11)(b) apply only to new construction and substantial improvements.

§ 68-4. Application fee; expert's fee.

A. A nonrefundable application fee of $25 for all minor development (as defined) and $50 for new construction or substantial improvement (as defined) shall be paid to the Town Clerk, and a copy of a receipt for the same shall accompany the application.

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

§ 68-5. Review standards for flood hazard development permit applications.

The Planning Board and Code Enforcement Officer shall:

A. Review all applications for the flood hazard development permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of § 68-6 (Development standards) have been, or will be met.

B. Utilize, in the review of all flood hazard development permit applications:

(1) The base flood data contained in the Flood Insurance Study – Town of Millinocket, Maine, as described in § 68-1.

(2) In special flood hazard areas where base flood elevation data are not provided, the Planning Board and Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to §§ 68-3A(8)(a)[2], 68-6K and 68-8D, in order to administer § 68-6 of this chapter; and

(3) When the community establishes a base flood elevation in a Zone A by methods outlined in § 68-3A(8)(a)[2], the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in § 68-1 of this chapter.

D. In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1344.

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior

to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency.

F. If the application satisfies the requirements of this chapter, approve the issuance of one of the following flood hazard development permits based on the type of development:

(1) A two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an elevation certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, as-built, for verifying compliance with the elevation requirements of § 68-6F, G, or H. Following review of the elevation certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project; or

(2) A flood hazard development permit for floodproofing of nonresidential structures that are new construction or substantially improved nonresidential structures that are not being elevated but that meet the floodproofing standards of § 68-6G(1)(a), (b) and (c). The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect; or

(3) A flood hazard development permit for minor development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions,

whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to, accessory structures as provided for in § 68-6J, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and nonstructural projects, such as bridges, dams, towers, fencing, pipelines, wharves and piers.

G. Maintain, as a permanent record, copies of all flood hazard development permit applications, corresponding permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of § 68-9 of this chapter, and copies of elevation certificates, floodproofing certificates, certificates of compliance and certifications of design standards required under the provisions of §§ 68-3, 68-6 and 68-7 of this chapter.

§ 68-6. Development standards.

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

A. All development. All development shall:

(1) Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development 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. Water supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

C. Sanitary sewage systems. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into floodwaters.

D. On-site waste disposal systems. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

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

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

(1) Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

(2) 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 § 68-3A(8)(a)[2], 68-5B or 68-8D.

G. Nonresidential. New construction or substantial improvement of any nonresidential structure located within:

(1) 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:

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

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(c) Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by § 68-3A(11) and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

(2) Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to § 68-3A(8)(a)[2], 68-5B or 68-8D, or together with attendant utility and sanitary facilities meet the floodproofing standards of § 68-6G(1).

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

(1) Zone AE shall:

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

(b) Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the

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

(c) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement.

[1] Methods of anchoring may include, but are not limited to:

[a] 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 by,

[b] 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).

[2] All components of the anchoring system described in § 68-6H(1)(c)[1][a] and [b] shall be capable of carrying a force of 4,800 pounds.

(2) Zone A shall:

(a) Be elevated on a permanent foundation, as described in § 68-6H(1)(b), such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to § 68-3A(8)(a)[2], 68-5B or 68-8D; and

(b) Meet the anchoring requirements of § 68-6H(1)(c).

I. Recreational vehicles. Recreational vehicles located within:

(1) Zone AE shall either:

(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, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(c) Be permitted in accordance with the elevation and anchoring requirements for manufactured homes in § 68-6H(1).

J. Accessory structures. Accessory structures, as defined in § 68-13, located within Zones AE and A, shall be exempt from the elevation criteria required in § 68-6F and G above, if all other requirements of § 68-6 and all the following requirements are met. Accessory structures shall:

(1) Be 500 square feet or less and have a value of less than $3000;

(2) Have unfinished interiors and not be used for human habitation;

(3) Have hydraulic openings, as specified in § 68-6L(2), in at least two different walls of the accessory structure;

(4) Be located outside the floodway;

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

(6) Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and, when possible, outside the special flood hazard area.

K. Floodways.

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

(2) In Zone AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in § 68-6K(3), unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

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

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

(3) In Zones AE and A riverine areas for which no regulatory floodway is designated, 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.

L. Enclosed areas below the lowest floor. New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of § 68-6, including the elevation requirements of § 68-6F, G or H and is elevated on posts, columns, piers, piles, stilts, or crawl spaces may be enclosed below the base flood elevation requirements, provided all the following criteria are met or exceeded:

(1) Enclosed areas are not basements as defined in § 68-13;

(2) 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:

(a) Be engineered and certified by a registered professional engineer or architect; or

(b) Meet or exceed the following minimum criteria:

[1] A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

[2] The bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and

[3] Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the entry and exit of floodwaters automatically without any external influence or control, such as human intervention, including the

use of electrical and other nonautomatic mechanical means.

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

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

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

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

(2) A registered professional engineer shall certify that:

(a) The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of § 68-6K; and

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

N. Containment walls. New construction or substantial improvement of any containment wall located within Zones AE and A shall:

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

(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 § 68-3A(11).

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

(1) Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

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

§ 68-7. Certificate of compliance.

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

A. For new construction or substantial improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with § 68-6F, G or H.

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

C. Within 10 working days, the Code Enforcement Officer shall:

(1) Review the elevation certificate and the applicant's written notification; and

(2) Upon determination that the development conforms to the provisions of this chapter, issue a certificate of compliance.

§ 68-8. Review of subdivision and development proposals.

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

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

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

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

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

E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a special flood hazard area, are to be constructed in accordance with § 68-6 of this chapter. 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. The

condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

§ 68-9. Appeals and variances.

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

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

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

(2) Variances shall be granted only upon:

(a) A showing of good and sufficient cause; and

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

(c) A showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and

(d) A determination that failure to grant the variance would result in "undue hardship," which in this subsection means:

[1] That the land in question cannot yield a reasonable return unless a variance is granted; and

[2] That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and

[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.

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

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

(a) Other criteria of §§ 68-9 and 68-6K are met; and

(b) 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.

(5) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon the determination that:

(a) The development meets the criteria of § 68-9B(1) through (4) above; and

(b) The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(6) Any applicant who meets the criteria of § 68-9B(1) through (5) shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

(a) 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;

(b) Such construction below the base flood level increases risks to life and property; and

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

(7) Appeal procedure for administrative and variance appeals.

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

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

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

(d) The person filing the appeal shall have the burden of proof.

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

(f) The Board of Appeals shall submit to the Planning Board and Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board and Code Enforcement Officer to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

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

§ 68-10. Enforcement and penalties.

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

B. The penalties contained in 30-A M.R.S.A. § 4452 shall apply to any violation of this chapter.

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

(1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

(2) A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;

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

(4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

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

§ 68-11. Severability.

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

§ 68-12. Conflicts with other regulations.

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.

§ 68-13. Word usage; definitions.

A. Unless specifically defined below, words and phrases used in this chapter shall have the same meanings 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.

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

ACCESSORY STRUCTURE — A small detached structure that is incidental and subordinate to the principal structure.

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 § 68-1 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.

BUILDING — See "structure."

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

CODE 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; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

ELEVATED BUILDING:

(1) A nonbasement building:

(a) Built, in the case of a building in Zones AE and A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or stilts; and

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

(2) In the case of Zones AE or A, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of floodwaters, as required in § 68-6L.

ELEVATION CERTIFICATE — An official form (FEMA Form 81-31, 07/00, as amended) that:

(1) Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and

(2) Is required for purchasing flood insurance.

FLOOD or FLOODING:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(2) 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)(a) of this definition.

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 a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — See "flood elevation study."

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

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

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."

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 — Any structure 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:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

LOCALLY ESTABLISHED DATUM — For 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 render the structure in violation of the applicable nonelevation design requirements described in § 68-6L 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.

MINOR DEVELOPMENT — All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in § 68-6J, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements described in § 68-6L 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.

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

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

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

RECREATIONAL VEHICLE — A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection, not including slideouts;

(3) Designed to be self-propelled or permanently towable by a motor vehicle; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY:

(1) 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

(2) When not designated on the community's Flood Insurance Rate Map, it 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 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 basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

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

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

SUBSTANTIAL IMPROVEMENT — 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. The term does not, however, include either:

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

(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

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

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

§ 68-14. Repealer.

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).

Chapter 70

FOOD ESTABLISHMENTS

§ 70-1. Definitions.
§ 70-2. License required; expiration; certification.
§ 70-3. Fees.
§ 70-4. Application information; refund of fee.
§ 70-5. Persons with communicable diseases.
§ 70-6. Sanitation of premises; cleaning.
§ 70-7. Sleeping equipment.
§ 70-8. Storage of soiled linen and employee clothing.
§ 70-9. Animals prohibited; exception.
§ 70-10. Floors and walls.
§ 70-11. Protection of food from contamination; storage.
§ 70-12. Serving utensils.
§ 70-13. Use and storage of poisonous materials.
§ 70-14. Storage and disposal of garbage and rubbish.
§ 70-15. Vermin control.
§ 70-16. Lighting requirements.
§ 70-17. Ventilation.
§ 70-18. Insect control; screening.
§ 70-19. Cleaning of utensils and food contact surfaces; sinks.
§ 70-20. Hot and cold running water required.
§ 70-21. Lavatories.
§ 70-22. Common towels and drinking containers prohibited.
§ 70-23. Sewage and refuse disposal.

§ 70-24. Compliance with state plumbing and sewage laws.

§ 70-25. Special requirements for mobile food service units.

§ 70-26. Special requirements for catering establishments.

§ 70-27. Outside food service.

§ 70-28. Classification of licenses and fees set by Town Council.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 9-14-82 as Art. VI of Ch. 9 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Violations and penalties — See Ch. 1, Art. I.
Garbage, rubbish and refuse — See Ch. 73.
Sewers — See Ch. 104.

§ 70-1. Definitions.

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

CATERING ESTABLISHMENTS — Any kitchen, commissary or similar place in which food or drink is prepared for sale or service elsewhere or for food service in the premises during special catered events.

EASILY CLEANABLE — Surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

EATING PLACE — Any place where food or drink is prepared and served or served to the public for consumption on the premises, or catering establishments or establishments preparing food for vending machines dispensing foods other than in original sealed packages, such as hotels, motels, boardinghouses, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tearooms,

sandwich shops, soda fountains, bars, cocktail lounges, nightclubs, roadside stands, industrial feeding establishments, stores, theaters and other catering or drinking establishments or operations where food is prepared and served or served for consumption on the premises, and catering establishments where food is prepared or where foods are prepared for vending machines dispensing foods other than in original sealed packages. The words "eating place" shall not be construed to apply to stores selling food or beverages to be taken from the premises where only soft drinks are permitted to be consumed on the premises, nor to any other store where there is not an express invitation to consume any food on the premises; provided, however, that such stores which also engage in the preparation of food shall not be exempt from this chapter. An "eating place" shall specifically include a mobile food unit as defined herein.

EMPLOYEE — Any person working in a food service establishment who transports food or food containers, who engages in food preparation or service or who comes in contact with any food utensils or equipment, and includes the proprietor or manager or any member of his family if they handle said food or drink, as well as any other person employed in or about eating places and any catering establishment or establishments preparing foods for vending machines dispensing foods other than in original packages.

MOBILE FOOD SERVICE UNIT — A unit, including a motor vehicle or a pushcart or stand or any other such unit, designed and constructed to transport, prepare, sell or serve food at a number of sites and which shall be capable of being moved from its serving site.

POTENTIALLY HAZARDOUS FOODS — Any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish or shellfish, edible crustacea or their ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor-free shell eggs.

SANITIZATION — Effective bactericidal treatment by a process that provides enough accumulative heat or concentrations of chemicals for enough time to reduce the baterial count, including pathogens, to a safe level on utensils and equipment.

SINGLE-SERVICE ARTICLES — Cups, containers, lids or closures, plates, knives, forks, spoons, stirrers, paddles, straws, place mats, napkins, doilies, wrapping materials and all similar articles which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic or other readily destructible materials and which are intended by the manufacturers and generally recognized by the public as for one (1) usage only, then to be discarded.

VICTUALER — Any person operating an eating place where food is prepared and/or served to the general public.

§ 70-2. License required; expiration; certification.

A. No person shall engage in the business of victualer without first obtaining a license therefor.

B. All licenses issued under this chapter shall expire on the 31st of May after the date of issuance.

C. Such license shall not be granted except on the certification of the Health Officer, Fire Chief and Police Chief.

§ 70-3. Fees.

The annual license fee for a victualer shall be established by the Town Council by resolution. Changes in fees shall be made by Town Council resolution.

§ 70-4. Application information; refund of fee.

A. Every applicant for a victualer license shall:

(1) Complete and file an application on a form prescribed by the Town Manager and Town Council.

(2) Deposit the prescribed license fee in advance with the Town Clerk.

(3) Submit with the completed application to the Town Clerk the following:

(a) An attested copy of the Articles of Incorporation and bylaws if the applicant is a corporation, of the Articles of Association and bylaws if the applicant is an association, or partnership documents if the applicant is a partnership, as well as a list of all principal officers of the business.

(b) An affidavit which will identify all principal officers and their places of residency at the present time and for the immediately preceding three (3) years.

(c) A description of the premises for which a license is desired and other materials, information, description or plan of that part of the premises where food will be prepared or consumed.

B. If an application should be denied or withdrawn, the license fee shall be refunded to the applicant.

§ 70-5. Persons with communicable diseases.

No person while affected with any disease in a communicable form or while a carrier of such disease or while afflicted with boils, infected wounds, sores or any acute respiratory infection shall work in any area of a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other individuals. No person known or suspected of being affected with any such disease or condition shall be employed in such an area or capacity nor be retained as an employee in or about any part of an eating place after written notice that such employee is a carrier of a communicable disease has been sent to the proprietor by the local Health Officer.

§ 70-6. Sanitation of premises; cleaning.

A. Every operator of an eating place shall keep the establishment and all substances used therein for food or drink in a clean and sanitary condition, free from dirt, dust and insects, and its premises shall be kept neat, clean and free of litter and rubbish.

B. Cleaning operations shall be conducted in such a manner as to minimize contamination of food and food contact surfaces.

§ 70-7. Sleeping equipment.

Sleeping equipment shall not be allowed in any room where food is prepared, served or stored.

§ 70-8. Storage of soiled linen and employee clothing.

A. Soiled linens, coats and aprons shall be kept in suitable covered metal or plastic containers or laundry bags until removed for laundering.

B. Adequate facilities shall be provided for the orderly storage of employees' clothing and personal belongings. Such designated facilities shall be located outside of the food preparation, food storage and serving areas.

§ 70-9. Animals prohibited; exception.

No live birds or animals shall be allowed in any area for the conduct of food service establishment operations, provided that guide dogs accompanying blind persons may be permitted in dining areas.

§ 70-10. Floors and walls.

A. The floor surfaces in kitchens, mobile eating places, in all other rooms and areas in which food is stored or prepared and in which utensils are washed and in walk-in refrigerators, dressing or locker rooms and toilet rooms shall be of smooth, nonabsorbent and easily cleanable materials, such as concrete,

terrazzo, ceramic tile, durable grades of linoleum or plastic or tight wood painted or impregnated with plastic, provided that the floors of nonrefrigerated, dry-food-storage areas need not be nonabsorbent. All floors shall be kept clean and in good repair.

B. The walls and ceilings of all rooms shall be kept clean and in good repair. All walls of rooms and areas in which food is prepared or utensils or hands are washed shall be easily cleanable, smooth and light-colored and shall have washable surfaces up to the highest level reached by splash or spray.

§ 70-11. Protection of food from contamination; storage.

A. All food while being stored, prepared, displayed, served or catered, vended or sold at food service establishments or during transportation between such establishments shall be protected from contamination. All perishable food shall be stored at such temperatures as will protect against spoilage. Fish salads, meat salads, poultry salads, potato salads, egg salads, cream-filled pastries, custards, custard pies and other potentially hazardous prepared food shall be maintained at safe temperatures [forty-five degrees Fahrenheit (45° F.) or below; one hundred forty degrees Fahrenheit (140° F.) or above] except during necessary periods of preparation and service. Raw fruits and vegetables shall be washed before use. Stuffing, poultry, stuffed meats and poultry and pork and pork products shall be thoroughly cooked before being served. Individual portions of food once served to a customer shall not be served again; provided that wrapped food other than potentially hazardous food, which is still wholesome and has not been unwrapped, may be re-served.

B. The refrigerator, icebox, cooling units or other places where food is stored or kept shall be maintained in a clean and sanitary condition at all times.

C. Containers of food shall be stored above the floor, on clean racks, dollies or other clean surfaces, in such a manner as to be protected from splash and other contamination.

D. Where unwrapped food is placed on display in all types of food service operations, it shall be protected against contamination from customers and other sources by effective, easily cleanable, counter-protection devices, cabinets, display cases, containers or other similar types of protective equipment. Self-service openings in counter guards shall be so designed and arranged as to protect food from manual contact by customers.

§ 70-12. Serving utensils.

Tongs, forks, spoons, picks, spatulas, scoops and other suitable utensils shall be provided and shall be used by employees to reduce manual contact with food to a minimum. For self-service by customers, similar implements shall be provided.

§ 70-13. Use and storage of poisonous materials.

Only such poisonous and toxic materials as are required to maintain sanitary conditions and for sanitization purposes may be used or stored in food service establishments. Poisonous and toxic materials shall be identified and shall be used in such a manner and under such conditions as will not contaminate foods or constitute a hazard to employees or customers.

§ 70-14. Storage and disposal of garbage and rubbish.

A. All garbage and rubbish containing food wastes shall, prior to disposal, be kept in leakproof, nonabsorbent containers which shall be kept covered with tight-fitting lids when filled or stored or not in continuous use, provided that such containers need not be covered when stored in a special verminproof room or enclosure or in a food-waste refrigerator. All other rubbish shall be stored in containers, rooms or areas in an approved manner. The rooms, enclosures, areas and containers used shall be adequate for the storage of all food waste and rubbish accumulating on the premises. Adequate cleaning facilities shall be provided, and each container, room or area shall be thoroughly cleaned after the emptying or removal of garbage

and rubbish. Food-waste grinders, if used, shall be installed in compliance with state and local standards and shall be of suitable construction.

B. All garbage and rubbish shall be disposed of with sufficient frequency and in such a manner as to prevent a nuisance.

C. Those establishments using dumpsters to contain garbage and rubbish shall, prior to the storage of such garbage and rubbish in the dumpster unit, contain all food wastes in leakproof, nonabsorbent containers. It is the intention of this section to require all garbage and rubbish stored in a dumpster unit prior to disposal to be in the appropriate container. The dumpster lid should be closed at all times except when the dumpster is being filled or emptied. All dumpsters shall be cleaned when emptied.

§ 70-15. Vermin control.

Effective measures shall be taken to protect against the entrance into the establishment and the breeding or presence on the premises of vermin.

§ 70-16. Lighting requirements.

A. All areas in which food is prepared or stored or utensils are washed, handwashing areas, dressing or locker rooms, toilet rooms and garbage and rubbish storage areas shall be well lighted.

B. At least twenty (20) footcandles of light shall be required on all working surfaces and at least ten (10) footcandles on all other surfaces and equipment, in food preparation, utensil-washing and handwashing areas and toilet rooms. Sources of artificial light shall be provided and used to the extent necessary to provide the required amount of light on these surfaces when in use and when being cleaned. At least five (5) footcandles of light at a distance of thirty (30) inches from the floor shall be required in all other areas, including during cleaning operations.

§ 70-17. Ventilation.

All rooms in which food is prepared or served or utensils are washed, dressing or locker rooms, toilet rooms and garbage and rubbish storage areas shall be well ventilated. Ventilation hoods and devices shall be designed to prevent grease or condensation from dripping into food or onto food preparation surfaces. Filters, when used, shall be readily removable for cleaning or replacement. Ventilation systems shall comply with state and local fire prevention requirements and shall, when vented to the outside air, discharge in such manner as not to create a nuisance.

§ 70-18. Insect control; screening.

A. In establishments preparing and/or serving food or in mobile eating places, all openings to the outer air shall be effectively protected against the entrance of flies and other flying insects by self-closing doors, closed windows, screening, controlled air currents or other effective means.

B. Screening material shall be not less than sixteen (16) mesh to the inch or equivalent.

C. Screen doors to the outer air shall be self-closing; and screens for windows, doors, skylights, transoms and other openings to the outer air shall be tight fitting and free of breaks.

§ 70-19. Cleaning of utensils and food contact surfaces; sinks.

A. All cups, dishes, spoons, knives, forks and other eating and kitchen utensils in eating places shall, after using, be thoroughly washed with a suitable detergent and water having a temperature of at least one hundred thirty degrees Fahrenheit (130° F.), rinsed in clean hot water and then immersed for at least one-half (½) minute in clean hot water of at least one hundred eighty degrees Fahrenheit (180° F.) or immersed for a period of at least two (2) minutes in a chlorine solution containing, when freshly prepared, two hundred (200) parts per million of available chlorine. The solution may not be used after its strength has been reduced below fifty (50) parts per million of available chlorine. Other adequate sterilizing

solutions may be used, provided that they have been approved by the Health Officer. When dishwashing machines are used, they shall be of such materials and so designed and constructed as to be easily cleanable and shall be capable, when operated properly, of rendering all surfaces of equipment and utensils clean to sight and touch and sanitized. All articles shall be placed in an inverted position on a clean drainboard or rack and allowed to dry. Dishwashing machines shall have a rinse-water temperature of at least one hundred eighty degrees Fahrenheit (180° F.).

B. All kitchenware and food contact surfaces of equipment used in the preparation or service of food or drink and all food storage utensils shall be thoroughly cleaned after each use. Cooking surfaces of equipment shall be cleaned at least once a day. All utensils and food contact surfaces of equipment used in the preparation, service, display or storage of potentially hazardous food shall be thoroughly cleaned and sanitized prior to such use. Nonfood contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition.

C. Food contact surfaces of equipment and utensils shall be smooth, free of breaks, open seams, cracks, chips, pits and similar imperfections, be in good repair and shall be easily cleanable.

D. A three-compartment sink shall be provided and used whenever dishwashing and sanitization of equipment or utensils are conducted manually, provided that in establishments where the only utensils to be washed are limited to spatulas, tongs and similar devices and where the only equipment to be cleaned is stationary and does not require disassembly for proper cleaning, a one-compartment sink may be used for this purpose. At least a two-compartment sink shall be provided and used for washing kitchenware and equipment which does not require sanitization. Single-compartment utility sinks, such as cooks' and bakers' sinks, may be used for the rinsing of utensils.

E. Sinks used for washing and sanitizing operations shall be of adequate length, width and depth to permit the complete immersion of the equipment and utensils, and each compartment of such sinks shall be supplied with hot and cold running water. Dish baskets shall be of such design as to permit complete immersion of the utensils and equipment components being sanitized therein.

F. When hot water is used as the sanitizing agent in manual operations, thermometers accurate to plus or minus two degrees Fahrenheit (2° F.) shall be provided convenient to the sink to permit frequent checks of the water temperature.

G. After cleaning and until used, all food contact surfaces of equipment and utensils shall be so stored and handled as to be protected from contamination.

H. All single-service articles shall be stored, handled and dispensed in a sanitary manner and shall be used only once.

I. In all new establishments and establishments which are extensively altered, lavatories shall also be located within the area where food is prepared.

§ 70-20. Hot and cold running water required.

Hot and cold running water, under pressure, shall be provided in all areas where food is prepared or equipment, utensils or containers are washed.

§ 70-21. Lavatories.

A. All eating places shall be equipped with adequate toilets and lavatories for the employees and shall be conveniently located and accessible at all times.

B. All lavatories shall be equipped with hot and cold or tempered running water, hand-cleaning soap or detergent and approved sanitary towels or other approved hand-drying services. Such facilities shall be kept clean and in good repair.

C. Toilet rooms shall be kept in a clean condition, in good repair, well lighted and ventilated to the outdoors. Doors of all such toilet rooms shall be tight fitting and self-closing. Signs requiring employees to wash their hands after using the toilet shall be posted in all toilet rooms. When toilet facilities are provided for patrons, such facilities shall be maintained in a sanitary condition at all times.

§ 70-22. Common towels and drinking containers prohibited.

Use of common towels and drinking containers is prohibited. No operator of any eating place, any catering establishment or establishment preparing food for vending machines dispensing foods other than in original sealed packages shall provide for use or allow to be used any common drinking container or any common towel by his employees or the public.

§ 70-23. Sewage and refuse disposal.

The method of final sewage or refuse disposal utilized in connection with the operation of any eating place, any catering establishment or establishment preparing food for vending machines dispensing foods other than in original sealed packages shall be such as not to create a nuisance.

§ 70-24. Compliance with state plumbing and sewage laws.

Proprietors of eating places and any catering establishments or establishments preparing food for vending machines dispensing foods other than in original sealed packages shall comply with the state laws and regulations regarding the installation of plumbing and disposal of sewage.

§ 70-25. Special requirements for mobile food service units.

A. Mobile food service units shall be licensed in accordance with the provisions of this chapter. Each unit shall be licensed to sell and dispense only such items as are listed in the

application and for which the unit is properly equipped to dispense. In no event shall a license granted to any mobile food service unit be valid to permit operation or sales within a distance of one hundred (100) feet from any licensed food service establishment within the town without express written permission of that establishment.

B. Special structures or units in a temporary or permanent manner shall not be built in the vicinity of a mobile food service unit.

C. There shall be available to each mobile food service unit either at the service site or at its parking site adequate facilities consisting of a sink with running hot and cold water for the washing of equipment and utensils used in connection with the service of food by the mobile food service unit.

D. All mobile food service units in which food is prepared shall be equipped with a water tank having a holding capacity of not less than ten (10) gallons and provided with a spigot containing water. Such tank shall be easily removable for cleaning and sanitation after each day's use. Water supply shall be used for handwashing and minor cleaning purposes only. This subsection shall not apply to those mobile food service units preparing only hot dogs.

E. Any liquid waste from a mobile food service unit shall not be allowed to run on the ground. Mobile food service units must have a holding tank for the accumulation of liquid waste with a capacity of not less than the total capacity of the portable water tank.

F. Those mobile food service units which are vehicular in nature and which are capable of being driven shall have the driver's compartment separated from the food preparation, service or storage areas by a complete partition or adequate screening. No food or food containers or utensils shall be kept in the driver's compartment.

G. Mobile food service units handling only prewrapped or prepackaged foods which do not require further preparation by the mobile food service unit operator need not comply with

the foregoing provisions requiring a water supply and a separate driver's compartment.

H. Only single-service containers and eating and drinking utensils shall be provided for the customers of a mobile food service unit. Such containers and utensils shall be dispensed directly by the proprietor or employee.

I. There shall be adequate refrigeration and storage space provided in each mobile food service unit that prepares or serves potentially hazardous foods.

J. All containers in which food is placed or stored shall be covered except as necessary for service to customers.

K. All mobile food service units shall provide a trash container for paper and other refuse. This container shall be covered.

L. The operator of a mobile food service unit is required to handle all food material which is not prepackaged for service with tongs or other utensils so as to avoid contact with said food. The operator shall be required to have clean garments and to have present on the unit a handwipe or other similar item for handwashing and cleansing.

M. Mobile food service unit operators must further comply with the other sections of this chapter insofar as they are applicable to this type of preparation and service of food.

§ 70-26. Special requirements for catering establishments.

A. Containers. All containers used to store, keep or hold food and/or drink for transportation from any caterer's premises to any site designated by the customer for consumption shall be of the following approved type:

(1) Bulk containers and single-service containers shall be leakproof, and each shall be provided with an adequate type of cover which will prevent the contents from spilling over and from being contaminated while in transit.

(2) Any reusable container used in the transportation of food shall be easily cleanable and capable of being sanitized.

(3) Containers shall not be composed in whole or in part of any poisonous or deleterious substance which may result in the contamination of the contents injurious to health.

B. Vehicles. All vehicles used by the caterer for the transportation of food or food products shall be constructed, operated and maintained so as to protect their contents from contamination.

§ 70-27. Outside food service.

The following regulations shall apply to outside food service:

A. All food in the service area will be protected to the extent that all containers of food will be covered.

B. There will be no presetting of tableware or place mats. This is to be done only when the table is occupied and only after the table has been wiped off.

C. No table with storage or waitress station will be allowed out of doors.

D. After the meal is completed and customers have vacated, the table or eating area shall be immediately cleaned of soiled tableware and wiped off.

E. All garbage containers in the outside storage area are to be constantly covered.

F. No animals shall be allowed in the food service area except as provided in § 70-9 of this chapter.

§ 70-28. Classification of licenses and fees set by Town Council.

The various classifications of victualers' licenses and fees corresponding to those classifications shall be set by the Town Council of the Town of Millinocket by resolutions. The Town Council shall have the further power to adjust the fees and classifications, by resolutions, as from time to time may be necessary or appropriate.

CHAPTER 72

Consumer Fireworks Prohibition Ordinance

Section 1. Purpose

Section 2. Authority

Section 3. Definitions

Section 4. Prohibition

Section 5. Penalties

ORDINANCE # 2-2015

PROVIDING FOR: The establishment of Chapter 72 of the Code of the Town of Millinocket Entitled **"CONSUMER FIREWORKS PROHIBITION ORDINANCE"**

BE IT ORDAINED by the Town Council of Millinocket in Town Council assembled that the Millinocket Code, Chapter 72, be created as attached.

IT IS FURTHER ORDERED that this ordinance take effect 30 days after enactment.

1st Reading 11-9-2015

2nd Reading 11-23-2015

Council Approved 11-23-2015

Effective Date 12-23-2015

ATTEST: Diane Campbell

CONSUMER FIREWORKS PROHIBITION Ordinance

Section 1. Purpose. The purpose of this ordinance is to prohibit the use and sale of consumer fireworks and all other fireworks prohibited by State Law, in order to ensure the safety of residents, Property owners and the general public in the town of Millinocket.

Section 2. Authority. This ordinance shall be known as the Consumer Fireworks Prohibition Ordinance. It is adopted pursuant to enabling provisions of the Maine Constitution, the provisions of 30-A, MRS subsection 3001, the provisions of P.L. 2011 Ch. 419 subsection 5 (effective November 30, 2015) codified at 8 MRS subsection 223-A.

Section 3. Definitions. The following shall apply in this section:

(1) Consumer Fireworks shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd party testing laboratory as conforming with United States Consumer Products Safety Standards, in accordance with 15 United States Code 47. CONSUMER FIREWORKS does not include the following products:
Missile-type Rockets as defined by the State Fire Marshal by rule; and
Helicopter and Aerial Spinners as defined by the State Fire Marshall by rule; and
Sky rockets and Bottle rockets. For the purpose of this paragraph, Sky rockets and Bottle Rockets means a cylindrical tube containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule. With a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.
DISPLAY means an entertainment feature where the public or private group is admitted or permitted to view the display or discharge of fireworks for special effects.
Fireworks means any combustible or explosive composition or substance; any combination of such compositions or substances; or any other article which was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon which requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents, or other fireworks of like construction; any fireworks containing any explosive substance or flammable compound; or any other device containing any explosive substance or flammable compound. The term "Fireworks" does not include Consumer fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand can not come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

Section 4. Prohibition. No person shall use, sell, or offer for sale consumer fireworks, and all other fireworks prohibited by State Law, in the town of Millinocket.

This section does not apply to a person issued a fireworks display permit by the State of Maine pursuant to 8 MRS subsection 227 and the Fire chief of the town of Millinocket.

Section 5: Penalties.

(1) Any person who uses consumer fireworks in the town of Millinocket shall be punished by a fine of not less than Five hundred dollars (500.00) and plus the costs of the town for prosecuting violations shall be imposed.

(2) Any person who offers for sale consumer fireworks in the town of Millinocket shall be punished by a fine of not less than Five Hundred dollars (500.00) plus the costs of the town for prosecuting violations.

(3) Seizure and disposal of fireworks; The town of Millinocket Police Department may seize consumer fireworks that the Police has probable cause to believe are to be used, sold, or offered for sale in violation of this section and shall forfeit such consumer fireworks to the State for disposal.

Chapter 73

SOLID WASTE

ARTICLE I
Solid Waste Management

§ 73-1. Definitions.

§ 73-2. Storage and transfer facilities; recycling.

§ 73-3. Operating criteria.

§ 73-4. through § 73-5. (Reserved)

ARTICLE II
Use of Transfer Station

§ 73-6. Regulations for use.

§ 73-7. Violations and penalties.

§ 73-8. (Reserved)

ARTICLE III
Hazardous, Special and Other Waste

§ 73-9. Hazardous waste.

§ 73-10. Special wastes.

§ 73-11. Construction debris.

§ 73-12. Hot loads.

§ 73-13. Land clearing debris.

§ 73-14. Sludge.

§ 73-15. White goods.

§ 73-16. Woodwastes.

§ 73-17. Dredge spoils.

§ 73-18. Liquid waste.

§ 73-19. Tires.

§ 73-20. Limitation on disposal.

ARTICLE IV
Miscellaneous Provisions

§ 73-21. Deposit of noxious materials on streets prohibited; notice to remove; removal by town.

§ 73-22. Refuse on public lands prohibited.

§ 73-23. Parking of garbage collection vehicles.

§ 73-24. Deposit of refuse on private property.

§ 73-25. Violations and penalties.

§ 73-26. Enforcement.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 2-13-1992 by Ord. No. 4-91.[1] Amendments noted where applicable.]

GENERAL REFERENCES

Junk dealers — See Ch. 78.

ARTICLE I
Solid Waste Management

§ 73-1. Definitions.

As used in this chapter, terms shall have the meanings defined in Section 400.1 of Chapter 400 of the Solid Waste Management

1. Editor's Note: This ordinance superseded former Ch. 73, adopted as follows: Art. I, 7-21-1961 as Art. I of Ch. 7 of the Millinocket Codes; Art. II, 7-21-1961 as Art. II of Ch. 7 of the Millinocket Code, as amended; Art. III, 7-21-1961 as Art. III of Ch. 7 of the Millinocket Code as amended 11-9-1982.

Regulations adopted by the Board of Environmental Protection, as such terms may be amended or redefined from time to time.[2] Terms not defined by the Solid Waste Management Regulations shall have their ordinary and normal meanings.

§ 73-2. Storage and transfer facilities; recycling.

A. The Town shall maintain appropriate temporary solid waste storage facilities and a transfer station for municipal solid waste as defined by Section 400.1(III) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or redefined from time to time, such facilities to be maintained in accordance with all state and federal laws, rules and regulations and the requirements of this chapter.

B. The Town solid waste facilities shall be managed by the Director of Public Works under the supervision of the Town Manager. The Town Manager, Director of Public Works or the duly authorized representative of either is authorized to temporarily close the solid waste facilities or any part thereof if necessary to deal with any emergency or unforeseen situation.

C. The Town Manager and Public Works Director shall develop a fee schedule for use of the Town's solid waste facilities. The fee for depositing solid waste shall be based on the Town's cost of operating the facility, the cost of transporting the solid waste and the cost of ultimately disposing of the solid waste at an appropriately licensed facility. The fee schedule shall include separate charges for any hazardous or special waste that can be accepted by the Town, construction debris, hot loads, white goods, wood wastes, tires and such other categories as are appropriate. The fee schedule, and any subsequent changes to the fee schedule, shall go into effect when adopted by the Town Council. The fee schedule shall be established by order of

2. **Editor's Note: A copy of the Solid Waste Management Regulations is on file in the Town offices.**

the Town Council. **[Amended 6-25-1992 by Ord. No. 5-92]**

D. The Town Manager and Public Works Director are authorized to develop voluntary recycling programs in accordance with all state and federal laws, rules and regulations. Mandatory recycling programs shall be submitted to the Town Council for approval.

E. Recycling. **[Added 7-10-2003 by Ord. No. 2-2003]**

(1) Recycling of the following items shall be mandatory in the Town of Millinocket by all residents and businesses:

(a) Newsprint, magazines, and catalogues.

(b) Metal cans.

(c) Plastic jugs: No. 1 clear plastic, No. 2 natural, and No. 2 colored.

(d) Corrugated cardboard.

(e) Paper board boxes.

(f) Glass jars.

(2) All food containers must be cleaned before they are recycled. The solid waste facility will have available a brochure on what items will be accepted and in what condition they must be presented.

§ 73-3. Operating criteria. [Amended 8-25-1994 by Ord. No. 6-94]

A. The Town solid waste facilities shall be operated in accordance with the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or replaced from time to time.

B. The following criteria shall apply to the operation of the transfer station:

(1) All normal domestic and commercial solid waste shall be accepted.

(2) A separate storage area shall be provided for junked vehicles, white goods and demolition debris.

(3) No hazardous waste shall be accepted except as provided for by the regulations of the Board of Environmental Protection.

(4) No salvaging shall be allowed in any manner, except as approved by the Director of Solid Waste.

§ 73-4. through § 73-5. (Reserved)

ARTICLE II
Use of Transfer Station

§ 73-6. Regulations for use.

The following shall govern use and operation of the solid waste facilities:

A. Use and operation.

(1) Use of the solid waste facilities is restricted to corporate, commercial and individual residents of the Town of Millinocket who possess a necessary permit for the disposal of municipal solid waste.

(2) Operation of the transfer station shall be in accordance with Section 402.4 of the Solid Waste Management Regulations adopted by the Board of Environmental Protection and this chapter. The Public Works Director and Town Manager shall prepare for approval by the Town Council an operating manual as described in Section 402.4(9) of

the Solid Waste Management Regulations, including a hazardous and special waste exclusion plan as described in Section 405.2.

B. (Reserved)[3]

C. Hours of operation will be established by the Town Council by order. **[Amended 7-10-2003 by Ord. No. 2-2003]**

D. Types of vehicles allowed shall be any vehicle that can be accommodated by the facility.

E. Depositing solid waste at the Town's solid waste facilities without a permit is a violation of this chapter.

F. Depositing solid waste generated at a location outside of the Town of Millinocket at the Town's solid waste facilities shall be a violation of this chapter. However, residents of Millinocket are allowed to deposit noncommercial residential solid waste generated at a cottage or summer home owned by the resident who does not have access to a municipal landfill in the Town or Township where the property is located. **[Amended 9-24-2009 by Ord. No. 2-2009]**

(1) In addition to the above-described users, the residents and businesses located in the following Unorganized Territories shall also be allowed to use the Millinocket Transfer Site, effective October 1, 2009:

(a) The Penobscot County UTs of IP3, IP4, T3 R9 NWP, TA R7 WELS, Long A, and T1 R8 WELS.

(b) The Piscataquis County UTs of T1 R9 WELS and T1 R10 WELS.

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3. **Editor's Note: Former Subsection B, Permits, as amended 5-14-1992 by Ord. No. 2-92, was repealed 6-9-1992 by Ord. No. 3-92, after repeal by voters at the referendum election held 6-9-1992.**

(2) The Town Council reserves the right to change or cancel this initial agreement from October 1, 2009, to June 30, 2010, by order. All UT users will also be required to participate in the Town's recycling program and follow all other rules, regulations, and fees applicable under Chapter 73.

G. Depositing solid waste or other material prohibited by this chapter or any law, rule or regulation at the Town's solid waste facilities shall be a violation of this chapter.

H. Commercial solid waste haulers shall not dispose of solid waste at the transfer site but shall enter into an agreement with the landfill operator by which compacted residential and commercial solid waste is deposited at the landfill and charged to the Town account. Only solid waste generated within the Town of Millinocket shall be charged to the Town account, and no solid waste generated outside of the Town of Millinocket shall be mixed with solid waste from the Town of Millinocket and deposited at the landfill. The hauler shall reimburse the Town for the tonnage deposited at the rate paid by the Town to the landfill operator. The Town Manager is authorized to enter into appropriate written agreements with commercial solid waste haulers allowing their use of the landfill under the Town's agreement with the landfill operator. Commercial solid waste haulers may use the holding area at the Town's solid waste facilities so long as the solid waste is generated within the Town of Millinocket and the commercial solid waste hauler has an agreement with the Town allowing such use. All commercial solid waste hauler agreements shall be subject to the approval of the Town Council.

§ 73-7. Violations and penalties.

A. Any person found guilty of a violation of this chapter shall pay a minimum penalty of $50 for a first offense and a minimum of $100 up to a maximum penalty of $1,000 for additional offenses, payable to the Town of Millinocket,

plus court costs and charges. **[Amended 7-10-2003 by Ord. No. 2-2003]**

B. Any person found guilty of a violation of this chapter shall pay all costs, including attorney's fees, incurred by the town in prosecuting the violation, remedying the violation or properly disposing of any material deposited in violation of this Article.

C. Any person found guilty of a violation of this chapter shall also pay any fine or fee imposed upon the town on account of any solid waste being deposited at the town's facility in violation of any law, rule or regulation.

D. Any person found guilty of an intentional violation of this chapter may be barred from future use of the town's solid waste facility for an indefinite period of time or for any lesser period of time.

§ 73-8. (Reserved)

ARTICLE III
Hazardous, Special and Other Waste

§ 73-9. Hazardous waste.

Hazardous waste, as defined by Section 400.1(QQ) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection,[4] as the same may be amended or redefined from time to time, shall not be disposed of at the town's solid waste facilities. Waste resulting from normal household or agricultural activities, which would otherwise be defined as hazardous waste, may be accepted at a designated location at the solid waste facilities and disposed of, from time to time, at an appropriately licensed facility, by the town.

4. **Editor's Note: These regulations are on file in the town offices.**

§ 73-10. Special wastes.

No special wastes, as defined by Section 400.1(KKKK) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or redefined from time to time, shall be disposed of at the solid waste facilities.

§ 73-11. Construction debris.

Construction/demolition debris, as defined by Section 400.1(X) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or redefined from time to time, may be disposed of at the solid waste facilities at a location specified by the Town Manager, Public Works Director or their authorized agent.

§ 73-12. Hot loads.

Hot loads, as defined by Section 400.1(RR) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or redefined from time to time, may be disposed of at the solid waste facilities at an appropriate location.

§ 73-13. Land clearing debris.

No land clearing debris, as defined by Section 400.1(VV) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or redefined from time to time, shall be disposed of at the solid waste facility.

§ 73-14. Sludge.

No sludge, as defined by Section 400.1(GGGG) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or

redefined from time to time, shall be disposed of at the solid waste facility.

§ 73-15. White goods.

White goods, as defined by Section 400.1(TTTT) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or redefined from time to time, may be disposed of at the solid waste facility.

§ 73-16. Woodwastes.

Woodwastes, as defined by Section 400.1(UUUU) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or redefined from time to time, generated by normal household activity, may be disposed of at the solid waste facility.

§ 73-17. Dredge spoils.

No dredge spoils, as defined by Section 400.1(DD) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or redefined from time to time, shall be disposed of at the solid waste facility.

§ 73-18. Liquid waste.

No liquid waste, as defined by Section 4001.(CCC) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or redefined from time to time, may be disposed of at the solid waste facility.

§ 73-19. Tires.

Discarded tires may be disposed of at the solid waste facility.

§ 73-20. Limitation on disposal.

The Town Manager and Public Works Director or their authorized agent may refuse to accept unusually large amounts of the waste specified in §§ 73-9, 73-11, 73-12, 73-15, 73-16 and 73-19. The person depositing any such material shall be required to reimburse the town, in advance, for the actual cost to the town of transporting and disposing of such material at an appropriately licensed facility, pursuant to the fee schedule specified herein. It shall be a violation of this chapter to deposit any such material at the town's solid waste facility if the material was generated at a location outside of the Town of Millinocket. The Town Manager, Public Works Director or their authorized agent may refuse to accept any such material if space is not available.

ARTICLE IV
Miscellaneous Provisions

§ 73-21. Deposit of noxious materials on streets prohibited; notice to remove; removal by town.

A. No person shall throw or deposit or cause to be thrown or deposited in any street, gutter, cesspool, alley or any public place, other than as specified in this chapter, any septic tank sludge, dredge spoils, liquid waste, agricultural waste or solid waste as defined by Section 400.1(HHHH) of the Solid Waste Management Regulations adopted by the Board of Environmental Protection, as the same may be amended or redefined from time to time.

B. Any person who deposits or causes to be deposited any substance in violation of Subsection A shall remove the same or cause it to be removed within two hours after

Chapter 75

GENERAL ASSISTANCE

[The current General Assistance Ordinance of the Town of Millinocket and any amendments are on file in the Town offices.]







Chapter 78

JUNK DEALERS

§ 78-1. License required; records.

§ 78-2. Definitions.

§ 78-3. Application for license.

§ 78-4. Fee.

§ 78-5. Duration of license.

§ 78-6. Restrictions on license.

§ 78-7. Display of license.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-81 as Art. I of Ch. 9 of the Millinocket Code Amendments noted where applicable.]

GENERAL REFERENCES

Violations and penalties — See Ch. 1, Art. I.

§ 78-1. License required; records.

Any junk purchaser, whether a principal or agent, purchasing or offering to purchase any junk or going about from place to place within this town for the purpose of purchasing junk shall first obtain from the municipal officers a license to do so and shall keep a record of the name of every person selling such junk to said dealer and description of same, as well as records required by 30 M.R.S.A. § 3051. These records shall be open for inspection to any officer of the law as herein provided.

§ 78-2. Definitions.

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

JUNK — Old iron, chains, brass, copper, tin, lead or other base metals, old rope, old bags, rags, wastepaper, paper clippings, scraps of woolens, clips, bagging, rubber and glass, empty bottles of different kinds when less than one (1) gross and all articles discarded or no longer used as a manufactured article, composed of one (1) or more of the materials mentioned.

§ 78-3. Application for license.

A. Application for such license shall be made to the Chief of Police on a form to be prescribed by the municipal officers and shall show:

(1) The name of the applicant and of all persons associated with him in his business.

(2) The length of time for which said license is desired.

(3) The place of residence of the applicant for the past five (5) years.

B. Before the license is issued, the applicant shall pay the proper fee to the Town Treasurer, and the certificate of license, which shall be of a form prescribed by the municipal officers, shall be signed by the Chairman of the Town Council or by a member of the Council acting as Chairman.

C. No such license shall be issued until it has been approved by the municipal officers.

§ 78-4. Fee.

The fee for a license under this chapter shall be twenty-five dollars ($25.).

§ 78-5. Duration of license.

Each license granted under the provisions of this chapter shall be valid only for the period specified therein, and no license shall extend beyond the 31st day of December of each year.

§ 78-6. Restrictions on license.

Licenses issued under this chapter shall be nontransferable. No refunds shall be made on unused portions of a license. Each person, whether principal or agent, engaged in purchasing junk covered by this chapter must secure a separate license. No purchaser shall be exempt from the provisions of this chapter by associating himself with any local dealer, trader or merchant.

§ 78-7. Display of license.

All licenses issued under this chapter shall be carried by the licensee or conspicuously posted in or on the vehicle, if any, used in the business; and such licensee shall, whenever requested, show said license to any officer or citizen of the town who demands to see the same.

Chapter 83

MOBILE HOME PARKS; MANUFACTURED HOUSING

ARTICLE I
Mobile Home Parks

§ 83-1. Purpose.

§ 83-2. Definitions.

§ 83-3. Occupied trailers prohibited; mobile homes restricted.

§ 83-4. Permit required; issuance and renewal.

§ 83-5. Location requirements.

§ 83-6. Area requirements.

§ 83-7. Mobile home space requirements.

§ 83-8. Access to public street required.

§ 83-9. Road requirements.

§ 83-10. Sanitation requirements.

§ 83-11. Registration of occupants.

§ 83-12. Electricity.

§ 83-13. Additions to and skirting on mobile homes.

§ 83-14. Inspections.

§ 83-15. Nonconforming uses.

§ 83-16. Appeals.

§ 83-17. Higher standards to prevail.

§ 83-18. Violations and penalties.

ARTICLE II
Manufactured Housing

§ 83-19. Purpose.

§ 83-20. Statutory authority.

§ 83-21. Applicability.

§ 83-22. Definitions.

§ 83-23. Permit required.

§ 83-24. Location of substandard housing restricted.

§ 83-25. Nonconforming structures.

§ 83-26. Housing standards.

§ 83-27. Appeals.

§ 83-28. Enforcement; violations and penalties.

§ 83-29. Amendments.

§ 83-30. Conflict with other ordinances.

[HISTORY: Adopted by the Town Council of the Town of Millinocket: Art. I, 7-21-81 as Ch. 10 of the Millinocket Code; Art. II, 1-17-85 as Ord. No. 8-84. Amendments noted where applicable.]

GENERAL REFERENCES

Board of Appeals — See Ch. 5.
Building construction — See Ch. 48.
Sewers — See Ch. 104.
Zoning — See Ch. 125.

ARTICLE I
Mobile Home Parks
[Adopted 7-21-81 as Ch. 10 of the Millinocket Code]

§ 83-1. Purpose.

The purposes of this Article are to: define and regulate mobile home parks; establish minimum standards governing the construction and maintenance of mobile home parks; establish minimum standards governing the provided utilities and facilities and other physical things and conditions to make mobile home parks safe, sanitary and fit for human habitation; fix the responsibilities and duties of owners and operators of mobile home parks; authorize the inspection of mobile homes and mobile home parks; and fix penalties for violation.

§ 83-2. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings ascribed to them in this section:

MOBILE HOME — Any vehicle used or so constructed as to permit its being used as a conveyance on the public streets and highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping space for one (1) or more persons and provided with a toilet and a bathtub or shower.

MOBILE HOME PARK — A plot of ground on which two (2) or more mobile homes occupied for dwelling or sleeping purposes are located.

MOBILE HOME SPACE — A plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

PERMIT — A written permit issued by the Building Inspector permitting the mobile home park to operate under this Article.

TRAILER — A vehicle as described above which does not have a toilet and a bathtub or shower.

§ 83-3. Occupied trailers prohibited; mobile homes restricted.

A. Occupied trailer. No occupied trailer shall be permitted in the Town of Millinocket.

B. Mobile homes. All mobile homes shall be located in a mobile home park except mobile homes held for sale by a bona fide dealer.

§ 83-4. Permit required; issuance and renewal.

A. Permit required. It shall be unlawful for any person to construct, maintain, operate or enter any mobile home park within the limits of the Town of Millinocket unless he or she or any firm holds a valid permit issued annually, on or before the first day of May, by the Building Inspector. The annual cost of this permit shall be twenty-five dollars ($25.) per mobile home park plus two dollars ($2.) per mobile home situated in the mobile home park. All initial applications for permits shall be made to the Building Inspector. Issuance of the permit by the Building Inspector shall be contingent upon compliance with provisions of this Article and the laws of the State of Maine.

B. Renewal. The Building Inspector shall annually, on the first Monday in May, renew such permit contingent upon compliance with all regulations in this Article.

§ 83-5. Location requirements.

The following location requirements shall apply:

A. Drainage. The mobile home park shall be located on a well-drained lot properly graded to ensure rapid drainage of surface and subsurface water and freedom from stagnant pools of water.

B. Proximity to dumps, swamps. The mobile home park shall not be located near swamps, dumps or other potential breeding places for insects and rodents.

C. Noise; odor. The mobile home park shall not be located on lan which is exposed to chronic nuisance such as smoke, nois fumes and odors.

§ 83-6. Area requirements.

The following area requirements shall apply:

A. Minimum area. The area of the mobile home park shall b large enough to accommodate the designated number an setback requirements.

B. Open space. At least ten percent (10%) of the mobile hom park area shall be reserved exclusively for playground and/o park use. Such space shall be protected from streets an parking areas.

C. Buffer strips. The mobile home park area shall be protecte from adjoining property or public streets, except streets tha are an integral part of the mobile home park, by a tree belt a least twenty (20) feet wide or an open space at least eighty (80 feet wide. These setback requirements cannot be used a playground or park spaces as defined in Subsection B.

§ 83-7. Mobile home space requirements.

The following mobile home space requirements shall apply:

A. Individual spaces. Each mobile home space shall be at leas fifty (50) feet in width and shall contain at least five thousan (5,000) square feet unless the park is subject to shorelan zoning,[1] in which case it shall contain a minimum of te thousand (10,000) square feet for each pad, exclusive of roads

B. Space boundaries. The boundaries of a mobile home spac shall be clearly defined.

C. Side setback. Mobile homes shall be so located that a minimum of ten (10) feet of clearance exists between any par of a mobile home or built-on addition, if permitted, and the lo lines of the mobile home space.

[1] Editor's Note: See Ch. 125, Zoning.

D. Density. Only one (1) mobile home may be located on each designated mobile home space.

E. Space required. It shall be illegal to allow any mobile home to remain in a mobile home park unless a mobile home space is available.

F. Single-family use. All mobile homes shall be for single-family occupancy only.

G. Parking space. Each individual mobile home space shall contain no less than two hundred forty (240) square feet of parking surface; such surface shall be well drained and stabilized or paved and maintained in good repair.

H. Drainage. All mobile home spaces must be graded for adequate drainage.

§ 83-8. Access to public street required.

Each mobile home space shall abut on a roadway with unobstructed access to a public street.

§ 83-9. Road requirements.

The following road requirements shall apply:

A. Access to public street. For fire prevention and protection, every mobile home park shall have access to a public street either by directly abutting thereon or by means of a private hard-surfaced roadway not less than thirty (30) feet wide.

B. Surface material. Roadways in all mobile home parks shall be well drained, adequately graveled, hard-surfaced or paved and shall be maintained in good condition.

C. Lighting. All roadways shall be lighted at night and shall have a light intensity at the center of the roadway of no less than two-tenths (0.2) footcandle.

D. Abutting spaces. All mobile home spaces shall abut upon a roadway thirty (30) feet or more in width, ten (10) feet provided on each side of the roadway for sidewalk and tree belt.

§ 83-10. Sanitation requirements.

The following sanitation requirements shall apply:

A. Water supply. An accessible, adequate, safe and potable supply of water meeting the standards of the State Department of Human Services shall be provided in each mobile home park.

B. Plumbing. All plumbing in the mobile home park shall comply with state and local plumbing laws and regulations and shall be maintained in good operating condition.

C. Sewage disposal. Mobile home parks shall be served by a public sewerage system or by a private disposal system which meets with the approval of the State Departments of Human Services and Environmental Protection. Each mobile home space shall be provided with a satisfactory sewer connection.

D. Refuse and garbage disposal. The storage, collection and disposal of refuse in the park shall not create health hazards, rodent harborage, insect-breeding areas, accident hazards or air pollution. All refuse and garbage shall be stored in flytight, rodentproof containers, which shall be provided in sufficient number and capacity to prevent any refuse from overflowing. Satisfactory container holders shall be provided by the mobile home owner and shall be suitably enclosed so as not to present any unsightly condition.

§ 83-11. Registration of occupants.

Every mobile home park operator shall maintain a register containing a record of all mobile home occupants using the mobile home park. Such register shall be available to any authorized state or local official inspecting the park and shall be preserved for a period of

at least one (1) year. Such register shall contain the names and addresses of all occupants of the mobile home park.

§ 83-12. Electricity.

An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space, The installation shall comply with all state and local electrical codes and articles. Such electrical outlets shall be weatherproof. No power line shall be permitted to lie on the ground or to be suspended less than twelve (12) feet above the ground.

§ 83-13. Additions to and skirting on mobile homes.

A. Alterations and additions. Built-on additions to mobile homes are prohibited for entryways and canopies. These additions must be of finished appearance, complementary to the mobile home.

B. Skirting. It is mandatory that a mobile home skirt be installed within three (3) months of the time the mobile home is placed upon the mobile home space. This skirt shall be of finished appearance, complementary to the mobile home. Exposed materials such as tar paper are forbidden.

§ 83-14. Inspections.

The Building Inspector or duly authorized representative is hereby authorized and directed to make inspections to determine the conditions of mobile home parks located within the Town of Millinocket in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The Building Inspector or his duly authorized representative shall be given free access at reasonable hours to any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this Article.

§ 83-15. Nonconforming uses.

A. Existing; discontinued. Any lawful mobile home park or the otherwise lawful location of any mobile home on a space not within a mobile home park, existing at the time this Article or any amendment thereto is adopted, may be continued although such use does not conform to the provisions of this Article, except that any nonconforming use that has been or is discontinued for a period of ninety (90) days or more shall not be reestablished except in conformity with this Article.

B. Expansions; changes. Any expansions of, additions to or changes in nonconforming mobile home parks shall be in conformity with this Article.

C. Individual buyers. This Article shall not prevent the acquiring and occupancy of mobile home spaces by individual buyers, provided that said acquiring and occupancy meet the following conditions:

(1) The lot must have been in a mobile home park which met all the conditions required of this Article at the time of purchase.

(2) Such conditions must be complied with after the purchase of said lot.

§ 83-16. Appeals.

Appeal shall lie from the enforcement of this Article to the Board of Appeals, and from the decision of said Board of Appeals in accordance with 30 M.R.S.A. § 2411.

§ 83-17. Higher standards to prevail.

In any case where a provision of this Article is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance, article or code of the Town of Millinocket or with any provision of the laws of the State of Maine existing on the effective date of this Article, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

§ 83-18. Violations and penalties.

Any person who violates any provision of this Article shall be deemed guilty of a civil violation and shall be fined not less than twenty-five dollars ($25.) and no more than one hundred dollars ($100.), recoverable for the use of the town. Each day a violation exists shall constitute a separate offense.

ARTICLE II
Manufactured Housing
[Adopted 1-17-85 as Ord. No. 8-84]

§ 83-19. Purpose.

The purposes of this Article are to establish minimum standards for the placement of manufactured housing in accordance with the provisions of 30 M.R.S.A. § 4965, Regulation of Manufactured Housing; to restrict the location of older mobile homes and trailers; to require that manufactured housing (the newer mobile homes and single-wide modulars) be compatible with site-built homes; and to provide opportunities for the location of affordable and safe housing within the community.

§ 83-20. Statutory authority.

This Article is adopted pursuant to the home rule powers provided for in Article VIII of the Maine Constitution and 30 M.R.S.A. § 1917, and 30 M.R.S.A. § 4965, Regulation of Manufactured Housing.

§ 83-21. Applicability.

This Article shall apply to all of the land area within the Town of Millinocket, and it shall apply to all factory-built housing to be located in the town or moved from one part of the community to another.

§ 83-22. Definitions.

A. Terms not defined herein shall have their customary dictionary meaning.

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

MANUFACTURED HOUSING — A structural unit or units designed for occupancy and constructed in a manufacturing facility and then transported to a building site by the use of its own chassis or by placing on an independent chassis. The term includes any type of building which is constructed at a manufacturing facility and then used as housing and may be purchased or sold by a dealer in the interim. For purposes of this Article, two (2) types of "manufactured housing" are included. They are:

(1) Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures, transportable in one (1) or more sections, which, in the traveling mode, are fourteen (14) body feet or more in width and are seven hundred fifty (750) or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401 et seq.

(2) Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with the state's Manufactured Housing Act and regulations, meaning structures, transportable in one (1) or more sections, which are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein.

MOBILE HOME PARK — A contiguous parcel of land designed for the location of two (2) or more older mobile homes, trailers or manufactured homes which is licensed as a mobile home park by the Maine Department of Business Regulation.

OLDER MOBILE HOMES AND TRAILERS — May be used interchangeably and shall mean any factory-built home which fails to meet the definition of "manufactured housing" above, and specifically, it shall mean any mobile home constructed on or before June 15, 1976.

§ 83-23. Permit required.

No person, firm, corporation or other legal entity shall locate a manufactured home in the Town of Millinocket or move a manufactured home from one lot or parcel of land to another without a permit from the Building Inspector. The Building Inspector shall issue the permit within seven (7) days of receipt of a written application and submission of proof that the manufactured home meets the requirements of this Article and is in conformance with Chapter 48, Building Construction, § 48-7, of the Code of the Town of Millinocket.

§ 83-24. Location of substandard housing restricted.

No person, firm, corporation or other legal entity shall locate or move from one lot or parcel of land to another an older mobile home, trailer or manufactured home which fails to meet the requirements of § 83-26 except in a mobile home park.

§ 83-25. Nonconforming structures.

Manufactured homes which fail to meet the standards set forth in § 83-26, which were lawfully established prior to the effective date of this Article, shall be considered nonconforming structures and may continue and may be maintained, repaired, improved and expanded. No nonconforming structure may be moved to another lot or parcel in the Town of Millinocket. No nonconforming structure may be replaced by a nonconforming structure but may be replaced by a manufactured home that meets the requirements of this Article or a "stick-built" house. A nonconforming structure may be moved to a different location on the same lot or parcel of land.

§ 83-26. Housing standards.

All manufactured housing located in the Town of Millinocket shall be at least fourteen (14) feet in width, shall contain at least seven hundred fifty (750) feet of living space, shall have a pitched, shingled roof and siding that is residential in appearance and shall have a permanent foundation or pad. The foundation shall be a poured or block frost wall, a reinforced concrete slab and rigid skirting material or a full basement.

§ 83-27. Appeals.

A. Variance appeals. The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of the Article when the strict application of the terms of this Article would result in undue hardship to the applicant. The term "undue hardship" shall mean:

(1) That the land in question cannot yield a reasonable return unless a variance is granted;

(2) That the need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood;

(3) That the granting of a variance will not alter the essential character of the locality; and

(4) That the hardship is not the result of action taken by the applicant or a prior owner.

B. Administrative appeals. The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Building Inspector in the administration of this Article. Such hearings shall be held in accordance with 30 M.R.S.A. § 2411. Following such hearing, the Board of Appeals may reverse the decision of the Building Inspector only upon a finding that the decision is clearly contrary to specific provisions of this Article.

C. Appeal to Superior Court. Within thirty (30) days after any decision is rendered by the Board of Appeals, an appeal may be taken by any party to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

§ 83-28. Enforcement; violations and penalties.

A. Any violation of this Article shall be deemed to be a nuisance.

B. It shall be the duty of the Building Inspector to enforce the provisions of this Article. If the Building Inspector shall find that any provision of this Article is being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures or work being done, removal of illegal buildings or structures and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

C. When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers, upon notice from the Building Inspector, 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 Article in the name of the municipality.

D. Any person who continues to violate any provision of thi Article after receiving notice of such violation shall be guilty c a civil violation subject to a minimum fine of one hundre dollars ($100.) and a maximum fine of two thousand fiv hundred dollars ($2,500.) for each violation. Each day such violation is continued is a separate offense.

§ 83-29. Amendments.

This Article may be amended by majority vote of the legislativ body upon a recommendation of the Planning Board.

§ 83-30. Conflict with other ordinances.

Where the provisions of this Article conflict with the provisions o other ordinances, the provisions of this Article shall prevail.

ORDINANCE #2 – 2012

PROVIDING FOR: **Amendments to Chapter 86, Outdoor Wood Boiler Ordinance**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MILLINOCKET, IN COUNCIL ASSEMBLED, that Chapter 86, Outdoor Wood Boiler Ordinance, for the Town of Millinocket, is amended, as attached.

First Reading: May 24, 2012

Second Reading: 6-14-2012

Passed by the Council: 6-14-2012

Effective Date: 7-14-2012

Attest: Lorraine Johnson

MILLINOCKET CODE, PROPOSED CHAPTER 86

OUTDOOR WOOD BOILERS

DRAFT AMENDMENT

86-01. TITLE. This ordinance shall be known as the Outdoor Wood Boilers Ordinance.

86-02. STATEMENT OF PURPOSE. The purposes of this ordinance are to ensure that outdoor wood boilers are operated in a manner that limit particulate discharges, create no nuisance to neighbors, and protect members of the community from harmful levels of smoke and other emissions.

86-03. LEGISLATIVE INTENT AND FINDINGS.

A. Outdoor wood boilers are alternative sources for heat and hot water production and when operated improperly create significant amounts of particulate and smoke discharges that threaten public health, welfare, and safety.

B. Outdoor wood boilers are becoming more common, but government at the federal and state levels has not yet addressed their emissions issues in a satisfactory manner.

C. Most people in Millinocket live within a tight compact area where significant emissions from outdoor wood boilers have very negative effects or potential effects on the personal health and enjoyment of property of residents.

D. It is the intent of this chapter to serve the Town's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of Millinocket by regulating outdoor wood boilers within its borders.

E. Authority for this Ordinance is found in Article 8, Part 2, §1 of the State of Maine Constitution, also known as the "Home Rule" provision, and the Millinocket Town Charter.

86-04. PERMIT REQUIRED. No person shall install, use, or maintain an outdoor wood boiler within the Town of Millinocket without first having obtained a permit from the Code Enforcement Officer. Application for such permit shall be made to the Code Enforcement Officer on forms provided. Fees collected with regard to these permits shall be set by Order of the Town Council.

86-05. EXISTING OUTDOOR WOOD BOILERS. Any outdoor wood boiler in existence, installed, and operating/operable on the effective date of this ordinance shall be allowed to remain provided that the owner applies for and receives a permit from the Code Enforcement Officer within sixty (60) days of such effective date, provided, however, that upon the effective date of this ordinance all the provisions hereof, except for those found in Section 86-06, Paragraph B below, shall immediately apply to existing outdoor wood boilers. All of the provisions of the ordinance shall continue to apply to existing outdoor wood boilers which receive permits, except in Section 86-06, Paragraph B. If the owner

of an outdoor wood boiler does not receive a permit within sixty (60) days of the effective date of this ordinance, the outdoor wood boiler shall be removed by the owner at the owner's expense. "Existing" or "in existence" means that the outdoor wood boiler is in place on site.

86-06. SPECIFIC REQUIREMENTS.

A. Permitted Fuel. Only seasoned firewood and untreated lumber are permitted to be burned in an outdoor wood boiler. Burning of any and all other materials in an outdoor wood boiler is expressly prohibited.

B. Distance Requirement. No outdoor wood boiler shall be installed less than 50 feet from a neighboring residence. On lots of three (3) or more acres, a property owner shall install a boiler no less than 100 feet from any lot line.

C. Emissions maximum. Particulate discharges shall be less than 24 grams (0.053 pounds) per 100,000 British Thermal Units (BTU) per hour, as rated by a certified testing laboratory for the outdoor wood boiler unit. Should the U. S. Environmental Protection Agency or the Maine Department of Environmental Protection adopt a stricter emissions standard, that stricter standard shall be automatically considered as adopted by this Chapter. The outdoor boiler shall be required to display a listing plate on the unit that certifies that the unit is in compliance with the appropriate emissions standard, as determined by a qualified testing facility using appropriate and applicable Underwriter Laboratories standards.

D. Certification. Any outdoor wood boiler located in Millinocket shall be certified to Standard 391 of Underwriters Laboratories (UL).

E. Stack Height. The stack height of an outdoor wood boiler will be at least the height of the highest roof of any residences abutting the property where the boiler is installed. On lots of three (3) or more acres, a property owner shall install a stack of no less than twelve (12) feet high.

F. Months of Operation. Outdoor wood boilers may be operated only between October 15 and April 15 of each year. With written permission of the Code Enforcement Officer, the owner of an outdoor wood boiler may continue to operate the device until May 1 if, in the opinion of the CEO, weather conditions are unusually cold and/or inclement. **If weather conditions continue to be unusually cold and/or inclement, the CEO may approve in writing a second extension to operate the device from May 1 to May 15.**

G. Replacements. If an outdoor wood boiler is replaced or upgraded, a permit shall be required pursuant to Section 86-04 above and shall comply with all Sections of this ordinance.

86-07. SUSPENSION OF PERMIT. A permit issued pursuant to this ordinance may be suspended as the Code Enforcement Officer deems necessary to protect the public health, safety, and welfare of the residents of the Town of Millinocket if any of the following conditions occur:

A. Malodorous air contaminants from the outdoor wood boiler are detectable outdoor the property of the person whose land the boiler is located.

B. The emissions of the outdoor wood boiler interfere with the reasonable enjoyment of life or property.

C. The emissions from the outdoor wood boiler cause damage to vegetation or property.

D. The emissions from the outdoor wood boiler are or may be harmful to human or animal health.

A suspended permit may be reinstated once the condition that caused the suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition, which has previously resulted in suspension of a permit, shall be considered a violation of this chapter and be subject to the penalties provided in Section 86-09 below.

86-08. APPEALS AND WAIVERS.

A. Appeals. An outdoor wood boiler owner may appeal, in writing, the Code Enforcement Officer's denial or suspension of a permit to the Millinocket Town Council. The Council will consider such appeals in open session and may include, at its discretion, testimony by the property owner, testimony by the Code Enforcement Officer, witnesses, and members of the general public. Any appeals upheld by the Council must find, at a minimum, that the Code Enforcement Officer substantially deviated from the conditions detailed in this chapter and state specifically what those deviations were as part of its decision. If the decision of the Code Enforcement Officer is upheld, the suspension of the permit will continue until such time as the boiler is brought into compliance with this chapter or discontinued from use. During the appeal process, however, the outdoor wood boiler shall not be used in order to protect the health, safety, and welfare of the neighborhood.

B. Waivers. The Town Council shall retain the authority to grant waivers under this chapter due to extraordinary and undue hardship, upon written request of an affected property owner to the Council. The Council shall consider the waiver request in open session and may include, at its discretion, testimony of the property owner, the Code Enforcement Officer, and members of the general public. Any waiver granted shall not have the effect of nullifying the intent and purposes of this chapter and the Council may impose such conditions and requirements as it deems reasonable and prudent. If the Council denies the waiver request, the outdoor wood boiler in question must be brought into full compliance with this chapter or its use be discontinued immediately and be removed by the owner within thirty (30) days of the Council's decision.

86.09. PENALTIES. Violations of this chapter shall be deemed a civil infraction and violators may be summonsed by the Code Enforcement Officer to Maine District Court or other court of competent jurisdiction. For a first or second conviction, the owner of an offending outdoor wood boiler shall be assessed a penalty of $500.00. For a third or subsequent violation, a penalty of $1,000.00 shall be imposed and the property owner's permit shall be revoked. The owner shall not be eligible for another permit. Each day that a violation occurs shall constitute a

separate offense that may result in an additional summons. Any fine imposed hereunder shall constitute a lien upon the real property where the outdoor wood boiler is located until paid in full.

86.10. **DEFINITIONS.** The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them hereunder, except where the context clearly indicates a different meaning:

FIREWOOD means trunks and branches of trees and bushes, but does not include leaves, needles, or vines.

OUTDOOR WOOD BOILER means any equipment, device, or apparatus, or any part thereof, that is installed, affixed, or situated outdoors for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any swimming pool, Jacuzzi, or interior space.

SEASONED FIREWOOD means wood of any species that has been sufficiently dried so as to contain 25% or less moisture by weight.

UNTREATED LUMBER means dry wood that has been milled and dried, but has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint, or other substance. It may not contain nails, screws, or other similar attachments that, when burned, could create a threat to public health, safety, or welfare.

86-11. **SEVERABILITY.** Should any section, sub-section, paragraph, or other provision of this chapter be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the chapter as a whole, or of any part thereof, other than the part held to be invalid.

This Ordinance was adopted by the Millinocket Town Council on October 27, 2006 and became effective on November 27, 2006.
First amended June 2011.

Chapter 90

PAWNBROKERS

§ 90-1. Definitions.
§ 90-2. License required; fee.
§ 90-3. Application; investigation.
§ 90-4. Display and nontransferability of license.
§ 90-5. Receipt of articles from certain persons prohibited.
§ 90-6. Violations and penalties.
§ 90-7. Revocation or suspension of license.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-81 as Art. II of Ch. 9 of the Millinocket Code. Section 90-1 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Peddling and soliciting — See Ch. 97.

§ 90-1. Definitions.[1]

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

PAWNBROKER — Includes any person who loans money on deposit or pledge of personal property, other than securities or printed evidences of indebtedness, or who purchases personal property on condition of reselling the same back to a person at a stipulated price or who, doing business as a furniture warehouseman, loans and advances money upon goods

[1] Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

deposited with or pledged to him as collateral security therefor.

§ 90-2. License required; fee.

No person, firm or corporation shall engage in business as a pawnbroker in the Town of Millinocket except under written license granted by the municipal officers and issued by the Town Clerk and upon payment to the Town Treasurer of Millinocket of an annual license fee of twenty-five dollars ($25.). Such licenses shall continue in force until the first Monday in May next following, unless sooner revoked or suspended by the municipal officers.

§ 90-3. Application; investigation.

Application for a pawnbroker's license shall be made to the Town Clerk on forms provided and shall give the name of the applicant, the name under which the business is to be conducted and the location where the business will be carried on. Applications shall be investigated by the Chief of Police to determine if the applicant is of good moral character and to secure information regarding the location and conditions under which the business will be conducted. The Chief of Police shall make a report of his findings and recommendations, which shall be submitted to the municipal officers with the application.

§ 90-4. Display and nontransferability of license.

Licenses must be displayed in a conspicuous location in the licensee's place of business. Licenses are not transferable.

§ 90-5. Receipt of articles from certain persons prohibited.

No licensee shall purchase or receive any article from any person under the age of seventeen (17) years without the written consent of the parent or guardian or from any person known or suspected to be a thief or receiver of stolen property.

§ 90-6. Violations and penalties.

Violation of any of the provisions of this chapter or any of the provisions of a pawnbroker license issued by the Town of Millinocket shall be punished by a fine of not less than twenty dollars ($20.) nor more than fifty dollars ($50.) for each separate offense, recoverable for the use of the Town. Each day's violation of any provisions hereunder shall be deemed a separate offense. Notwithstanding the foregoing, the maximum fine for operating without a pawnbroker's license shall be one hundred dollars ($100.).

§ 90-7. Revocation or suspension of license.

Violation of any of the provisions of this chapter or any of the provisions of the state laws relating to pawnbrokers or evidence that the licensee is not a person of good moral character shall be cause for the revocation or suspension by the municipal officers of any license issued under this chapter.

Chapter 94

PEACE AND GOOD ORDER

ARTICLE I
Throwing of Objects

§ 94-1. Prohibited activity.

§ 94-2. Violations and penalties.

[HISTORY: Adopted by the Town Council of the Town of Millinocket: Art. I, 2-8-83 as Art. III of Ch. 11 of the Millinocket Code. Amendments noted where applicable.]

ARTICLE I
Throwing of Objects
[Adopted 2-8-83 as Art. III of Ch. 11 of the Millinocket Code]

§ 94-1. Prohibited activity.

It shall be a violation of this Article for anyone to throw or propel or cause to be thrown or propelled, by any means whatsoever, a rock, stone, snowball, ice ball or any other object or substance at any person or animal, at any form of public or private conveyance or any building or other property, public or private, the natural and probable consequences of which throwing is to:

A. Place a person in reasonable apprehension of being struck by such rock, stone, snowball, ice ball or other object or substance, whether or not such contact occurs; or

B. Place the owner, operator or custodian of such conveyance, building, animal or other property in reasonable apprehension of injury to or unauthorized contact of such property, whether or not such injury or contact occurs.

§ 94-2. Violations and penalties.

Whoever violates this Article shall be fined not less than twenty-five dollars ($25.) nor more than one hundred dollars ($100.) for each offense.

Chapter 97

PEDDLING AND SOLICITING

§ 97-1. Purpose and intent.

§ 97-2. License required.

§ 97-3. Granting of license by Town Clerk; classes of license.

§ 97-4. Application for license.

§ 97-5. Information in license.

§ 97-6. Fee.

§ 97-7. Revocation and suspension of license.

§ 97-8. Ineligibility for license.

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[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-1981 as Art. III of Ch. 9 of the Millinocket Code; amended in its entirety 6-22-1995 by Ord. No. 2-95. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Pawnbrokers — See Ch. 90.

§ 97-1. Purpose and intent.

The purpose of this chapter is to allow limited and controlled use of public ways and public lands for small-scale sales activities traditionally conducted in public places such as farmers' markets and craft fairs, and through licensing to prevent nuisance conditions and threats to the public health, safety and welfare which could otherwise result if public ways and public lands were opened to unlimited retail sales activities. The intent of this chapter is to allow appropriate public places to be used for the sale of goods and products customarily produced in home businesses or sold at roadside farm stands or dockside locations; typically, such goods and products are made, grown, caught, gathered, prepared, baked, cooked or canned/preserved by the seller.

§ 97-2. License required.

No person shall expose for sale or sell upon the public streets of the town, nor within a public right-of-way, nor upon any property owned or controlled by the town, nor go from place to place in the town exposing for sale or selling goods, wares or merchandise at retail, without first having secured a license to do so as hereinafter provided.

§ 97-3. Granting of license by Town Clerk; classes of license.

The Town Clerk may grant a license to expose for sale or sell upon the public streets of the town, upon a public right-of-way or upon any public lands owned or controlled by the town, or to go from place to place in the town exposing for sale and selling goods, wares or merchandise at retail. There shall be two (2) classes of licenses: three-day licenses and ninety-day licenses.

§ 97-4. Application for license.

A. Application for a license shall be in writing on forms provided by the town. It is a violation of this chapter to provide inaccurate information on a license application or to conduct the licensed activity in a manner different from the information provided on the application.

B. No license shall be issued unless the applicant shall provide to the town a copy of the seller's certificate of registration with the Maine Sales Tax Assessor; a federal tax identification number, if required; and a proper scale registration if goods are to be sold by weight.

§ 97-5. Information in license.

Every license issued under this chapter shall include upon it the name and address of the person to whom such license has been issued, the licensee's federal tax number, if required, the licensee's state sales tax number, the time period covered by the license, the date of expiration thereof and the amount paid as a license fee therefor.

§ 97-6. Fee.

Each applicant granted a license hereunder shall pay to the town a license fee as follows:

A. For a three-day license: five dollars ($5.).

B. For a ninety-day license: fifteen dollars ($15.).

§ 97-7. Revocation and suspension of license.

The Clerk may revoke a license issued under this chapter upon finding that the licensee has violated any provision of the chapter. The Clerk shall first give the licensee notice of the grounds for the proposed revocation and an opportunity to be heard. In an emergency affecting the public health, safety or welfare, the Clerk may suspend the license pending hearing.

§ 97-8. Ineligibility for license.

The Clerk may decline to issue a license to an applicant who was previously licensed under this chapter and during the term of the most recent license held by that applicant violated any provision of this chapter, if the Clerk finds that such violation was intentional and material or if the Clerk finds that the applicant violated the same provision more than once. An applicant who is denied a license under this section. is not permitted to reapply for three (3) days after the denial if the application was for a three-day license, and ninety (90) days after the denial if the application was for a ninety-day license.

§ 97-9. Display of license.

A. Every person to whom a license is issued hereunder shall display such license, so as to be clearly visible to public view at all times, when exposing for sale or selling any goods, wares or merchandise at retail upon the public streets of the town, upon a public right-of-way, or upon any public lands owned or controlled by the town.

B. Every person to whom a license is issued hereunder, whenever demanded by a constable or police officer of the town, shall provide such license to the person demanding the same. Any person who neglects or refuses to do so shall be subject to the provisions of § 97-7 of this chapter, and such license shall be revoked.

§ 97-10. Violations and penalties.

A. Whoever shall expose for sale or sell upon the public streets of the town or upon a public right-of-way, or upon any property owned or controlled by the town or go from place to place in the town exposing for sale or selling goods, wares or merchandise in violation of this chapter shall be punished by a fine of not more than one hundred dollars ($100.), with each day to be considered a separate

violation, to be recovered on complaint for the use of the town.

B. The town reserves the right to revoke any license granted and the right to withhold the granting of future licenses to serious and/or repeat violators of this chapter.

§ 97-11. Retained authority over public property.

This chapter does not limit the authority of the Town Council to control public property. Whenever it deems it appropriate or necessary to do so, the Council may designate locations where the activities licensed under this chapter are allowed, prohibited or allowed subject to limitations and conditions or may designate specific locations for particular persons or types of activities licensed under this chapter. The Council may exercise this power by order, without amending this chapter, but shall first give notice and the opportunity to be heard to any existing licensee who would be affected by the Council's proposed action.

§ 97-12. Size of operation limited.

Unless otherwise allowed by the Town Council under § 97-11, no person licensed to use a public street, right-of-way or public lands under this chapter shall utilize or occupy more than four hundred (400) square feet.

§ 97-13. Nonapplicability.

The provisions of this chapter shall not apply to commercial agents or other persons selling, by samples, lists, catalogs or otherwise, goods, wares or merchandise for future delivery or to persons selling newspapers or religious literature door to door; nor shall the provisions of this chapter apply to periodic sales conducted by local nonprofit, educational, cultural, religious, philanthropic, social or fraternal organizations or periodic

sidewalk sales by local tax-paying businesses immediately adjacent to their premises.

§ 97-14. Goods, wares and merchandise offered for sale to be limited.

Goods, wares and merchandise offered for sale upon the public streets of the town, upon a public right-of-way or upon any public lands owned or controlled by the town shall be limited to the following categories:

A. Fresh fruit and vegetables.

B. Seedlings and flowers.

C. Fresh and frozen meats.

D. Fresh eggs and dairy products.

E. Fish, lobsters and other ocean products.

F. Baked and canned goods.

G. Cider, syrup, honey, jams and jellies.

H. Herbs and organic products.

I. Fiddleheads and wild berries.

J. Wreaths and Christmas trees.

K. Home-made furniture and cabinetwork.

L. Home-made arts and crafts.

M. Mobile push carts and lunch wagons serving nonalcoholic beverages and fried, grilled or fresh sandwiches and incidentals.

§ 97-15. Licensee responsibilities.

It shall be the responsibility of each licensee to ensure that the area where he/she establishes his/her sales is kept clean and that no merchandise, trash, litter or other materials are left in such area at the end of each day. Violations of this

provision may result in the license revocation and punishment under § 97-7.

Chapter 104

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[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-81 as Ch. 13 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 48.
Zoning — See Ch. 125.

ARTICLE I
General Provisions

§ 104-1. Purpose.

The purpose of this chapter is to promote the general welfare, to prevent disease and to promote health and to provide for the public safety by regulating the use of public and private sewers and drains, private wastewater disposal, the installation and connection of building sewers and the discharge of waters and wastes into the public sewer system, including the wastewater treatment plant, and providing penalties for violations thereof, in the Town of Millinocket, County of Penobscot, State of Maine.

§ 104-2. Definitions and word usage.

A. Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

ACT — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), as amended by the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500 and Pub. L. 93-243).

APPLICANT or OWNER — Any person requesting approval to discharge industrial or domestic wastewaters into facilities of the town.

BOD (denoting "biochemical oxygen demand") — The quantity of oxygen utilized in the biochemical oxidation of the wastewater under standard laboratory procedure in five (5) days at twenty degrees Celsius (20° C.), expressed in milligrams per liter.

BUILDING DRAIN — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning eight (8) feet outside the inner face of the building wall.

BUILDING SEWER — The extension from the building drain to the public sewer or other place of disposal.

DOMESTIC SEWER or SANITARY SEWER — A sewer which carries domestic wastewater and to which storm-, surface and ground waters are not intentionally admitted.

DOMESTIC WASTEWATER — The wastewater derived principally from dwellings, business buildings, institutions and the like. It may or may not contain groundwater, surface water or stormwater.

EPA — The Environmental Protection Agency of the United States Government.

EXCESSIVE — Amounts or concentrations of a constituent of a wastewater which in the judgment of the town will cause damage to any sewerage facility, which will be harmful to a wastewater treatment process, which cannot be removed in the wastewater treatment works of the town to the degree required to meet the limiting stream classification standards of the Millinocket Stream, which can otherwise endanger life.

limb or public property and/or which can constitute a nuisance.

FACILITIES — Includes structures and conduits for the purpose of collecting, treating, neutralizing, stabilizing or disposal of domestic wastewater and/or industrial waters or other wastewaters as are disposed of by means of such structures and conduits, including treatment and disposal works, necessary intercepting, outfall and outlet sewers and pumping stations integral to such facilities, with sewers, equipment, furnishings thereof and other appurtenances connected therewith.

GARBAGE — The animal and vegetable wastes resulting from the handling, preparation, cooking and serving of food. It is composed largely of putrescible organic matter and its natural moisture content.

INCOMPATIBLE POLLUTANT — Any pollutant, other than biochemical oxygen demand, suspended solids, pH, coliform bacteria or additional pollutants identified in the permit, which the treatment works is not designated to treat and does not remove to a substantial degree.

INDUSTRIAL WASTEWATER — The wastewater in which the liquid wastes from industrial manufacturing process, laboratory, trade or business predominate as distinct from domestic wastewater.

INDUSTRY — An establishment with facilities for mechanical, testing, trade or manufacturing purposes.

INVERT — The bottom inside of the sewer pipe.

PERSON — Any individual, firm, company, association, society, corporation, group, trust or government authority who discharges wastewater to the facilities of the town.

pH — The reciprocal of the logarithm of the hydrogen concentration in grams per liter of solution.

PROPERLY SHREDDED GARBAGE — Garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch

[one and twenty-seven hundredths (1.27) centimeters] in any dimension.

PUBLIC SEWER — A sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

RECEIVING WATERS — Any watercourse, river, pond, ditch, lake, aquifer or other body of surface or ground water receiving discharge of wastewaters.

SEWER — A pipe or conduit for carrying wastewater.

SLUG — Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration or flow during normal operation.

SPILL — The release, accidental or otherwise, of any material not normally released to the facilities, which, by virtue of its volume, concentration or physical or chemical characteristics, creates a hazard to the facilities, their operation or their personnel. Such characteristics shall include but are not limited to volatile, explosive, toxic or otherwise unacceptable materials.

STATE PLUMBING CODE — The existing State of Maine Plumbing Code.

STORM DRAIN or STORM SEWER — A pipe or conduit for conveying rainwater, groundwater, subsurface water, condensate, cooling water or other similar discharge, but excludes wastewater and polluted industrial wastes.

SUPERINTENDENT — The licensed wastewater plant operator or his duly authorized deputy, agent or representative. **[Amended 7-22-1999 by Ord. No. 3-99]**

SUSPENDED SOLIDS — Solids that either float on the surface of or are in suspension in water, wastewater or other liquids and which are removed by laboratory

filtering and are referred to as nonfilterable residue in the laboratory test prescribed in Standard Methods for the Examination of Water and Wastewater.

TOWN — The Town of Millinocket.

WASTES — Substances in liquid, solid or gaseous form that can be carried in water.

WASTEWATER — The spent water of a community, which may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and/or stormwater that may be present.

WASTEWATER TREATMENT PLANT — Any arrangement of devices and structures used for treating wastewater.

WASTEWATER WORKS — All structures, equipment and processes for collecting, pumping, treating and disposing of wastewater.

B. "Shall" is mandatory; "may" is permissive.

ARTICLE II
Use of Public Sewers Required

§ 104-3. Unsanitary disposal methods prohibited.

It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the Town of Millinocket or in any area under the jurisdiction of said town any human or animal excrement, garbage or other objectionable waste.

§ 104-4. Unlawful discharge prohibited.

It shall be unlawful to discharge to any natural outlet within the Town of Millinocket or in any area under the jurisdiction of

said town any sanitary wastewater, industrial wastes or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this chapter. It is not intended by this section to prohibit the discharge of any sanitary wastewater into an existing sewer which discharges its sanitary wastewater into any natural outlet within the Town of Millinocket if such discharge is allowed by the State of Maine regulatory agencies.

(Cont'd on page 10409)

§ 104-5. Private disposal systems prohibited.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

§ 104-6. Connection to public sewer required.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose for which toilet facilities are required, situated within the town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the town, are hereby required at their expense to install toilet facilities therein conforming to the requirements of the State Plumbing Code and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within ninety (90) days after the date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the property line and the street sewers can be entered by gravity flow. Otherwise, the owner must connect any facility located within three hundred (300) feet of the sewer.

ARTICLE III
Private Sewage Disposal

§ 104-7. When private facilities allowed.

Where a public sanitary sewer is not available under the provisions of Article II, § 104-6, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Article and the State Plumbing Code and with the regulations and recommendations of the Maine Department of Human Services, Bureau of Health.

§ 104-8. Permit required.

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made

on a form furnished by the town, which the applicant shall supplement by any plans, specifications and other information deemed necessary by the Superintendent.

§ 104-9. Inspection required.

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction, and in any event the applicant for the permit shall notify the Superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the Superintendent.

§ 104-10. Connection to public sewer when available.

At such time as a public sanitary sewer becomes available to property served by a private wastewater disposal system, as provided in Art. II, § 104-6, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be abandoned and filled with suitable material.

§ 104-11. Responsibility of owner for operation and maintenance.

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the town.

§ 104-12. Additional requirements.

No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer of the Town of Millinocket.

ARTICLE IV
Building Sewers and Connections

§ 104-13. Permit required.

No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent. After the applicant has complied with the requirements set forth herein, the permit shall be issued to the applicant by the Superintendent.

§ 104-14. Classes of permits; application; fee.

There shall be two (2) classes of building sewer permits: one for residential and commercial service and one for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee established by the Council shall be paid to the Town Treasurer at the time the application is filed. Each person will be responsible, at his own expense, to collect and discharge his wastewater from his property into the facilities provided by the town, all in an acceptable manner and with prior approval of the town.

§ 104-15. Responsibilities of owner; right to levy sewer use charge.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. All persons agree to abide by all rules and regulations set forth in this chapter. The town retains the right to levy a sewer use charge to provide the revenue for operation and administration of the facilities.

§ 104-16. Right of town to make assessments.

The town retains the right to make assessments for all sewers and storm drains constructed or reconstructed by the town, the expenses of which have not already been assessed and collected, and for all sewers and storm drains which may be constructed. Industries served by town sewer and storm drain facilities may be assessed for incurred expenses in proportion to their use of said facilities. The town expressly adopts the provisions of 30 M.R.S.A. §§ 4401 and 4451 through 4455.

§ 104-17. Separate sewers required.

A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

§ 104-18. Use of old sewers restricted.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this chapter.

§ 104-19. Size and slope.

The size and slope of the building sewer shall be subject to the approval of the Superintendent, but in no event shall the diameter be less than four (4) inches. The slope of a four-inch pipe shall not be less than one-fourth (¼) inch per foot. The slope of a six-inch pipe shall not be less than one-eighth (⅛) inch per foot.

§ 104-20. Location of building sewer.

Whenever possible, the sanitary sewer shall be brought to the building at an elevation below the basement floor. No building sanitary sewer shall be laid parallel to or within three (3) feet of any

bearing wall except for purposes of crossing a bearing wall. The depth shall be sufficient to afford protection from frost. The sanitary sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe fittings or manholes.

§ 104-21. Lifting of sewage to discharge to building sewer.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

§ 104-22. Excavations; pipe laying and backfill.

All excavations required for the installation of a building sewer shall be open trenchwork unless otherwise approved by the Superintendent. Pipe laying and backfill shall be performed in accordance with ASTM Specification c12-72, except that no backfill shall be placed until the work has been inspected.

§ 104-23. Construction materials.

The building sewer shall be cast-iron soil pipe, vitrified clay sewer pipe or other suitable material approved by the Superintendent. The quality and weight of materials should conform to the specifications of the State Plumbing Code. All joints shall be tight and waterproof. Any part of the building sewer that is located within ten (10) feet of the water service pipe shall be constructed of cast-iron soil pipe with leaded joints or other approved materials. Cast-iron pipe with leaded joints or other approved materials may be required by the Superintendent where the building sewer is exposed to damage by tree roots. If installed in fill or unstable ground, the building sewer shall be of cast-iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the Superintendent.

§ 104-24. Jointing methods and materials.

A. All joints and connections shall be made gastight and watertight. Cast-iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead, Federal Specification QQC-40, not less than one (1) inch deep. Lead shall be run in one (1) pouring and caulked tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.

B. All joints in vitrified clay pipe or between such pipe and metals shall be made with approved hot-poured jointing material as specified below.

C. Material for hot-poured joints shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of one hundred sixty degrees Fahrenheit (160° F.) nor be soluable in any of the wastes carried by the drainage system. The joint shall first be caulked tight with jute, hemp or similar approved material.

D. Other jointing materials and methods may be used only by approval of the Superintendent.

§ 104-25. Connection of building sewer to public sewer.

The connection of the building sewer into the public sewer shall be made at the Y-branch if such branch is available at a suitable location. When connecting a four-inch-diameter building sewer to any public sewer eight (8) inches in diameter or less, a Y-branch must be installed. When connecting a six-inch-diameter building sewer into any public sewer twelve (12) inches in diameter or less, a Y-branch must be installed. Such Y-branches shall be installed at the owner's expense and at the location specified by the Superintendent. Where the public sewer is greater than the maximum diameter for installation of a Y-branch as specified above and no properly located Y-branch is available, a neat hole may be cut into the upper quadrant of the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about forty-five degrees (45°). A properly sized Y-saddle is to be inserted in the hole so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same elevation as or at

a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the Superintendent.

§ 104-26. Inspection notice required.

A. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer.

B. No public sewer shall be disturbed or broken into or connection made except under the supervision of the Superintendent.

C. The Superintendent shall be available to supervise and inspect the connection within forty-eight (48) hours of notification of readiness.

§ 104-27. Excavation protection; restoration of property.

All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

§ 104-28. Community disposal system required for future developments.

Any subdivision or development of five (5) or more lots immediately or in the distant future and having no access to a public sewer shall provide for a community wastewater disposal system.

§ 104-29. Construction of community disposal system.

Any wastewater disposal system not connected to a public or town-owned wastewater disposal system serving more than one (1) independent connection shall be considered a community wastewater

disposal system and shall be constructed of such materials and in such manner as may be prescribed by the Superintendent. If such a system is intended to become or to be connected to a public or town sewer system, it shall be constructed according to the requirements of and under the supervision of the Superintendent.

ARTICLE V
Use Regulations

§ 104-30. Disposal of unpolluted waters prohibited.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

§ 104-31. Subsoil drains.

Where subsoil drains are placed under the cellar floor or used to encircle the outer walls of a building, the same shall be made of open-jointed drain tile or earthenware pipe not less than four (4) inches in diameter and shall be properly trapped and protected against back pressure by an automatic back-pressure valve accessibly located before entering the house sewer or drain. Such drains may be discharged only to a storm drain and only with written approval of the Superintendent.

§ 104-32. Discharge of unpolluted drainage.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved in writing by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, upon written approval of the Superintendent, to a storm sewer or natural outlet.

§ 104-33. Prohibited wastes.

A. No person shall discharge or cause or allow to be discharged into any sewer under the control of the Town the following-described substances, materials, waters or wastes if, in the opinion of the Superintendent, such substances, materials, waters or wastes are in excessive amounts of concentrations.

B. Persons who desire to discharge industrial wastewaters into facilities of the Town shall make their formal application to the Town. In forming an opinion as to the limitations on acceptability of any wastes, the Town will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, the wastewater treatment plant's discharge permit and other pertinent factors.

C. Any person discharging industrial wastewaters directly or indirectly into facilities of the Town that do not comply with this chapter may be subject to action by the Town, which action shall include but not be limited to the withdrawal of permission to discharge wastewaters into facilities of the Town.

D. Any spill, as defined in Article I, § 104-2, shall be reported immediately to the Superintendent.

E. Any damages experienced by the Town as the result of a spill are considered a violation of this chapter, and costs for repair, replacement or other associated costs are recoverable under Article VIII, § 104-57, of this chapter.

F. Wastewaters and wastes considered to contain excessive constituents or characteristics as determined by the Town and therefore prohibited include:

(1) Any wastewater containing toxic or poisonous liquids, gases or solids in excessive quantity, either singly or by interaction with other wastes. Said toxic pollutants are defined in standards issued from time to time under Section 307a of the Act.

(2) Any incompatible pollutant contributed by an industry in an amount or concentration in excess of that allowed under standards or guidelines issued from time to time pursuant to Sections 304, 306 and/or 307 of the Act.

(3) Any wastewater, liquid or vapor having a temperature higher than 150 F.

(4) Any wastewaters containing caustic alkalinity, calculated as $CaCO^3$ (calcium carbonate), in excess of 75 parts per million by weight or in volumes which may be excessive.

(5) Any wastewaters having a pH lower than 5.5 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to sewers, structures, equipment, process or personnel at the wastewater works.

(6) Any wastewaters containing fats, wax, grease or oils, whether emulsified or not, in excess of 50 milligrams per liter or containing substances which may solidify, or become viscous at temperatures between 32° and 150° F. **[Amended 1-23-2003 by Ord. No. 1-2003]**

(7) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(8) Any solid or viscous substances in such quantities or of such size as to be capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater works, such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, unground garbage, whole blood, paunch

manure, hair, fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(9) Any garbage that has not been properly shredded, as defined in § 104-2.

(Cont'd on page 10419)

(10) Any wastewaters containing excessive amounts of iron, chromium, copper, zinc, mercury, mineral acid and similar objectionable or toxic substances.

(11) Any wastewaters containing phenols or other taste- or odor-producing substances in excessive amounts.

(12) Any radioactive wastes or isotopes in excessive amounts or such half-life or concentration as may exceed limits established in applicable state or federal regulations or by the town.

(13) Any obnoxious or malodorous gas or substance capable of creating a public nuisance.

(14) Any wastewaters containing:

(a) An average concentration of suspended solids in excess of three hundred (300) milligrams per liter (mg/l) or excessive dissolved solids, such as but not limited to sodium chloride and sodium sulfate.

(b) Materials which cause excessive discoloration, such as but not limited to dye wastes and vegetable tanning solutions.

(c) An average concentration of BOD in excess of two hundred fifty (250) milligrams per liter (mg/l) or material which causes unusual chemical oxygen demand or chlorine requirements.

(d) Materials in such concentration as to constitute slugs, as defined herein.

(e) Materials which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such a limited degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(f) Septic tank solids that are not diluted sufficiently to assure that all particles will be carried freely under all flow conditions in facilities of the town.

§ 104-34. Grease, oil and sand interceptors.

A. Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be so located as to be readily and easily accessible for cleaning and inspection.

B. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

C. Where installed, all grease, oil and sand interceptors shall be maintained by the owner at his expense in continuously efficient operation at all times.

§ 104-35. Notification of discharge change or new discharge.

The Superintendent must be notified forty-five (45) days in advance by any person or persons involved in:

A. Proposed substantial change in volume or character of pollutants over that being discharged into the treatment works at the time of issuance of his permit.

B. Proposed new discharge into the treatment works of pollutants from any source which would be a new source as defined in Section 306 of the Act if such source were discharging pollutants.

C. Proposed new discharge into the treatment works of pollutants from any source which would be subject to Section 301 of the Act if it were discharging such pollutants.

§ 104-36. Town control over discharges.

A. If any wastewaters or wastes are discharged or are proposed to be discharged to the public sewers containing excessive substances or possessing excessive characteristics, the town may:

(1) Reject the wastewaters or the wastes;

(2) Require that pretreatment of wastewaters or wastes be provided to modify them to an acceptable condition for discharge to the public sewers; and/or

(3) Require control over the quantities and rates of discharge of the wastewaters or the wastes; and/or

(4) Require payment to cover the added costs of handling and treating the wastes.

B. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, laws and the municipal discharge permit. Further, such pretreatment installations must be consistent with the requirements of any state pretreatment permit issued to the industry.

§ 104-37. Maintenance of pretreatment facility.

Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

§ 104-38. Monitoring and control manhole required.

All industries discharging into a public sewer shall perform such monitoring of their discharges as the Superintendent and/or other duly authorized representative of the town may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Superintendent. Such records shall be made available upon request by

the Superintendent to other agencies having jurisdiction over discharges to the receiving waters. When required by the Superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement and monitoring of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

§ 104-39. Measurement, test and analysis standards.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in §§ 104-33 and 104-35 shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, 1971 (13th Edition), and shall be determined at the control manhole provided for in § 104-38 or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

§ 104-40. Applicant agreement required.

All applications to discharge any industrial wastewater, drainage, substances or wastes directly into any sewer under the control of the town or tributary thereto shall be accompanied by an agreement stating that the applicant agrees to abide by all ordinances and rules and regulations of the town; that the applicant will provide such works for the preliminary treatment of the wastewater, drainage, substances or wastes as may be required by the town; and that the applicant will permit duly authorized representatives of the town to enter the premises of the industry to sample and measure wastewaters, as needed to check characteristics of the wastewaters, when so directed by the town. Applications are to be accompanied by a plan showing essential characteristics of all wastewater outlets, analyses of existing wastewater and statements as to existing and expected average and

maximum wastewater flows and must be submitted to and approved by the town prior to initiating discharge into facilities of the town. Required wastewater analyses are listed in § 104-48.

§ 104-41. Annual report by industrial user.

Each industrial user may be required to submit an annual report to the town on the first of July each year or such other time as designated by the town, containing information as to the minimum, average and peak flows of industrial wastewater discharged during the previous year and at time or times designated by the town, accompanied by designated analyses of wastewater samplings taken in an acceptable manner at approved times during the flow-measuring periods.

§ 104-42. Special agreements.

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefor by the industrial concern, provided that such agreements do not contravene any requirements of existing federal laws and are compatible with any user charge and industrial cost recovery system in effect.

ARTICLE VI
Sewer System Use Charges

§ 104-43. Basis for rates; surcharges.

Each user connected to the wastewater system shall pay a sewer user charge (sewer rental charge). From time to time the Council, upon recommendation of the Town Manager, shall establish by resolve a schedule of rates for the sewerage system use charges, together with any surcharges which may be applicable. The normal sewer user charges shall be based on water use wherever possible, but may include a minimum rate. If records of metered use are not available or do not properly reflect the quantity of waste discharged, the sewer

user charge shall be based upon estimated water use or an actual measurement of the volume of waste discharged into the sewerage system. Surcharges may be levied to users whose waste characteristics are above normal strength, the formula or other method for levying such surcharges to be established by resolve of the Council in the same manner as sewer user charges. In addition, the Council, by resolve, is also authorized to establish an interest charge for all sewer user charges or surcharges which have not been paid within thirty (30) days of the date of billing, said interest rate to be set from time to time by resolution of the Council.

§ 104-44. Factors not to be included in rates.

The sewer user charge shall be calculated so that the total of such charges will not be greater than the actual cost to the town of the administration, debt service, operation and maintenance, including replacement, of the wastewater collection system and the wastewater treatment plant. No portion of the rate shall be calculated to include, nor shall funds raised through the sewer use charge be used to separate the wastewater system of the town from the stormwater system, nor to maintain, repair or replace the storm drain system of the town.

§ 104-45. Rebate of surplus.

In the event that the revenues received from the sewer user charge exceed the actual cost to the town of the operation and maintenance, including the replacement, of the wastewater collection system and wastewater treatment plant, then any such surplus shall be rebated to the user in such manner as the Council, upon recommendation of the Town Manager, shall require by resolve. The amount of such surplus is to be determined by the Town Manager and is not to include, under any circumstances, any moneys included in the budget as a rate stabilization amount.

§ 104-46. Billing; failure to pay.

Sewerage system use charges shall be billed periodically as determined by the Council by resolve, upon the recommendation of the Town Manager. Where sewerage sysem rates, fees or use charges

provided for herein are not paid within ninety (90) days, these rates, fees or charges shall be collected in accordance with 30 M.R.S.A. § 4355.

§ 104-47. Collection.

The sewerage system use charges herein established shall be collected from the owners, occupants and users of premises within the town from and after the effective date of this Article. The ultimate responsibility for payment of such charges is upon the owner of such premises.

ARTICLE VII
Miscellaneous Provisions

§ 104-48. Measurements and analyses of industrial wastes.

Measurements and analyses of industrial wastes are to include the following list where applicable. The analyses are to be conducted in accordance with the methods prescribed in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, 1971 (13th Edition). If any item is not applicable, it shall be so stated on the report of the measurements and the reason for deletion stated.

A. Physical parameters.

(1) Flow.

(2) pH.

(3) Temperature.

(4) Color.

(5) Specific conductance.

B. Chemical and biological parameters.

(1) Total solids.

(2) Total volatile solids.

(3) Total suspended solids.

(4) Total dissolved solids.

(5) Acidity.

(6) Alkalinity.

(7) Five-day BOD.

(8) COD.

(9) Oil and grease.

(10) Chloride.

(11) Sulfate.

(12) Sulfide.

(13) Phenols.

(14) NH^3 (as N).

(15) NO^3 (as N).

(16) NO^2 (as N).

(17) Kjeldahl organic nitrogen (as N).

(18) Orthophosphorus (as P).

(19) Total phosphorus (as P).

(20) Cr, Cu, Fe, Cd, Pb, Mn, Zn, F, As, Hg.

§ 104-49. Damage to facilities prohibited.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal wastewater works.

§ 104-50. Plan of sewers.

The Superintendent shall make and/or maintain accurate plans for all sanitary sewers, showing their location, depth and the materials of which they are made and their size, shape, thickness, invert elevations, slope and manner of construction; also all existing connections with said sewers and all future connections as they are made.

§ 104-51. Right of entry for inspections.

The Superintendent and his/her authorized agents for the town bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The Superintendent or his/her representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries, beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for treatment.

§ 104-52. Observance of company safety rules; indemnification by town.

While performing the necessary work on private properties referred to in § 104-51 above, the Superintendent and/or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the town employees. The town shall indemnify the employees for liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article V, § 104-38.

§ 104-53. Easement access required.

The Superintendent and/or other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town holds a duly negotiated easement for the purposes of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement to the private property involved.

ARTICLE VIII
Penalties

§ 104-54. Federal penalties.

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under the federal Public Law 92-500 Section 309 (c)(2), as amended, and this chapter or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000.) or by imprisonment for not more than six (6) months, or both, as expressly authorized by that federal law.

§ 104-55. Written notice of violation.

Any person found to be violating any provision of this chapter, except § 104-49, shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

§ 104-56. Violations and penalties.

Any person who shall continue any violation beyond the time limit provided for in § 104-55 shall be guilty of a civil violation and, upon conviction thereof, shall be fined in an amount not exceeding one hundred dollars ($100.) for each violation. Each day a violation continues shall be deemed a separate offense. Such fines shall be recoverable, on complaint, for the use of the town.

§ 104-57. Liability for damage.

Any person violating any of the provisions of this chapter shall become liable to the town for any expense, loss or damage occasioned the town by reason of such violation. The expense, loss or damage shall be taken to be the extent determined by a competent registered professional engineer particularly skilled in the operation and maintenance of wastewater collection and treatment works.

Chapter 108

STREETS AND SIDEWALKS

ARTICLE I
Snow Removal

§ 108-1. Deposit of snow after plowing.

§ 108-2. Storage of snow removed from driveways.

§ 108-3. Fire hydrants and fire call boxes.

§ 108-4. Violations and penalties.

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

ARTICLE I
Snow Removal
[Adopted 5-10-1983 by Ord. No. 3-83]

§ 108-1. Deposit of snow after plowing.

In all cases after a street area has been plowed or cleared of snow. no snow shall be placed therein beyond the windrowed accumulation along the curbline and in those areas where snow is removed by the Town; no snow shall be deposited within the street or sidewalk area after completion of removal operations by the Town.

§ 108-2. Storage of snow removed from driveways.

Snow removed from driveways shall be stored within the boundaries of the premises from which it is removed and shall not be plowed into or deposited in the area reserved for street or

sidewalk purposes. Where there is no room on the premises for such storage, snow plowed or removed therefrom may be spread in the street area along the curb frontage of the premises from which it is plowed or removed, provided that such storage is done before the Town has plowed or cleared the street. Such snow must be spread along the curb outside of the sidewalk area in such a manner as not to impede traffic and must not be pushed or moved into or across the street to the opposite curb.

§ 108-3. Fire hydrants and fire call boxes. [Added 12-11-2003 by Ord. No. 4-2003]

Snow removed from the property of individuals or businesses shall not be removed or plowed into, onto, or over a fire hydrant located on their property or the property of another, including Town-owned property, so as to impede its use in emergency situations. Snow removed from the property of individuals or businesses shall not be removed or plowed in such a way as to cover, partially cover, or otherwise interfere with the access to or use of fire call boxes. For the purposes of this section, the person plowing or otherwise removing the snow in such a way as to violate this section, if determinable, or the owner of the property from where such snow was plowed or removed shall be responsible and may be summonsed. This section shall not apply to the plowing or removal of snow from public ways by authorized personnel or contracted services of the Millinocket Public Works Department.

§ 108-4. Violations and penalties. [Amended 12-11-2003 by Ord. No. 4-2003]

Offenses under this article will be punishable by it fine of not less than $50 nor more than $100, recoverable on complaint for the use of the Town.

Chapter 110

STREET AND ROAD ADDRESSING

ARTICLE I
Administration and Design Guidelines

§ 110-1. Title.

§ 110-2. Purpose.

§ 110-3. Legislative authority.

§ 110-4. Naming authority.

§ 110-5. Administration.

§ 110-6. Naming system.

§ 110-7. Numbering system.

§ 110-8. Display of numbers.

§ 110-9. Violations and penalties.

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

GENERAL REFERENCES

Planning Board — See Ch. 23.
Streets and sidewalks — See Ch. 108.
Vehicles and traffic — See Ch. 115.
Zoning — See Ch. 125.

ARTICLE I
Administration and Design Guidelines
[Adopted 12-16-1999 by Ord. No. 9-99]

§ 110-1. Title.

This article shall be known as the "Addressing Ordinance."

§ 110-2. Purpose.

The purpose of this article is to enhance the easy and rapid location of structures by law enforcement, fire, rescue and emergency medical services personnel in the Town of Millinocket.

§ 110-3. Legislative authority.

This article is adopted pursuant to and consistent with Municipal Home Rule powers as provided for in Article VIII, Part 2, Section 1, of the Constitution of the State of Maine and 30-A M.R.S.A. § 3001.

§ 110-4. Naming authority.

A. The Millinocket Town Council shall be responsible for naming all streets and roads in the Town of Millinocket.

B. The Council may establish any necessary procedures it deems appropriate to accomplish this work.

C. The Council may name an Addressing Committee to develop a uniform naming of streets and roads as well as an address numbering system that is consistent with state guidelines.

D. Upon completion of the Committee's work (should the Council establish such a committee), the Committee shall present its findings and recommendations to the Council for consideration and implementation.

E. Implementation shall be by ordinance titled "Article II, Street and Road Names Ordinance" which shall be incorporated into this Chapter 110 of the Millinocket Code.

§ 110-5. Administration.

This article shall be administered by the Tax Assessor who is authorized to and shall assign road and street numbers to all properties, both on existing and proposed roads, in accordance with the criteria in §§ 110-6 and 110-7 below after the initial assigning of names and numbers by the Town Council in accordance with § 110-4 above. The Tax Assessor shall also be known as the town's "Addressing Officer" and will be responsible for and authorized to provide all required addressing and database information to the state agency responsible for implementation of enhanced 911 service. (S)He shall also work with the Town Council in the naming of new streets or roads constructed after its initial naming is completed per this article. The Tax Assessor shall be responsible for maintaining the following official records of this article:

A. Municipal map(s) for official use showing road/street names and numbers.

B. An alphabetical list of all property owners as identified by current tax records, by last name, showing the assigned numbers.

C. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

§ 110-6. Naming system.

All roads that serve two or more structures shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way or similar paved, gravel or dirt thoroughfare. A road name

assigned by the town shall not constitute or imply acceptance of the road as a public way.

A. The following criteria shall govern the naming system:

(1) No two roads shall be given the same name (ex., Pine Road and Pine Lane).

(2) No two roads shall have similar-sounding names (ex., Beech Lane and Peach Lane).

(3) Each road shall have the same name throughout its entire length.

B. The Planning Board shall consider new subdivisions and developments. As part of that process, the Board shall not consider an application complete until all roads are given names and all lots are assigned numbers consistent with this article.

§ 110-7. Numbering system.

The following criteria shall govern the numbering system:

A. Numbers shall be assigned every 50 feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, as the numbers ascend. A twenty-five-foot interval may be applied in more densely structured areas, if deemed appropriate and necessary by the Committee.

B. All number origins shall begin from the entrance of Great Northern Paper, Inc., at the end of Katahdin Avenue. For dead-end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.

C. The number assigned to each structure shall be that of the numbered interval falling closest to the front door or the driveway of said structure if the front door cannot be seen from the main road.

D. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy (i.e., duplexes will have two separate numbers, apartments will have one road number with an apartment number such as 235 Maple Road, Apt. 2).

§ 110-8. Display of numbers.

All owners of structures shall, on or before the effective date of adoption of Article II of this chapter, display and maintain in conspicuous place on said structure, the assigned number(s) in the following manner:

A. Number on the structure or residence. Where the residence or structure is under 50 feet from the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence in the vicinity of the front door or entry.

B. Number at the street line. Where the residence or structure is over 50 feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, mailbox or some other structure on the property line adjacent to the walk or access drive to the residence or structure.

C. Size and color of number. Numbers shall be displayed in a color and size approved for use by the Town Council and shall be located as to be visible from the road and be at least four inches in height.

D. Every person whose duty is to display the assigned number shall remove any different numbers which might be mistaken for, or confused with, the number in conformance with this article.

E. Interior location. All residents and other occupants are requested to post the assigned number and road name adjacent to their telephone for emergency reference.

§ 110-9. Violations and penalties.

Property owners who fail to comply with this article shall be subject to a penalty of $25 for the first offense, $50 for a second offense and $100 for any subsequent offenses. Offenses may be assessed on a daily basis.

Chapter 115

VEHICLES AND TRAFFIC

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§ 115-1. Terms defined.

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Public Parking Lots

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ARTICLE V
Parking

§ 115-13. General parking restrictions.
§ 115-14. Granite Street School driveway.
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§ 115-18. No parking certain hours.
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ARTICLE VI
Handicapped Parking

§ 115-20. Parking stalls designated.
§ 115-21. Special registration plate required.
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ARTICLE VIII
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§ 115-25. Use prohibited.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 7-21-1981 as Ch. 14 of the Millinocket Code. Amendments noted where applicable.]

(Cont'd on page 11503)

ARTICLE I
Definitions

§ 115-1. Terms defined.

The following words and phrases, when used in this chapter, shall, for the purpose of this chapter, have the meaning respectively ascribed to them in this Article:

DRIVER — Includes the rider of a horse, the rider of wheels and bicycles and the operator of motor vehicles.

PEDESTRIAN — Any person afoot.

PERSON — Every natural individual, firm, copartnership, association or corporation.

PRIVATE ROAD or DRIVEWAY — Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

RIGHT-OF-WAY — The privilege of the immediate use of the roadway.

ROADWAY — That portion of a street or highway improved, designed or ordinarily used for vehicular travel.

SIDEWALK — That portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

STOP — When required, means complete cessation of movement.

STREET or HIGHWAY The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purpose of vehicular travel.

VEHICLE — Includes equestrian, horses hitched to vehicles, led horses, motor vehicles of all kinds, bicycles, minibikes, motorcycles, go-carts, snowmobiles and everything on wheels and runners, except baby carriages and tricycles.

ARTICLE II
Public Parking Lots

§ 115-2. Time limit parking established and indicated.

A. Two-hour limit. No vehicle shall be parked in any publicly owned parking lot in the Town of Millinocket for a period longer than two (2) hours between the hours of 12:00 midnight and 7:00 a.m., except on permit granted by the Police Department. The Chief of Police and/or Town Manager shall develop a permit application, which shall include regulations for issuance of the permits, renewal of the permits and any restrictions for the permit or use of the parking lots. The general format of the permit application shall be submitted to the Town Council for its advice and endorsement. This regulation shall not apply to physicians or surgeons on emergency or professional calls. **[Amended 2-5-88 by Ord. No. 1-88]**

B. Four-hour limit. No vehicle shall be parked in such parking lot at any other times for a period longer than four (4) hours except as provided for in Subsection C of this section.

C. Exceptions. The provisions of Subsection B shall not apply on public holidays and Sundays, nor on Thursday prior to 9:00 a.m. and after 9:00 p.m. nor on any other day prior to 9:00 a.m. and after 6:00 p.m.

D. Time designations. The Town Council may divide public parking lots into two (2) or more areas and designate the length of time a vehicle may be parked in each area, except that time designations of less than one (1) hour or more than four (4) hours shall not be made for any areas so divided.

E. Time limits marked. The Town Council shall cause all areas within the public parking lot to be clearly marked so as to indicate the length of time a vehicle may be parked therein, and if an area within such parking lot is not clearly marked, it shall be presumed that vehicles may be parked therein for a period not exceeding four (4) hours.

§ 115-3. Manner of parking.

A. Any vehicle parking or standing in any visibly marked space shall be stationed within the lines marked and may occupy such space during the parking time provided by this Article, and where spaces are visibly marked, no person having charge of a vehicle shall place same in any space not visibly marked.

(Cont'd on page 11505)

B. No vehicle having an overall length of twenty (20) feet or more shall stop, stand or park diagonally on the parking lot.

§ 115-4. Snow removal.

No vehicle shall be parked at any time in the public parking lot so as to interfere with or hinder the removal of snow from said parking lot by the town plowing or loading and hauling. The Chief of Police may cause any vehicle so parked in the public parking lot as to interfere with or hinder the removal of snow by the town to be removed from the parking lot and placed in a suitable parking space out of the town, being liable for any damage that may be caused by such removal. For the purpose of facilitating the removal of snow, the Chief of Police may cause to be placed properly marked signs in the parking lot as he shall from time to time deem necessary. It shall be unlawful for the operator of any vehicle to enter upon or stop or park within the spaces indicated by such signs.

§ 115-5. Exiting.

The driver of a vehicle emerging from a public lot shall stop such vehicle immediately prior to driving onto a sidewalk, yielding the right-of-way to any pedestrian as may be necessary to avoid collision, and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on said roadway.

§ 115-6. Violations and penalties.

A. Any person violating any of the provisions of this Article shall pay a penalty of ten dollars ($10.) for each of the first three (3) such violations in any one (1) calendar year and for all subsequent violations, in accordance with Subsection B. Payments for all violations hereunder shall be made at the office of the Town Manager. The violator shall be given a receipt for every such payment, and a copy of such receipt shall be forwarded to the Treasurer of the Town of Millinocket. If, however, such payment is not made at the office of the Town Manager within forty-eight (48) hours after the notice of such violation is served, by traffic ticket or otherwise, this

alternative method is not available or applicable and the penalty provided by this Article shall be imposed.

B. Any person violating any of the provisions of this Article shall be guilty of a civil violation and, upon conviction thereof, shall be punished for each offense by a fine not exceeding one hundred dollars ($100.), recoverable on complaint for the use of the town. The provisions of Subsections A and B of this section shall not be construed as being inconsistent one with another.

ARTICLE III
Truck Exclusions

§ 115-7. Loaded pulp trucks.

A. Definition. As used in this Article, the following terms shall have the meanings indicated:

LOADED PULP TRUCK — A commercial vehicle with open truck bed and three (3) or more axles, hauling four-foot pulp or tree length logs.

B. Use of certain streets prohibited. Loaded pulp trucks shall not be allowed to use:

(1) Penobscot Avenue from Central Street to Birch Street.

(2) Somerset Street, Knox Street, Lincoln Street and Oxford Street from Poplar Street to Spruce Street and from Poplar Street to Elm Street.

§ 115-8. Heavy truck traffic. [Added 6-14-83 by Ord. No. 6-83]

A. Heavy truck traffic is prohibited on:

(1) Elm Street from April 1 to October 31.

(2) Elm Street after exiting the Somerset Street gate.

B. The intent of this section is to restrict heavy truck use of Elm Street during the summer months and to prohibit heavy trucks exiting from the Somerset Street gate from using Elm Street at any time.

C. During the months of April through October, trucks could use Poplar Street or Oak Street to enter the Somerset Street gate. Trucks exiting the Somerset Street gate would have to use Oak and Poplar Streets at any time.

ARTICLE IV
Traffic Regulations

§ 115-9. Granite Street School driveway; recreation areas.

A. No vehicle shall enter the horseshoe driveway of the Granite Street School during the hours that the school buses are loading or unloading schoolchildren, except for emergency personnel when responding to an emergency. **[Added 5-10-83 by Ord. No. 4-83]**

B. It shall be unlawful to operate any motor vehicle in designated recreation areas in the Town of Millinocket unless said motor vehicle and operator are licensed in accordance with the laws of the State of Maine and such operation is only in areas designated as exits and entrances to public parking for recreational functions. Any road within the Millinocket Recreational Complex shall be designated as a ten-mile-per-hour zone.

§ 115-10. U-turns prohibited.

No vehicle shall be operated in such a manner as to effect a one-hundred-eighty-degree change of direction (so-called-U-turn) on any street or avenue in the town limits with the exception of dead-end streets, and then only to the extreme end of the dead-end street.

§ 115-11. Throughways.

A. Designated throughways. The following-described routes or ways are designated as throughways, and every vehicle immediately before entering or crossing said throughway at its point of intersection with another street or way shall first come to a full stop, provided that whenever an officer is

stationed at such point, he shall have the right to regulate traffic thereat. Such throughways are described as follows:

(1) No. 1: beginning at the bridge which crosses Millinocket Stream and continuing thence along Central Street to a point of intersection with Katahdin Avenue northerly to Bates Street; thence along Bates Street to the railroad underpass.

(2) No. 2: beginning at a point on Penobscot Avenue where Central Street intersects Penobscot Avenue, in a southerly direction to a point of its intersection with Katahdin Avenue.

(3) No. 3: Aroostook Avenue from its point of intersection with Central Street in a southerly direction to Cherry Street.

(4) No. 4: Katahdin Avenue from Central Street to the mill gate.

(5) No. 5: Congress Street from Central Street to Cherry Street.

(6) No. 6: Poplar Street from Central Street to Katahdin Avenue.

B. Warning signs. No such designation of a throughway as referred to in Subsection A shall become effective as to regulation of traffic at such point of intersection until the Town Council shall have caused suitable warning signs or signals to be erected at or near such point. For the purpose of this section, a way joining a throughway at an angle, whether it crosses the same, shall be deemed to intersect it, and the word "way," unless the context otherwise requires, shall include a throughway or other way.

§ 115-12. One-way streets; loading zones.

A. The following streets are designated as one-way streets in the direction indicated:

Name of Street	Direction of Travel	Limits
Bates Street	East	From Katahdin Avenue to Main Avenue
Colby Street **[Added 10-10-1996 by Ord. No. 2-96]**	East	From Maine Avenue to Highland Avenue Saturday afternoon from 3:00 p.m. to 6:00 p.m. and Sunday morning from 7:00 a.m. to 12:00 noon
Penobscot Avenue **[Amended 5-27-1993 by Ord. No. 2-93]**	South	From Central Street to Poplar Street

Poplar Street **[Added 5-27-1993 by Ord. No. 2-93; repealed 6-24-1999 by Ord. No. 2-99]**

B. Loading zones on Penobscot Avenue. Vehicles shall park parallel with left side to the curb on the east side of Penobscot Avenue and diagonally on the west side of Penobscot Avenue, in painted designated areas. Loading zones shall be designated and the curb painted red for the purpose of trucks loading and unloading, and it shall be unlawful for passenger cars to park in those loading zones from 8:00 am. to 6:00 p.m., Monday through Saturday.

ARTICLE V
Parking

§ 115-13. General parking restrictions.

A. Curbs.

(1) No vehicle shall stop with its left side to the curb, except on designated one-way streets.

(2) No vehicle shall remain backed up to the curb except when actually loading or unloading, and then only for a reasonable time.

(3) Unless in an emergency or to allow another vehicle or pedestrian to cross its path or way, no vehicle shall stop in any public street except close to the curb.

B. Intersections; corners. No vehicle shall stop or stand within the intersection of any streets nor within 20 feet of any street corner. **[Added 11-27-1985 by Ord. No. 7-85]**

C. Obstruction of passage. No person having charge of any vehicle shall place the same in any public street so as to prevent the passing of other vehicles. No person in charge of any vehicle shall place the same in such a manner as to obstruct free passage into any public or private driveway.

D. Snow removal. No person shall park or cause to be parked any vehicle on any way so as to hinder the removal of snow. An officer may cause any vehicle so parked on any way as to hinder the removal of snow or the normal movement of traffic to be removed from said way and placed in a suitable place at the expense of the owner of the vehicle. Neither the town nor the officer shall be liable for any damage that may be caused by such movement.

E. Sidewalk. No vehicle shall be driven on or allowed to stand on any sidewalk except for the purpose of crossing the same when necessary, and then only in the shortest way from the street to the abutting estate.

F. Physician parking spaces. The Town Council may designate, from time to time, certain parking spaces within the Town of Millinocket for the exclusive use of physicians. Such spaces shall be properly posted. Vehicles authorized to park therein shall display a permit issued by the Chief of Police, and the owners of

such vehicles shall be permitted to park in such designated areas.

G. Tree belt. No vehicles shall be allowed to stand for any period of time on any tree belt within the limits of the town that has not been surfaced with bituminous concrete.

H. Double-parking. There shall be no double-parking on any street or avenue within the town limits.

I. Crosswalks. No vehicle shall be allowed to stand for any period of time in such a manner that any portion of the vehicle extends across any portion of a crosswalk. For purposes of this subsection, a "crosswalk" is defined as any area which is designated, by signage or by marking on the pavement or both, as an area to be traversed by pedestrians while crossing any town way. **[Added 1-21-1993 by Ord. No. 1-93]**

J. Fire hydrants. No vehicle shall be allowed to stand for any period of time in such a manner that any portion of the vehicle blocks or extends within five (5 feet of any fire hydrant. **[Added 1-21-1993 by Ord. No. 1-93]**

K. Other prohibited parking. The Town Council shall, from time to time and as necessity requires, further prohibit or restrict parking or municipal property and ways. Such prohibitions or restrictions shall be plainly posted at the affected area in a manner calculated to provide notice of the prohibition or restriction to the public. **[Added 1-21-1993 by Ord. No. 1-93]**

§ 115-14. Granite Street School driveway.

No parking will be allowed in the so-called horseshoe driveway of the Granite Street School between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday, except by handicapped persons, school doctor or nurse, emergency personnel such as police and fire when responding to an emergency and delivery vehicles.

§ 115-15. Counseling center on Katahdin Avenue. [Added 12-6-1984 by Ord. No. 7-84]

Three parking stalls on Katahdin Avenue between School Street and Colby Street shall be designated "For Counseling Center Use Only." Said designation shall be assigned by the Chief of Police.

§ 115-16. No parking any time.

No person shall park a vehicle at any time upon any of the following-described streets or parts of streets:

Name of Street	Side	Location
Aroostook Avenue	East	From Central Street to north driveway of Millinocket Motors garage
Central Street **[Amended 9-10-1998 by Ord. No. 4-98]**	Both	From State Street to the town line
Central Street	Both	From Highland Avenue to School Street
Central Street **[Amended 9-10-1998 by Ord. No. 4-98]**	Both	From Penobscot Avenue to Aroostook Avenue
Central Street	South	From Penobscot Avenue to the driveway at west end of the so-called corner drugstore

Central Street **[Repealed 9-10-1998 by Ord. No. 4-98]**

Cherry Street	Both	From Katahdin Avenue to Aroostook Avenue
Colby Street	North	From Katahdin Avenue to Maine Avenue
Elm Street **[Added 6-14-1983 by Ord. No. 6-83]**	East	Entire length

Name of Street	Side	Location
Katahdin Avenue	East	From Central Street to Colby Street
Penobscot Avenue	East	For a distance of 55 feet northerly from Central Street
Penobscot Avenue	West	From Central Street to driveways at Fuller's Furniture Co.
Poplar Street **[Added 6-14-1983 by Ord. No. 6-83]**	Both	From Oxford Street to Katahdin Avenue
Spring Street	South	From Penobscot Avenue to Congress Street
State Street	East	From State Street Bridge north for 584 feet
State Street	West	From State Street Bridge north for 322 feet
Summer Street **[Added 12-12-85 by Ord. No. 5-85]**	South	From Aroostook Avenue to Congress Street
York Street **[Added 7-26-1990 by Ord. No. 2-90]**	East	From Hemlock Street to Prospect Street
York Street	West	From Hemlock Street to the foot of so-called "DiNardo's Hill"

§ 115-17. Time limit parking.

No person shall park a vehicle for longer than the time limit shown upon any of the following-described streets or parts of streets:

Name of Street	Side	Time Limit; Hours/Days	Location
Aroostook Avenue	Both	1 hr.	From Central Street to Summer Street only in painted designated areas
Aroostook Avenue	Both	1 hr.; 8:00 a.m. to 6:00 p.m., all days except Sundays and holidays	From Central Street to Summer Street
Central Street	Both	1 hr.; 8:00 a.m. to 6:00 p.m., all days except Sundays and holidays	From Highland Avenue to Aroostook Avenue
Katahdin Avenue **[Repealed 11-5-1987 by Ord. No. 3-87]**			
Penobscot Avenue **[Amended 8-13-1987 by Ord. No. 1-87]**	Both	2 hrs.; 8:00 a.m. to 6:00 p.m. all days except Sundays and holidays	From Central Street to Poplar Street
Poplar Street	Both	1 hr.; 8:00 a.m. to 6:00 p.m.; all days except Sundays and holidays	From Penobscot Avenue to Katahdin Avenue
Spruce Street	Both	1 hr.; 8:00 a.m. to 6:00 p.m. all days except Sundays and holidays	From Aroostook Avenue to Highland Avenue
Summer Street	Both	1 hr.; 8:00 a.m. to 6:00 p.m. all days except Sundays and holidays	From Aroostook Avenue to Penobscot Avenue

§ 115-18. No parking certain hours.

No person shall park a vehicle between the hours listed upon any of the following-described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
Central Street **[Added 9-10-1998 by Ord. No. 4-98]**	Both	9:00 p.m. to 7:00 a.m.	From Aroostook Avenue to State Street
Katahdin Avenue	East	9:00 p.m. to 7:00 a.m.	From Poplar Street to Elm Street
Penobscot Avenue **[Added 7-8-1986 by Ord. No. 8-86; amended 8-14-1986 by Ord. No. 9-86; 9-26-1996 by Ord. No. 1-96]**	Both	1:00 a.m. to 4:30 a.m.	From Central Street to Poplar Street
Penobscot Avenue **[Added 9-26-1996 by Ord. No. 1-96]**	West	1:00 a.m. to 4:30 a.m.	From Poplar Street to Katahdin Avenue

§ 115-19. Parking restricted certain months.

There shall be no parking on the following-described streets or parts of streets during the hours and dates indicated, except that in periods of emergency as herein provided, doctors, clergymen, policemen, firemen, fire truck drivers, operators of United States Mail vehicles, ambulance drivers and undertakers, in pursuit of their respective professions and occupations, shall not be subject to the provisions of this section:

Name of Street	Side	Hours/Days	Location
Any street	Both	11:00 p.m. to 7:00 a.m., November 1 to April 1	Entire length
Central Street **[Added 9-10-1998 by Ord. No. 4-98]**	Both	From November 1 to April 1	From Aroostook Avenue to State Street
Congress Street **[Added 12-13-1983 by Ord. No. 12-83; amended 6-7-1984 by Ord. No. 5-84]**	East	From November 1 to April 1	From Cherry Street to Pine Street
Granite Street	Both	7:00 a.m. to 4:00 p.m., September 1 to June 20	From York Street to Eastland Avenue

ARTICLE VI
Handicapped Parking
[Added 1-10-1984 by Ord. No. 3-84]

§ 115-20. Parking stalls designated. [Amended 6-21-1984 by Ord. No. 6-84]

Five parking stalls in the downtown area of Penobscot Avenue will be designated for handicapped parking and will be posted with proper signs as designated by 30 M.R.S.A. § 2151, Subsection 2K:

A. One parking stall in front of the Municipal Building.

B. Two parking stalls in the municipal parking lot.

C. One parking stall in front of the post office.

D. One parking stall in front of Emerson's Pharmacy.

§ 115-21. Special registration plate required. [Amended 6-21-1984 by Ord. No. 6-84]

Any vehicle parked in the handicapped parking stalls or spaces as listed in § 115-20 above must bear a special registration plate or placard issued under 29 M.R.S.A. § 252 or a similar plate issued by another state.

§ 115-22. Violations; extended parking allowed. [Amended 6-21-1984 by Ord. No. 6-84]

A. It is a violation of this article for anyone to park a vehicle in one of these spaces which does not have a special registration plate or to park in excess of the time limit, if any.

B. Vehicles having a special registration plate are permitted to park twice as long as other cars parked in the same vicinity, street or parking lot.

§ 115-23. Agreements for policing.

The Chief of Police, upon approval of the Town Manager, is authorized to enter into agreements with owners of private off-street parking for the policing of stalls and spaces designated for handicapped persons' vehicles.

ARTICLE VII
Penalties

§ 115-24. Violations and penalties.

A. Whoever violates any of the provisions of the foregoing regulations may be assessed an amount not exceeding $25 for the first and any subsequent offenses. **[Amended 4-7-1994 by Ord. No. 3-94]**

B. In the event of no assessment or the failure to pay the assessment levied, said violator shall be punished by a fine not to exceed $20.

C. Whoever violates any of the provisions of § 115-9B shall be punished by a fine of not less than $25 nor more than $100.

D. Persons convicted of a violation of § 115-9A shall be fined $25 for the first offense and $50 for each offense thereafter. **[Added 1-10-1984 by Ord. No. 3-84]**

E. All fines shall be recovered on complaint for the use of the town.

F. Any police officer may cause any vehicle parked in violation of this chapter to be removed and placed in a suitable location at the expense of the owner of the vehicle if the vehicle hinders the normal movement of traffic, hinders access to property abutting a public way or if the owner of the vehicle cannot be located or refuses to move the vehicle upon request. Neither the town nor the officer shall be liable for any damage that may be caused by such movement or storage. Any police officer may impound any vehicle parked in violation of this chapter and the owner shall be liable for all expenses incurred by the town during the time of impoundment in arranging to have the vehicle towed, storing the vehicle, releasing the vehicle from storage or any similar expenses. **[Added 2-27-1992 by Ord. No. 1-92]**

ARTICLE VIII
Jacob Engine Brakes
[Added 12-2-1999 by Ord. No. 8-99]

§ 115-25. Use prohibited.

A. Violation. In order to prevent excess noise created when large trucks are traveling through certain areas of the Town of Millinocket and to protect the general welfare of

residents, no person shall operate or use any vehicle engine compression brake, a/k/a jacobs engine or jake brakes.

B. Area defined. The area of applicability of this section shall be within that area known as the "Urban Compact Zone," as determined and posted by the Maine Department of Transportation within the town limits of the Town of Millinocket.

C. Penalties. Violators of this section shall be subject to a fine of up to $100 (U.S.) for each occurrence.

Chapter 121

WEAPONS

§ 121-1. Purpose.

§ 121-2. Discharge prohibited.

§ 121-3. Definitions.

§ 121-4. Exceptions.

§ 121-5. Violations and penalties.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 3-8-83 as Art. IV of Ch. 11 of the Millinocket Code. Amendments noted where applicable.]

GENERAL REFERENCES

Throwing of objects — See Ch. 94, Art. I.

§ 121-1. Purpose.

The purpose of this chapter is to minimize the risk of personal damage or a breach of the peace resulting from the discharge of weapons within the populated portions of the Town of Millinocket.

§ 121-2. Discharge prohibited.

It shall be unlawful to shoot, fire or discharge any weapon within the populated portions or within two hundred (200) feet of the populated portions of the Town of Millinocket except as provided in § 121-4.

§ 121-3. Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated:

POPULATED PORTIONS — Those lands developed for residential, municipal, commercial or industrial use. "Populated portions" also includes:

A. Millinocket Recreational Complex located in Lot 62.

B. Hillcrest Golf Course located in Lot 62.

C. Harold E. Clark Recreational Area and approach road located in Lots 63, 73.

D. Playgrounds located in municipal areas.

WEAPON:

A. Any rifle, handgun or shotgun which uses conventional loaded cartridges or shells.

B. Any black powder rifle, handgun or shotgun which uses separate components of powder and projectile or shot.

C. Any cannon, either held or mounted, using conventional loaded cartridges or shells or separate components of gunpowder, carbide or other gas-generating chemical and projectile or shot.

D. Any rifle or handgun which propels a projectile by means of released compressed air or gas.

E. Any crossbow which propels an arrow, bolt or quarrel by means of released spring pressure of bent wood or other elastic materials.

F. Any slingshot which propels a projectile by means of released spring pressure of stretched elastic bands.

G. Any "David sling" which propels a projectile by means of released centrifugal force.

§ 121-4. Exceptions.

This chapter does not apply when:

A. A rifle, shotgun or handgun is discharged in an indoor firing range by individuals or clubs.

B. A rifle, shotgun or handgun is discharged for the protection of life or property.

C. Weapons are discharged as part of a military or police ceremony, demonstration or by law enforcement officers in the performance of their duties.

D. Airguns, bows and arrows, slingshots are used by persons sixteen (16) years of age or older or by children less than sixteen (16) years of age under the direct supervision of an adult.

E. Trappers discharge a weapon in the legal exercise of trapping.

§ 121-5. Violations and penalties.

A. Upon conviction, a fine of not less than one hundred dollars ($100.), to be recovered for the use of the town, shall be imposed.

B. Juvenile offenders shall be handled by the Millinocket Police Department in a manner consistent with provisions of the Maine Juvenile Code.

Chapter 123

WIND TURBINES

§ 123-1. Title.

§ 123-2. Purpose.

§ 123-3. Legislative authority.

§ 123-4. Provisions.

§ 123-5. Violations and penalties.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 6-24-2010 by Ord. No. 1-2010. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 125.

§ 123-1. Title.

This chapter shall be known as the "Wind Turbine Ordinance."

§ 123-2. Purpose.

The purpose of this chapter is to regulate the placement and operation of small, noncommercial wind turbines with a capacity of no more than 50 kilowatts within the Town of Millinocket.

§ 123-3. Legislative authority.

This chapter is adopted pursuant to and consistent with municipal home rule powers as permitted in Article VIII, Part

2, Section 1, of the Constitution of the State of Maine and 30-A M.R.S.A. § 3001.

§ 123-4. Provisions.

The following provisions will apply:

A. Location. Wind turbines will be allowed in the Neighborhood Commercial Development (NC), Industrial Development (ID), Commercial Forestland (CF), Rural Development (RD), Open Space/Recreation (OR), and Highway Commercial (HC) Zones.

B. Capacity. A wind turbine shall not exceed 50 kilowatts of generating capacity.

C. Minimum lot size. No minimum lot size will be required.

D. Mounting. Wind turbines may be mounted on a monopole or lattice tower.

E. Property line setback. A turbine and its tower must be set back at least 110% of its total height from any property line, public utility line, or other towers.

F. Height restrictions. A tower height restriction will not apply if sound and setback requirements are met and the tower and turbine comply with Federal Aviation Administration (FAA) regulations and the manufacturer's recommendations and specifications. Proof of compliance will be the responsibility of the owner.

G. Noise levels. Noise generated by a wind turbine system must not exceed a level of 60 decibels, measured from the nearest property line, during the hours of 7:00 a.m. and 7:00 p.m. or a level of 50 decibels, measured from the nearest property line, during the hours of 7:00 p.m. and 7:00 a.m.

H. Installation. A wind turbine system will be installed only by a certified professional, and the installation will comply

with all federal and state codes and regulations and with all the manufacturer's recommendations.

I. FCC compliance. Wind turbines must comply with all Federal Communications Commission regulations. Proof of compliance will be the responsibility of the owner.

J. Lighting. Artificial lighting of the turbine and tower will not be allowed unless required by FAA regulations.

K. Climbing access. A wind turbine must have a minimum climbing access of six feet. Access below 12 feet must be secured with an anticlimbing device or a six-foot fence.

L. Signage. Signage is prohibited on a wind turbine and tower except for safety and warning signs.

M. Tree removal. Wind turbines are to be erected with minimum removal of trees and must be in compliance with manufacturer's recommendations.

N. Nonoperation. The owner of a wind turbine that is inoperable for six consecutive months will be notified to repair the wind turbine or have it removed at the owner's expense within six months of receiving notification to do so.

§ 123-5. Violations and penalties.

Failure to comply with the requirements of this chapter may result in penalties of $50 per day for each day the violation continues from the date of notification by the Code Enforcement Officer (CEO) of the Town of Millinocket. For repeat offenders, the penalties may be assessed at $100 per day for each day the violation continues from the date of notification by the CEO. The CEO is authorized by the Town to issue summonses for noncompliance with this chapter. If a wind turbine or tower becomes a dangerous hazard due to lack of maintenance or acts of God, the owner may be ordered to remove the structure at the owner's expense and penalties may be assessed as described

above. Violations of this chapter shall be heard in Maine District Court.

Chapter 125

ZONING

Part 1
(Reserved)

ARTICLE I
(Reserved)

§§ 125-1 through 125-5. (Reserved)

ARTICLE II
(Reserved)

§§ 125-6 through 125-11. (Reserved)

ARTICLE III
(Reserved)

§§ 125-12 through 125-15. (Reserved)

Part 2
Town Zoning

ARTICLE IV
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[HISTORY: Adopted by the Town Council of the Town of Millinocket: Part 2, 6-18-1992 by Ord. No. 4-92.[1] Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 23.
Building construction — See Ch. 48.
Floodplain management — See Ch. 68.
Mobile home parks — See Ch. 83.

Part 1[2]
(Reserved)

ARTICLE I
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ARTICLE II
(Reserved)

§§ 125-6 through 125-11. (Reserved)

ARTICLE III
(Reserved)

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1 Editor's Note: This ordinance passed a referendum held 7-29-1992 and was deemed effective 7-30-1992. This ordinance also repealed former Part 1, Shoreland Zoning, adopted 7-21-1981 as Art. II of Ch. 15 of the Millinocket Code.

2 Editor's Note: Former Part 1, Shoreland Zoning, adopted 7-21-1981 as Art. II of Ch. 15 of the Millinocket Code, was repealed 6-18-1992 by Ord. No. 4-92, which appears as Part 2 of this chapter.

§§ 125-12 through 125-15. (Reserved)

Part 2
Town Zoning
[Adopted 6-18-1992 as Ord. No. 4-92]

ARTICLE IV
General Provisions

§ 125-16. Title.

This Part 2 shall be known as and may be cited as the "Zoning Ordinance of the Town of Millinocket, Maine," and will be referred to herein as "this Part 2."

§ 125-17. Authority.

This Part 2 is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and 30-A M.R.S.A. § 4352 and 38 M.R.S.A. § 435 et seq.

§ 125-18. Purposes.

The purposes of this Part 2 are as follows:

A. Comprehensive plan implementation: to implement the policies and recommendations of the Millinocket Comprehensive Plan.

B. Protection of the general welfare: to assure the comfort, convenience, safety, health and welfare of the present and future inhabitants of the Town of Millinocket.

C. Preservation of the town character: to preserve and protect the character of Millinocket by dividing the town into neighborhood zones according to the use of land and buildings and the intensity of such uses.

D. Protection of the environment: to protect and enhance the natural, cultural and historic resources of the town from unacceptable adverse impacts and to integrate new development harmoniously into the town's natural environment.

E. Promotion of community development: to promote the development of an economically sound and stable community.

F. Reduction of traffic congestion: to lessen the danger and congestion of traffic on roads and highways, limit excessive numbers of intersections, driveways and other friction points, minimize hazards and ensure the continued usefulness of all elements of the existing transportation system for their planned function.

G. Balancing of property rights: to protect property rights and values by balancing the rights of landowners to use their land with the corresponding rights of abutting and neighboring landowners to enjoy their property without undue disturbance from abutting or neighboring uses.

H. Reduction of fiscal impact: to provide a means of evaluating development proposals to determine their fiscal impacts on the municipality's ability to provide and improve necessary public facilities and services.

I. Establishment of procedures and standards: to establish procedures whereby the town officials may review the developments regulated by this Part 2 by providing fair and reasonable standards for evaluating such developments; to provide a public hearing process through which interested persons may raise questions and receive answers regarding how such developments may affect them; and to provide procedures whereby aggrieved parties may appeal decisions made under this Part 2.

§ 125-19. Applicability.

This Part 2 shall apply to all land and water areas within the Town of Millinocket. All buildings or structures thereinafter constructed, reconstructed, altered, enlarged or moved and the uses of buildings and land, including the division of land, shall be in conformity with the provisions of this Part 2. No existing or future building, structure, land or water area shall be used for any purpose or in any manner except as provided for in this Part 2.

§ 125-20. Conflict with other provisions.

Whenever the requirements of this Part 2 are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance, deed restriction or covenant, that imposing the most restrictive or higher standard shall govern.

§ 125-21. Severability.

In the event that any section, subsection or provision of this Part 2 shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or provision of this Part 2; to this end, the provisions of this Part 2 are hereby declared to be severable.

§ 125-22. Amendments.

The process for amending this Part 2 and the Official Zoning Map is as follows:

A. Initiation. A proposal to amend this Part 2 or the Official Zoning Map may be initiated by:

(1) The Planning Board, by majority vote.

(2) The Town Council, through a request to the Planning Board.

(3) The public, through a written petition by registered voters as provided for in the Town Charter.

B. Process of adoption. The process to be followed in adopting an amendment to this Part 2 or the Official Zoning Map is as follows:

(1) Proposed amendments must first be submitted to the Planning Board for its consideration.

(2) The Planning Board shall, within thirty (30) days of receiving a proposed amendment, set a date to hold a public hearing on the proposed amendment.

(3) Notice of the public hearing shall be given as required by state law.

(4) The Planning Board shall make its official report at a Town Council meeting occurring within sixty (60) days after the public hearing.

(5) Enactment of a proposed amendment shall require a majority vote of the members of the Town Council.

C. Criteria to be considered. **[Added 4-13-1995 by Ord. No. 1-95[1]]**

(1) In deciding whether to adopt a proposed amendment to this chapter or the Official Zoning Map, the central issue before the Town Council shall be whether the proposed amendment advances the public health, safety or welfare of the community and whether the proposed amendment:

(a) Is consistent with the purposes of this chapter as listed in § 125-18.

(b) Is consistent with the policies and recommendations of the town's adopted Comprehensive Plan.

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1 **Editor's Note: This ordinance also provided for the renumbering of former Subsection C as Subsection D.**

(c) Will satisfy a demonstrated need in the community.

(d) Will not result in an undue adverse impact on existing uses or protected natural resources.

(2) In addition, when the proposed rezoning is for lands currently classified as (CF) Commercial Forestland to be rezoned for development purposes, the Town Council shall determine whether such lands are proximate to existing compatibly developed areas.

D. Notification of state. The Commissioner of the Department of Environmental Protection and the Director of the Land Use Regulation Commission shall be notified of amendments to this Part 2 or zone boundaries in shoreland areas as required by the Mandatory Shoreland Zoning Act, 38 M.R.S.A. § 438-A, Subsection 3, and by the Land Use Regulation Commission (LURC) Statute, 12 M.R.S.A. § 685-A, Subsection 4.

§ 125-23. Annual administrative review.

A. The Code Enforcement Officer, Planning Board and Board of Appeals each shall report annually, in the month of November, to the Town Council on their respective experience with the administration of this Part 2 during the previous year. Their reports to the

(Cont'd on page 12513)

Town Council shall include any recommended amendments they may have that would:

(1) Enhance their ability to more effectively meet their respective administrative responsibilities under this Part 2; and

(2) Enhance the implementation of the purposes of this Part 2 contained in § 125-18A through I above.

B. Failure of any person or Board to comply with this provision shall not affect the validity or enforceability of this Part 2 in any way.

§ 125-24. Effective date.

The effective date of this Part 2 or any amendments thereto shall be the 30th day following its/their adoption at a Town Council meeting. A copy of this Part 2, certified by the Town Clerk, shall be on file at the town offices.

§ 125-25. Repealer.

The existing Zoning and Shoreland Zoning Ordinances of the Town of Millinocket, Maine, as amended, are repealed as of the effective date of this Part 2. The adoption of this Part 2, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any violation of the ordinances repealed by this section, if the violation is also a violation of the provisions of this Part 2. It is further the intention and direction of this section that if this Part 2 is held to be invalid or void in its entirety, the ordinances repealed by this section shall be automatically revived.

ARTICLE V
Nonconformities

§ 125-26. Definitions.

For the purpose of this Article, the following terms shall have the meanings indicated:

NONCONFORMITY — A legally existing (grandfathered) nonconforming lot, structure, sign or use that lawfully existed immediately prior to the enactment of this Part 2, or any subsequent amendment hereto and which, as a result of the enactment or subsequent amendment, fails to comply with any of the requirements of this Part 2. Such requirements include but are not limited to the use restrictions and lot standards for the zone in which it is located or any land use standards set forth in Articles VIII and IX. An illegal nonconformity is any other lot, structure, sign or use that fails to comply with any of the requirements of this Part 2 or its amendments.

§ 125-27. General provisions.

The following provisions apply to nonconformities generally:

A. Normal repair and maintenance. The normal upkeep and maintenance of nonconforming structures is permitted, including repairs or renovations which do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state or local building and safety codes may require are permitted.

B. Transfer of ownership. Any legal nonconformity may be transferred and the new owner may, subject strictly to the requirements of this section, continue such nonconformity; provided, however, that nothing contained herein shall be construed to permit any person or entity to occupy or use any lot or structure or to

continue any use in violation of any other federal, state or municipal statute, ordinance or regulation.

C. Illegal nonconformity. Any illegal nonconformity shall cease or be corrected immediately. Any continuation of an illegal nonconformity is a violation of this Part 2.

D. Burden of proof related to establishing legal nonconformity. The burden of establishing that any nonconformity is a legal nonconformity shall, in all cases, be upon the owner of such nonconformity and not upon the Town of Millinocket.

E. Conversion to conformity encouraged. All nonconformities shall be encouraged to convert to conformity whenever possible and, when required by this Part 2, shall convert to conformity.

F. Reversion to nonconformity prohibited. Once converted to conformity, no lot, structure or use shall revert to nonconformity.

§ 125-28. Nonconforming structures.

The following provision shall apply to nonconforming structures:

A. Expansion of nonconforming structures. A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority identified in § 125-36, as that for a new structure, if such addition or expansion does not increase the nonconformity of the structure. Such expansion is further limited as follows:

(1) After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by thirty percent (30%) or more, during the lifetime of the structure.

(2) Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure, provided that:

(a) The structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Subsection B below;

(b) The completed foundation does not extend beyond the exterior dimensions of the structure; and

(c) The foundation does not cause the structure to be elevated by more than three (3) additional feet.

(3) No structure which is less than the required setback from the normal high-water line of a water body, tributary stream or upland edge of a wetland shall be expanded toward the water body, tributary stream or wetland.

B. Relocation of nonconforming structures.

(1) A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules or that a new system can be installed in a manner that causes the system to be less nonconforming.

(2) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot,

the slope of the land, the potential for soil erosion, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation.

C. Reconstruction or replacement of nonconforming structures.

(1) Any nonconforming structure which is located less than the required setback from the normal high-water line of a water body or upland edge of a wetland or from the property line, or which otherwise fails to meet the dimensional requirements of this Part 2, and which is removed, damaged or destroyed by more than fifty percent (50%) of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced within one (1) year of the date of said damage, destruction or removal, provided that such reconstruction or replacement is in compliance with the setback requirements to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Part 2. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

(2) Any structure which is damaged or destroyed by fifty percent (50%) or less of the market value of the structure, excluding normal maintenance and repair, may be repaired or reconstructed in place within one (1) year of such damage or destruction, with a permit from the Code Enforcement Officer.

(3) In determining whether the building reconstruction or replacement meets setbacks to the greatest practical extent, the Planning Board shall consider, in addition to the criteria in Subsection C above, the type of foundation present, if any. It is not the intent of this section to require the destruction of

functional concrete or block foundations in order to meet setback requirements.

D. Change of use of a nonconforming structure within two hundred fifty (250) feet of the normal high-water line of any great pond or river, within two hundred fifty (250) feet of the upland edge of a freshwater wetland or within seventy-five (75) feet of the high-water line of a stream.

(1) The use of a nonconforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will not have a greater adverse impact on the water body or wetland or on the property on which it is located or on adjacent properties and resources than the existing use.

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

§ 125-29. Existing nonconforming mobile homes.

A. Notwithstanding any other provision of this Part 2, the lawful use of a mobile home as a single-family dwelling, in any zone, which use legally existed on the date of the enactment of this Part 2, may be continued, except that the mobile home shall not be:

(1) Rebuilt, altered or repaired after being damaged in excess of fifty percent (50%) of its replacement cost at the time of destruction as determined by the Code Enforcement Officer, except that such mobile home may be replaced as provided in the exception

contained in Subsection A(2) below, or may be rebuilt or repaired to its original condition if the mobile home had, before destruction, been certified or excluded as provided in said exception; or

(2) Replaced with a different mobile home, unless the new mobile home is certified, pursuant to 42 U.S.C. § 5415, as amended, as conforming to all applicable federal manufactured home construction and safety standards or is excluded from the coverage of 42 U.S.C. § 5401 et seq.

B. Any mobile home lawfully used as a single-family dwelling may be improved by the addition of a foundation or by other new construction, alteration or repair, subject to the requirements of any applicable building code or other law, and subject to the other provisions of Articles VIII and IX.

§ 125-30. Nonconforming uses.

The following provisions shall apply to nonconforming uses:

A. Expansion. Expansions of nonconforming uses are prohibited.

B. Resumption prohibited. A lot, building or structure in or on which a nonconforming use ceases to be actively pursued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use.

C. Change of use. An existing nonconforming use may not be changed to another nonconforming use.

§ 125-31. Nonconforming lots.

A single, vacant parcel of land, the legal description or dimensions of which are recorded on a document or map on file at the Penobscot County Registry of Deeds, at the effective date

of this Part 2 or any amendment, and which, as a result of the enactment or restrictive amendment of this Part 2, does not meet the lot area, frontage and/or width requirements, or both, of the zone in which it is located, and which does not adjoin another vacant parcel in common ownership, may be built upon, subject to the following:

A. Such building or construction shall, in all other respects, comply with the provisions of this Part 2.

B. No construction shall commence until the owner demonstrates to the satisfaction of the Code Enforcement Officer that there is reasonable access to the site for emergency vehicles.

C. Two (2) or more nonconforming adjacent vacant parcels of land in common ownership shall be consolidated to form one (1) or more lots conforming so far as possible to the lot standards of the district in which the parcels are located. If possible, the lots shall be consolidated so that no nonconforming lot or lots are formed. Lots so consolidated shall not be split thereafter.

D. One (1) or more vacant parcels of land that adjoin a nonconforming lot in common ownership and containing a building or structure shall be consolidated with said improved lot to the extent necessary to bring the improved lot into conformity so far as possible. If the remaining portion of the vacant parcels constitutes a conforming lot, said remaining portion shall constitute a separate lot. Otherwise, the combined lots shall constitute one (1) lot.

ARTICLE VI
Establishment of Zones

§ 125-32. Zones established. [Amended 4-13-1995 by Ord. No. 1-95]

For the purposes of this Part 2, the Town of Millinocket is hereby divided into the following zones:

A. Downtown Residential Zone (R1).

B. Medium Density Residential Zone (R2).

C. Rural Development Zone (RD).

D. Downtown Commercial Development Zone (DC).

E. Neighborhood Commercial Development Zone (NC).

F. Highway Commercial Development Zone (HC).

G. Industrial Development Zone (ID).

H. Airport Development Zone (AD).

I. Open Space/Recreation Zone (OR).

J. Wetland Protection Zone (WP).

K. Shoreland Protection Zone (SP).

L. Habitat Protection Overlay Zone (HP).

M. Commercial Forestland Zone (CF).

§ 125-33. Standards for establishing zones.

A. Downtown Residential Zone (R1).

(1) The purpose of the Downtown Residential Zone (R1) is to preserve the character of existing downtown residential neighborhoods and to provide high-density residential opportunities and neighborhood characteristics within the service area of existing public sewer and water.

(2) Areas designated as being the Downtown Residential Zone (R1) include all those areas designated as R1 within the property lines and street center lines shown on the Official Zoning Map and not otherwise designated.

B. Medium Density Residential Zone (R2).

(1) The purpose of the Medium Density Residential Zone (R2) is to provide medium density residential

opportunities and neighborhood characteristics between the higher density Downtown Residential Zone (R1) and the lower density Rural Development Zone (RD).

(2) Areas designated as being in the Medium Density Residential Zone (R2) include all those areas designated as R2 within the property lines and street center lines shown on the Official Zoning Map and not otherwise designated.

C. Rural Development Zone (RD).

(1) The purpose of the Rural Development Zone (RD) is to conserve areas that are presently rural in character and use, provide opportunities for those who desire low-density residential living and to provide for the orderly development of this area to meet community needs.

(2) Areas designated as being in the Rural Development Zone (RD) include all those areas designated as RD shown on the Official Zoning Map and not otherwise designated.

D. Downtown Commercial Development Zone (DC).

(1) The purpose of the Downtown Commercial Development Zone (DC) is to preserve the character of the existing downtown central business district as the community focal point for cultural, business and service activities by providing a full range of public facilities within the service area of existing public sewer and water and to provide for reasonable expansion.

(2) Areas designated as being in the Downtown Commercial Development Zone (DC) include all land designated as DC within the property lines and street center lines shown on the Official Zoning Map and which is not otherwise designated.

E. Neighborhood Commercial Development Zone (NC).

(1) The Neighborhood Commercial Development Zone (NC) is intended to provide opportunities for a mixture of compatible commercial and residential activities in residential areas adjacent to the Downtown Commercial Development Zone (DC).

(2) Areas designated as being in the Neighborhood Commercial Development Zone (NC) include all those areas designated as NC within the property lines and street center lines shown on the Official Zoning Map, plus:

(a) The land between the street center line of Bates Street and a parallel line two hundred (200) feet back from either side of the center line of Bates Street which is not otherwise designated; and

(b) The land between the street center line of Poplar Street and a parallel line two hundred (200) feet back from either side of the center line of Poplar Street which is not otherwise designated.

F. Highway Commercial Development Zone (HC).

(1) The purpose of the Highway Commercial Development Zone (HC) is to provide for the orderly expansion of commercial development along Route 11 or 157.

(2) Areas designated as being in the High Commercial Development Zone (HC) include all those areas designated as HC within the property lines shown on the Official Zoning Map, plus the land between the edge of the right-of-way of Route 11 or 157 and a parallel line one thousand (1,000) feet back from the edge of the right-of-way of Route 11 or 157 which is not designated otherwise.

G. Industrial Development Zone (ID).

(1) The purpose of the Industrial Development Zone (ID) is to accommodate existing industrial development and to provide land which is conveniently located with respect to appropriate road and rail transportation corridors and other conditions favorable to the development of additional industry and which is located as to limit undesirable conflict between residential and industrial development.

(2) Areas designated as being in the Industrial Development Zone (ID) include all those areas designated as ID within the property lines and street center lines shown on the Official Zoning Map, plus the land between the center line of Golden Road and a parallel line one thousand (1,000) feet back from the center line of Golden Road which is not designated otherwise.

H. Airport Development Zone (AD).

(1) The purpose of the Airport Development Zone is to promote the harmonious arrangement and development of land uses surrounding the Millinocket Airport, to encourage the types of development having maximum compatibility with aircraft operations and which provide goods and services to passengers or aircraft and to support and promote the public utility of the airport.

(2) The area designated as being in the Airport Development Zone (AD) include all those areas designated as AD on the Official Zoning Map and not otherwise designated.

I. Open Space/Recreation Zone (OR).

(1) The purpose of the Open Space/Recreation Zone (OR) is to protect areas of significant natural, recreational or aesthetic value which are susceptible to significant degradation by man's activities and for

which protection cannot adequately be accomplished by inclusion in any of the other zones.

(2) Areas designated as being in the Open Space/Recreation Zone (OR) include all those areas designated as OR within the property lines and street center lines shown on the Official Zoning Map, plus the land between the normal high-water line and a line one thousand (1,000) feet back from the normal high-water line of Jerry Pond which is not designated otherwise.

J. Wetland Protection Zone (WP). **[Amended 4-13-1995 by Ord. No. 1-95]**

(1) The purpose of the Wetland Protection Zone (WP) is to conserve freshwater wetlands in essentially their natural state because of the indispensable biologic, hydrologic and environmental functions that they perform.

(2) Areas designated as being in the Wetland Protection Zone (WP) include the land enclosed by the upland edge of nonforested areas ten (10) acres or more in size, identified as nonforested freshwater wetlands by the National Wetlands Inventory prepared by the Fish and Wildlife Service of the United States Department of Interior.

K. Shoreland Protection Zone (SP). **[Amended 4-13-1995 by Ord. No. 1-95]**

(1) The purpose of the Shoreland Protection Zone (SP) is to protect water quality, productive habitat, biotic systems and the scenic and natural values on relatively undeveloped shorelands from adverse impact from development.

(2) Areas designated as being in the Shoreland Protection Zone (SP) include:

(a) The land between the normal high-water line and a line one hundred (100) feet back from the

normal high-water line of the following water bodies:

[1] Jerry Pond.

[2] Dolby Flowage.

[3] The West Branch of the Penobscot River.

(b) The land between the normal high-water line and a line seventy-five (75) feet back from the normal high-water line of all tributary brooks and streams to the water bodies listed in Subsection K(2)(a) above, including Millinocket Stream, Ledge Cut Brook and Jerry Brook, which is not designated otherwise.

(c) The land between the upland edge and a line seventy-five (75) feet back from the upland edge of all nonforested freshwater wetlands designated as (WP), which is not designated otherwise.

(d) The land between the upland edge and a line two hundred fifty (250) feet back from the upland edge of all nonforested freshwater wetlands designated as (WP), and as high or moderate value for wildlife by the Maine Department of Inland Fisheries and Wildlife.

(e) Floodplains along rivers and floodplains along artificially formed great ponds, along rivers defined by the one-hundred-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps or the flood of record or, in the absence of these, by soil types identified as recent floodplain soils.

L. Habitat Protection Overlay Zone (HP). **[Added 4-13-1995 by Ord. No. 1-95]**

(1) The purpose of the Habitat Protection Overlay Zone (HP) is to protect essential and significant wildlife

habitats in accordance with the requirements of the Comprehensive Planning and Land Use Regulation Act (30-A M.R.S.A. § 4301 et seq.) and the Mandatory Shoreland Zoning Act (38 M.R.S.A. § 435 et seq.).

(2) Areas designated as being in the Habitat Protection Overlay Zone (HP) include all those lands identified and mapped by the Maine Department of Inland Fisheries and Wildlife, pursuant to the Natural Resources Protection Act (38 M.R.S.A. § 480 A-V).

M. Commercial Forestland Zone (CF). **[Added 4-13-1995 by Ord. No. 1-95]**

(1) The purpose of the Commercial Forestland Zone (CF) is to safeguard the town's commercial forestland registered under the Tree Growth Tax Law (36 M.R.S.A. § 571 et seq.) from future growth and development except for those structures, uses and activities considered necessary or desirable for the growing, management, harvesting and processing of commercial forest products and those structures, uses and activities considered necessary or desirable for the well planned multiple-use of said lands.

(2) Areas designated as being in the Commercial Forestland Zone (CF) include all those lands registered, as of April 1, 1994, under the Tree Growth Tax Law (36 M.R.S.A. § 571 et seq.), designated as (CF) on the Official Zoning Map and not otherwise designated.

§ 125-34. Official Zoning Map.

A. Zones established by this Part 2 are defined and bounded as shown on the Official Land Use Zoning Map of Millinocket, Maine, which, together with its notations and amendments from time to time, is hereby made a part of this Part 2.

B. The official copy of the map shall be that map which bears the certification that it is true and correct, signed by the Chairman of the Planning Board, attested by the Town Clerk and on file in the office of the Town Clerk.

§ 125-35. Interpretation of zone boundaries.

Where uncertainty exists as to boundary lines of zones as shown on the Official Zoning Map of Millinocket, Maine, the following rules of interpretation shall apply:

A. Boundaries indicated as approximately following the center lines of streets, highways, public utilities or rights-of-ways shall be construed as following such center lines.

B. Boundaries indicated as approximately following property lines shall be construed as following property lines.

C. Boundaries indicated as approximately following shorelines of any lake or pond shall be construed as following the normal high water mark.

D. Boundaries indicated as being the extension of center lines of streets shall be construed to be the extension of such center lines.

E. Boundaries indicated as being the extension of property lines shall be construed to be extensions of such property lines.

F. Boundaries indicated as approximately following the center lines of streams, rivers or other continuously flowing watercourses shall be construed as following the channel center line of such watercourses.

G. Boundaries indicated as being parallel to or extension of features listed above shall be so construed. Distances not specifically indicated on the Official Map shall be determined by the scale of the map.

H. Where physical or cultural features existing on the ground are at variance with those shown on the Official Map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Planning Board shall interpret the zone boundaries.

ARTICLE VII
Schedule of Uses

§ 125-36. Activities described.

A. A matrix listing the uses permitted in the various zones under this Part 2 appears at the end of this chapter.

B. The various land uses contained in the matrix are organized according to the following eight (8) activity classifications:

1. Noncommercial Recreational Activities
2. Resource Management Activities
3. Resource Extraction Activities
4. Residential Activities
5. Institutional Activities
6. Commercial Activities
7. Industrial Activities
8. Transportation and Utilities

§ 125-37. Symbols used in Schedule of Uses. [Amended 4-13-1995 by Ord. No. 1-95]

The following symbols contained in the Schedule of Uses have the following meanings:

A. Zone symbols.

Symbol	Description
R1	Downtown Residential Zone
R2	Medium Density Residential Zone
RD	Rural Development Zone
DC	Downtown Commercial Development Zone

Symbol	Description
HC	Highway Commercial Development Zone
NC	Neighborhood Commercial Development Zone
ID	Industrial Development Zone
AD	Airport Development Zone
OR	Open Space/Recreation Zone
WP	Wetland Protection Zone
SP	Shoreland Protection Zone
HP	Habitat Protection Overlay Zone
CF	Commercial Forestland Zone

B. Permit symbols.

Symbol	Description
Y	Use allowed without a site plan review
S	Use requires site plan review and approval of either the Planning Board or the Code Enforcement Officer pursuant to Article XI or if a subdivision, subdivision approval from the Planning Board pursuant to the Subdivision Ordinance
N	Use prohibited within the zone

§ 125-38. Uses substantially similar to permitted uses.

Uses substantially similar to permitted uses may be permitted.

A. Uses allowed without a permit. Uses substantially similar to those allowed without a permit, but which are not listed in the Schedule of Uses, may be permitted upon a ruling by the Planning Board that such use is substantially similar to such uses.

B. Uses requiring the review and approval of the Planning Board. Uses substantially similar to those requiring the review and approval of the Planning Board, but which

are not listed in the Schedule of Uses, may be permitted by the Planning Board.

§ 125-39. Uses substantially similar to prohibited uses are prohibited.

Uses substantially similar to any uses listed as prohibited uses in the Schedule of Uses shall be prohibited.

§ 125-39.1. Uses permitted in Habitat Protection Overlay Zone. [Added 4-13-1995 by Ord. No. 1-95]

Uses permitted in the Habitat Protection Overlay Zone shall be those permitted in the underlying zone classification, provided that such use or activity has been reviewed by the Maine Department of Inland Fisheries and Wildlife and approved in writing and subject to such terms and conditions as the Department deems necessary to mitigate any potential adverse impacts on the habitat being protected.

§ 125-40. Compliance with land use standards required.

All uses permitted must occur and be maintained in compliance with the applicable requirements and land use standards contained in Article VIII.

§ 125-41. Schedule of Uses.[2]

[2] Editor's Note: The Schedule of Uses appears at the end of this chapter.

ARTICLE VIII
Land Use Standards

§ 125-42. Purpose.

The purpose of the regulations contained in this Article is to allow maximum utilization of land while assuring against adverse impacts on the environment, neighboring properties and the public interest. This assurance is provided by separating the area of the Town of Millinocket into zones and permitting specific land uses within each, provided that a use meets all the additional criteria specified in this Part 2.

§ 125-43. General standards.

A. The following land use standards shall govern all permits and approvals issued by the Code Enforcement Officer and the Planning Board.

B. Shoreland standards are included, beginning in Article IX of this Part 2, which apply to land uses within two hundred fifty (250) feet of the normal high-water line of any great pond or river, within two hundred fifty (250) feet of the upland edge of a freshwater wetland or within seventy-five (75) feet of the high-water line of a stream.

C. In reviewing applications submitted pursuant to this Part 2, the Code Enforcement Officer or the Planning

(Cont'd on page 12531)

Board shall consider the following standards prior to issuing final approval.

§ 125-44. Airport special standards.

The following special requirements shall apply to each permitted use within the Airport Development Zone (AD):

A. Lighting.

(1) Pulsating, flashing, rotating, oscillating or other type of lighting intended as an attention-getting device, except as approved by the Federal Aviation Administration (FAA), shall be expressly prohibited.

(2) Floodlights, spotlights or other lighting devices shall be arranged or shielded so as not to cast illumination in an upward direction above an imaginary line extended from the light source parallel to the ground.

(3) Any light which constitutes a misleading light within the meaning of TSO-N19, or such other regulations as may be thereafter duly adopted by the Civil Aeronautics Administration, is expressly prohibited.

B. Radio and electronic.

(1) Any radio or electronic device shall be permitted only in conjunction with a valid license therefor or other authorization as may be issued by the Federal Communications Commission.

(2) Any radio or electronic device, the operation of which would violate any rules or regulations of the Federal Communications Commission, is expressly prohibited.

C. Smoke. Any operation or use which emits smoke, dust or any visible fumes or vapors into the atmosphere shall be expressly prohibited.

§ 125-45. Access to site.

A. Capacity of off-site roads.

(1) Vehicular access to the site shall be on roads which have adequate capacity to accommodate the additional traffic generated by the development. Intersections on major access routes to the site within one-half (1/2) mile of any entrance road which are functioning at a level of service of C or better prior to the development shall function at a minimum level of service of C after development. If any intersection is functioning at a level of service of D or lower prior to the development, the project shall not reduce the current level of service.

(2) The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:

(a) A public agency has committed funds to construct the improvements necessary to bring the level of access to the required standard; or

(b) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to the required standard and will guaranty the completion of the improvements within one (1) year of approval of the project.

B. Vehicular access. The following standards apply to design and construction of vehicular access to properties:

(1) Each property shall be provided with vehicular access to the property by abutting private or public ways. Private rights-of-way shall be protected by permanent easements.

(2) The following criteria shall be followed for entrances and/or driveways to any use other than single- and two-family dwellings:

(a) All entrance and exit driveways shall be located and designed in profile and grading to afford 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.

(b) The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily.

(c) Provision shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.

(d) For a distance of twenty (20) feet from the intersection of any two (2) streets along street lines, no wall, fence, sign or other structure and no hedges, trees or other growth shall be planted or erected in such a manner as to materially impede vision between a height of two and one-half (2½) and ten (10) feet above street level.

(e) Any exit driveway or driveway lane shall be so designed in profile and grading and so located as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit driveway with the front of the vehicle a minimum of ten (10) feet behind the curbline or edge of the shoulder.

Allowable Speed (miles per hour)	Required Sight Distance (feet)
25	160
35	240
40	275
45	325

Allowable Speed (miles per hour)	Required Sight Distance (feet)
50	350
55	425

(f) Where a site occupies a corner of two (2) intersecting roads, no driveway entrance or exit shall be located within fifty (50) feet of the point of tangency of the existing or proposed curb radius of that site. Access to the lot shall be provided across the frontage and to the street where there is less potential for traffic congestion and for hazards to traffic and pedestrians.

(g) The intersection of any access drive or proposed street shall function at a level of service of C following development if the project will generate four hundred (400) or more vehicle trips per twenty-four-hour period or at a level which shall allow safe access into and out of the project if less than four hundred (400) trips are generated. Projects generating four hundred (400) or more vehicle trips per twenty-four-hour period shall provide two (2) or more separate points of vehicular access into and out of the site.

(h) In all zones where two (2) or more driveways connect on a single site to any one (1) road, a minimum clear distance of one hundred (100) feet measured along the right-of-way shall separate the closest edges of any two (2) such driveways, unless the driveways are one (1) way only, then the minimum clear distance shall be no less than fifty (50) feet.

(i) Angles. Driveways used for two-way operation shall intersect the road at an angle of or as near

to ninety degrees (90°) as site conditions will permit and in no case less than sixty degrees (60°). Driveways used by vehicles in one (1) direction of travel (right-turn only) shall not form an angle smaller than forty-five degrees (45°) with the road, unless acceleration and deceleration lanes are provided.

(j) Dimensions. The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated. The required maximum and minimum dimensions for driveways are indicated below. Driveways serving large volumes of daily traffic or traffic of over fifteen percent (15%) truck traffic shall be required to utilize high to maximum dimensions.

	Driveway Width*	
Use	**1-Way Operation (feet)**	**2-Way Operation (feet)**
3 to 10 dwelling units	10 to 15	15 to 25
10 dwelling units or more	15 to 25	20 to 35
Commercial and industrial	15 to 30	25 to 35

NOTES:
*All driveways shall be five (5) feet wider at the curbline, and this additional width shall be maintained for a distance of twenty (20) feet into the site.

(k) Grades. Driveways shall not have a grade in excess of ten percent (10%) over the entire length. On driveways entering onto Route 11 or 157, the grade shall not be more than three

percent (3%) for the first one hundred (100) feet from the road unless otherwise approved by the Planning Board. Driveways shall not be located where visibility is limited because of curves or topography.

(l) Stacking or queuing space standards for drive-through businesses. Stacking or queuing spaces shall be located on site and shall not be located within the required setbacks. Stacking or queuing spaces shall not interfere with the stall and aisle space requirements as described in the off-street parking and loading requirements.[4]

[1] Banks or other commercial uses. There shall be a minimum of eight (8) spaces.

[2] Drive-up restaurant. There shall be eleven (11) spaces for the drive-up window, with a minimum of five (5) of these spaces for the ordering station.

C. Highway access. The following provisions shall apply to all properties which abut and/or have frontage on Route 11 or 157:

(1) Buffer strip. Access to the highway shall be controlled in the interest of public safety. Each building or group of buildings and its parking or service areas shall be physically separated from the highway or street by a buffer strip as required by § 125-47 of this Article. Such buffer strips shall be landscaped as required in § 125-47B(4) of this Article.

(2) Such property may be divided into lots, provided that all vehicular movements to and from the highway shall be via a single paved driveway or entrance serving all lots or premises.

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4 **Editor's Note: See §§ 125-63 and 125-64.**

(3) All lots of record legally existing at the time of the adoption of this Part 2 shall be allowed one (1) direct access to Route 11 or 157, provided that the minimum sight distance specified in Subsection B(2)(e) of this section is met.

(4) A second driveway entrance or exit for large parking areas serving two (2) or more permitted uses may be permitted, provided that the two (2) access points are not closer than eight hundred (800) feet, and they both can meet the minimum sight distances specified in Subsection B(2)(e) of this section.

D. Emergency vehicle access. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

§ 125-46. Bed-and-breakfast.

Bed-and-breakfast accommodations shall be permitted in the private, year-round residence of the host family who lives on the premises, provided that:

A. The maximum number of guests at any time is six (6) persons, not including children under the age of twelve (12).

B. The maximum number of guest rooms is three (3).

C. Breakfast is the only meal provided by the host family.

D. One (1) sign not to exceed four (4) square feet is permitted on the premises.

E. The bed-and-breakfast operation shall not have any adverse effect on the neighbors.

§ 125-47. Buffering and screening.

All projects requiring site plan review under this Part 2 shall provide buffer strips and/or screening in accordance with the following standards:

A. Buffer strips. Buffer strips may be required of the following specified widths for the following areas and/or purposes:

(1) Along any water body within or adjacent to the project, where the Board determines it desirable and necessary, to protect such water bodies from sedimentation and surface runoff. Such buffer strips shall be a minimum of seventy-five (75) feet in width.

(2) Along any property line of any lot located in the Highway Commercial (HC) and Industrial Development (ID) Zones which abuts a Downtown Residential (R1), Medium Density Residential (R2) or Rural Development (RD) Zone. Such buffer strips shall be a minimum of twenty-five (25) feet in width if the adjacent lot is undeveloped, and fifty (50) feet if the adjacent lot is developed and there is no buffer strip on the adjacent lot. If there is a buffer strip on the adjacent lot and the applicant for site plan approval provides the Board with some form of guaranty that the adjoining buffer strip will remain undeveloped, the Board may reduce the required buffer strip by the width of the encumbered adjoining buffer strip.

(3) Along on-site roads running parallel to an off-site road, where the Board determines it desirable and necessary, to prevent driver confusion particularly at night. Such buffer strips shall be a minimum of fifty (50) feet in width.

(4) Along any property line which abuts Route 11 or 157, where the Board determines it desirable and necessary, to protect and enhance scenic character

and provide visual separation between the highway and adjacent uses. Such buffer strips shall be a minimum of fifty (50) feet in width.

(5) Along any property line, where the Board determines it desirable and necessary, to shield incompatible uses from one another. Such buffer strips shall be a minimum of twenty-five (25) feet in width.

(6) Along any property line, where the Board determines it desirable and necessary, to block prevailing winds to stop wind-borne debris from leaving the site. Such buffer strips shall be a minimum of twenty-five (25) feet in width.

(7) Along any property line, where the Board determines it desirable and necessary, to prevent any proposed lighting from interfering with residential properties or with safe driving. Such buffer strips shall be a minimum of twenty-five (25) feet in width.

(8) Along any property line, where the Board determines it desirable and necessary, of all exposed storage and service areas, sand and gravel extraction operations, utility buildings and structures, automobile salvage and junkyards, parking areas, garbage collection areas and loading and unloading areas, to minimize their visual impact on adjoining traveled ways and properties. Such buffer strips shall be a minimum of twenty-five (25) feet in width.

(9) Where a potential safety hazard to children would be likely to arise, and physical screening sufficient to deter small children from entering the premises is determined by the Board to be desirable and necessary, a buffer strip shall be required.

(10) In areas between important wildlife habitats to provide adequate space for the movement of wildlife

from one area to another. Such buffer strips shall be as recommended by the Maine Department of Inland Fisheries and Wildlife.

B. Screening. Screening, within the required buffer strips, in the form of natural or man-made barriers, existing vegetation or new plantings, if suitable existing vegetation and natural features do not exist, is required as follows:

(1) Retention of natural features in buffer strips. Natural features in buffer strips shall be maintained wherever possible. When natural features, such as topography, gullies, stands of trees, shrubbery or rock outcrops, do not exist or are insufficient to provide the required screening, other kinds of screening shall be considered.

(2) Classification of screens. Screening shall be classified as follows:

(a) Screening with an opaque screen: a visual screen that is opaque, from the ground to a height of at least six (6) feet with semiopaque visual barrier from above the opaque barrier to a height of at least twenty (20) feet. The purpose of this screen is to exclude all visual contact between uses and create a strong impression of spatial separation. Such screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, existing vegetation or appropriate combinations thereof.

(b) Screening with a semiopaque screen: a visual screen that is opaque, from the ground to a height of three (3) feet with semiopaque visual barrier from above the opaque barrier to a height of at least twenty (20) feet. The purpose of this screen is to partially block visual contact between uses and to create a strong separation of spaces. Such screen may be composed of a wall, fence, landscaped earth berm, planted

vegetation, existing vegetation or appropriate combinations hereof.

(c) Screening with a broken screen: an intermittent visual screen from above the ground to a height of at least twenty (20) feet. The purpose of this screen is to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. Such screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, existing vegetation or appropriate combinations thereof.

(3) Suggested screening combinations. The following suggested screening combinations are considered a minimum to achieve the above screen classifications:

(a) Screening with an opaque screen:

[1] Small trees planted twenty (20) feet on center in combination with a six-foot-high evergreen hedge planted four (4) feet on center;

[2] Large trees planted thirty-five (35) feet on center in combination with a six-foot-high wooden fence; or

[3] Tall evergreen trees, stagger planted, with branches touching the ground.

(b) Screening with a semiopaque screen:

[1] Small trees planted twenty (20) feet on center in combination with a three-foot-high stone wall or wood fence;

[2] Small trees planted twenty (20) feet on center on top of a three-foot-high seeded earth berm; or

[3] Large trees planted thirty-five (35) feet on center in combination with a three-foot-

high evergreen hedge planted three (3) feet on center.

(c) Screening with a broken screen. Small trees planted twenty (20) feet on center, small trees planted thirty (30) feet on center in combination with a split rail fence or large trees planted thirty-five (35) feet on center in combination with assorted shrubbery.

(4) Screening required. The screening required for various areas and purpose are as follows:

(a) In any buffer strip established between lots located in any of the commercial or industrial zones designated as HC or ID which abuts any residential zone designated as R1, R2 or RD: semiopaque screening.

(b) In any buffer strip established for the purpose of preventing driver confusion between on-site roads running parallel to an off-site road: semiopaque screening.

(c) In any buffer strip established for the purpose of protecting or enhancing the scenic character along Route 11 or 157: broken screening.

(d) In any buffer strip established for the purpose of shielding incompatible uses from one another: opaque or semiopaque screening.

(e) In any buffer strip established for the purpose of blocking prevailing winds to stop wind-borne debris from leaving the site: opaque or semiopaque screening.

(f) In any buffer strip established for the purpose of preventing any proposed lighting from interfering with residential properties or with safe driving: opaque or semiopaque screening.

(g) In any buffer strip established for the purpose of deterring small children from entering areas

with potential safety hazards: opaque screening.

(h) In any buffer strip established for the purpose of screening exposed storage and service areas, sand and gravel extracting operations, utility buildings and structures, automobile salvage and junkyards, parking areas, garbage collection areas and loading and unloading areas, to minimize their visual impact on adjoining traveled ways and properties: opaque screening.

(i) Between lots located in any commercial zone designated as NC or DC which abut any residential zone designated as R1, R2 or RD, when, in the judgment of the Planning Board or Code Enforcement Officer, such screening is desirable and/or necessary to separate incompatible activities, minimize visual impact, protect property values and protect the public health, safety and general welfare: a wooden fence of appropriate design, height and construction.

(5) Plant material specifications. Unless otherwise specifically indicated by the Planning Board, all plant material used for any screening required under this Part 2 shall meet the following minimum requirements:

(a) All planting shall be of a type and species appropriate for the soil types, site conditions and climatic conditions of the Town of Millinocket.

(b) Plant material used for screening shall meet the following minimum size standards:

Plant Type	Size
Canopy tree, single stem	2.5-inch caliper
Understory tree	1.5-inch caliper

Plant Type	Size
Evergreen tree	5 to 7 feet high
Deciduous shrub	24 inches high
Evergreen shrub	18 inches high

(c) Evergreen trees can be used as screening, provided that they are planted properly. An evergreen screen requires two (2) or three (3) rows of staggered plantings. The rows should be five (5) feet apart and the evergreens planted four (4) feet on center.

(6) Maintenance of buffers and screening. Buffers and screening shall be located and maintained as follows:

(a) Fencing and screening shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties.

(b) Fencing and screening shall be durable and properly maintained at all times by the owner.

(c) All buffer strips shall be maintained in a neat and sanitary condition by the owner.

(7) Plant material maintenance required. The owner of any premises approved by the Board under any section of this Part 2 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.

§ 125-48. Campgrounds.

Campgrounds shall conform to the minimum requirements imposed under state licensing procedures and the following:

A. Each tent or shelter site shall contain a minimum of five thousand (5,000) square feet of suitable land in

shoreland areas [i.e., within two hundred fifty (250) feet, horizontal distance, of the normal high-water mark of any pond or river], and two thousand five hundred (2,500) square feet of suitable land in inland areas, not including driveways and roads, for each site.

B. A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each tent or shelter site.

C. The area intended for placement of the tent or shelter site and utility and service buildings shall be set back a minimum of fifty (50) feet from the exterior lot lines of the camping area and one hundred (100) feet from the normal high-water elevation of any body of water.

D. Screening shall be required to shield the campground from abutting areas.

§ 125-49. Conversions.

Conversion of existing structures into multifamily dwelling units, in zones permitting multifamily dwellings, may be permitted, provided that:

A. Off-street parking for two (2) vehicles per dwelling unit plus maneuvering space will be provided.

B. Approval of conversion plans by the fire, electrical and plumbing inspector(s) is required prior to issuance of a building permit.

C. Each dwelling unit shall be at least four hundred (400) square feet in area for one-bedroom units plus one hundred twenty (120) square feet for each additional bedroom.

D. Each dwelling unit shall have its own toilet and kitchen facilities, and no dwelling unit will share these facilities with any other dwelling unit.

§ 125-50. Dimensional requirements. [Amended 1-20-1994 by Ord. No. 1-94; 4-13-1995 by Ord. No. 1-95]

All structures and uses shall meet or exceed the following dimensional requirements:

A. Residential zone dimensional requirements.[1]

Residential Zone Dimensional Requirements	R1 Downtown Residential Zone	R2 Medium Density Residential Zone	RD Rural Development Zone
Minimum lot size (square feet)	5,000	10,000	40,000
Minimum road/shore frontage (feet)	50	100	150
Minimum front yard setback from edge of right-of-way (feet)	10	25	50
Minimum side yard setback			
Principal structures (feet)	5	5/10[2]	20
Accessory structures (feet)	5	5	10
Minimum rear yard setback			
Principal structures (feet)	10	10	20
Accessory structures (feet)	5	5	10
Maximum lot coverage	60%	25%	20%
Maximum building height			
Principal structures (feet)	40	30	30
Accessory structures (feet)	20	16	16

NOTES:

[1] These dimensional requirements do not prohibit the change of a permitted use to another permitted use where the property or structure on or in which the use is located is a legal nonconformity.

[2] On all built-upon lots, one (1) side yard setback may be reduced to five (5) feet, provided that the remaining side yard setback is ten (10) feet. On all lots not built upon prior to January 1, 1994, both side yard setbacks shall be ten (10) feet or greater.

B. Commercial zone dimensional requirements.[1]

Commercial Zone Dimensional Requirements	DC Downtown Commercial Zone	HC Highway Commercial Zone	NC Neighborhood Commercial Zone
Minimum lot size (square feet)	5,000	1 acre	7,500
Minimum road/shore frontage (feet)	50	200	75
Minimum front yard setback from edge of right-of-way (feet)	0	50	20
Minimum side yard setback			
Principal structures (feet)	N/A	25	10
Accessory structures (feet)	N/A	10	5
Minimum rear yard setback			
Principal structures (feet)	10	25	10
Accessory structures (feet)	5	10	5
Maximum lot coverage	90%	80%	60%
Maximum building height			
Principal structures (feet)	40	40	30
Accessory structures (feet)	20	20	16

NOTES:

[1] These dimensional requirements do not prohibit the change of a permitted use to another perm where the property or structure on or in which the use is located is a legal nonconformity.

C. Industrial zone dimensional requirements.[1]

Industrial Zone Dimensional Requirements	ID Industrial Zone
Minimum lot size	2 acres
Minimum road/shore frontage	200/300 feet
Minimum front yard setback from edge of right-of-way	100 feet
Minimum side yard setback	
Principal structures	25 feet
Accessory structures	25 feet

Industrial Zone Dimensional Requirements	ID Industrial Zone
Minimum rear yard setback	
Principal structures	25 feet
Accessory structures	25 feet
Maximum lot coverage	30%
Maximum building height	
Principal structures	100 feet
Accessory structures	100 feet

NOTES:

[1] These dimensional requirements do not prohibit the change of a permitted use to another permitted use where the property or structure on or in which the use is located is a legal nonconformity.

D. Commercial forestland zone dimensional requirements.[1]

Commercial Forestland Zone Dimensional Requirements	CF Commercial Forestland Zone
Minimum lot size	10 acres
Minimum road/shore frontage	200/300 feet
Minimum front yard setback from edge of right-of-way	100 feet
Minimum side yard setback	
Principal structures	25 feet
Accessory structures	25 feet
Minimum rear yard setback	
Principle structures	25 feet
Accessory structures	25 feet
Maximum lot coverage	30%

Commercial Forestland Zone Dimensional Requirements	**CF Commercial Forestland Zone**
Maximum building height	
Principal structures	100 feet
Accessory structures	100 feet

NOTES:

[1] These dimensional requirements do not prohibit the change of a permitted use to another permitted use where the property or structure on or in which the use is located is a legal nonconformity.

§ 125-51. Dust, fumes, vapors, gases, odors, glare and explosive materials.

A. Emission of dust, dirt, fly ash, fumes, vapors or gases which pose an unreasonable risk of harm to human health or the environment shall be prohibited.

B. No land use or establishment shall be permitted to produce unreasonable, offensive or harmful odors perceptible beyond its lot lines, measured either at ground or habitable elevations.

C. No land use or establishment shall be permitted to produce unreasonable glare or brightness beyond its lot lines.

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), Sections 30, 58 and 59-A.

§ 125-52. 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 Part 2:

A. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction and cleanup stages.

B. 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) Disturbed soils shall be stabilized as quickly as practicable.

(7) Temporary vegetation or mulching shall be used to protect disturbed areas during development.

(8) Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the County Soil and Water

Conservation District or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends.

(9) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.

(10) The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (gravel pits, etc.) shall not be permitted within one hundred (100) feet of any property line in absence of the prior written agreement of the owner of such adjoining property.

(11) During grading operations, methods of dust control shall be employed wherever practicable.

(12) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.

(13) Any activity on a stream, watercourse or swale or upon a floodway or right-of-way shall comply with the Natural Resource Protection Act, 38 M.R.S.A. §§ 480-A and 480-S. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present state of the stream, watercourse, swale, floodway or right-of-way for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.

(14) 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.

§ 125-52.1. Fences and retaining walls. [Added 1-12-1995 by Ord. No. 7-94]

A. Height standards.

(1) Maximum fence heights. The maximum height of fences shall be as follows:

(a) Rear lines. The maximum height of any fence erected along the rear property line shall be eight (8) feet, except as further limited in Subsection A(2) below.

(b) Side lines. The maximum height of any fence erected along the side property lines, not fronting on the right-of-way of any public or private road, from the rear property line to the building front line shall be six (6) feet, except as further limited in Subsection A(2) below.

(c) Front yards. The maximum height of any fence erected between any side of a building facing a street and the street right-of-way shall be thirty-six (36) inches. In the case of double-frontage lots, this provision applies to both front lot lines.

(2) Height exceptions. The Code Enforcement Officer may permit fence heights greater than those required in Subsection A(1):

(a) Upon a determination that such additional height is necessary to protect the public health, safety and general welfare.

(b) Upon a determination that such additional height is required by a more restrictive provision of a state law, rule or regulation or local ordinance, rule or regulation.

(c) In front yards, when the higher fence is of a design that it will not create a safety problem or obstruct the visibility of vehicles or pedestrians entering or exiting adjoining or neighboring properties.

(d) When a special exception has been granted by the Board of Appeals as provided below.

(3) Special exceptions. The Board of Appeals may authorize, as a special exception, the Code Enforcement Officer to permit fence heights greater than in Subsection A(1) above, after holding a public hearing and preparing written findings, that such additional height:

(a) Will not result in an adverse impact on the public health, safety or general welfare.

(b) Will relate harmoniously to the terrain so as to have a minimum adverse affect on the environment and aesthetic qualities of the neighborhood.

(c) Will relate harmoniously to existing buildings in the vicinity that have a visual relationship with the proposed fence so as to have a minimum adverse affect on the view, air circulation, solar gain, light or the aesthetic qualities of the neighboring buildings.

(d) Will not be injurious to the comfort and happiness of individuals and the public or injurious to property rights and property values. The favorable testimony and written statements of affected abutting property owners shall be prima facie evidence that criteria in Subsection A(3)(c) and (d) have been met.

(4) Retaining wall heights. The height of retaining walls shall be the minimum necessary to complete the retaining task.

B. Location standards.

(1) Location. All parts, including the footings, of any fence or retaining wall shall be located on the property in which the person constructing the fence or retaining wall has a legal right or title.

(2) Burden of proof. In all instances, the burden of proof as to where the property line is located shall be upon the person proposing to erect the fence or retaining wall.

(3) Requiring a survey authorized. In situations where there is a dispute or where there is uncertainty on the part of the applicant as to exactly where the property line is located, the Code Enforcement Officer is authorized to require the submission of a line survey prepared and attested to by a registered land surveyor. If a survey is ordered, such a survey shall be submitted prior to the issuance of any fence permit.

C. Design and construction standards.

(1) Design and construction. All fences and retaining walls shall be designed and erected or constructed so as not to pose a threat to the safety of the general public or abutting properties and to meet applicable local and state construction standards.

(2) Dress side to face public ways and spaces. The dress side or the side showing the least amount of the post and rail structure of any fence shall face all public ways and publicly owned areas.

(3) Dress side to face neighboring properties. The dress side or the side showing the least amount of the post and rail structure of any fence shall face all private properties abutting the property upon which the fence is being erected, unless the abutting landowner agrees otherwise in writing and a notarized copy of said agreement is provided to the Code Enforcement Officer.

D. Maintenance of fences and walls.

(1) Proper maintenance required. All fences and retaining walls shall be maintained in such a manner as to be durable, safe, neat in appearance and structurally sound at all times.

(2) Maintenance responsibility. Proper maintenance shall be the responsibility of the owner of record of the property on which the fence or retaining wall is located.

(3) Order to repair authorized. Upon a determination that an existing fence or retaining wall constitutes a risk to the health and safety of the general public or to abutting properties, the Code Enforcement Officer is authorized to issue an order to repair to the owner of such fence or retaining wall.

E. Special situations.

(1) Swimming pools. All swimming pools shall be enclosed with fences which meet the requirements of 30-A M.R.S.A. § 1631.

(2) Junkyards and automobile graveyards. All junkyards and automobile graveyards shall be enclosed with fences or screening which meet the requirements of 30-A M.R.S.A. § 3755 and the provisions of § 125-55 of this chapter.

§ 125-53. Flood hazard areas.

When any part of a development is located in a flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one (1) foot above the one hundred-year-flood elevation. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

§ 125-54. Home occupations. [Amended 8-4-1994 by Ord. No. 4-94]

A. Purposes. The purposes of these home occupation provisions are in recognition of:

(1) The need to protect market value of existing residential properties;

(2) The need to guarantee existing residential property owners freedom from excessive noise, excessive traffic, nuisance, fire hazard and other possible adverse effects from commercial-type activities being conducted in residential areas;

(3) The need of some citizens to use their place of residence for limited commercial type activities to produce or supplement personal or family income;

(4) The fact that certain limited home occupational uses can be useful to both the community as well as the residential-proprietor;

(5) The fact that the nature of the investment or operation of some activities have a pronounced tendency once started to rapidly increase beyond the limits permitted and thereby impair the use and value of residentially zoned areas for residential purposes; and

(6) The town's obligation to protect the integrity of its residential areas from activities which detract from the residential character of a neighborhood and infringe upon the rights of neighborhood residents.

B. General limitations. Uses permitted as home occupations shall be limited as follows:

(1) Uses that are limited in extent;

(2) Uses that are clearly incidental and subordinate to the use of the premises for residential purposes;

(3) Uses that do not substantially change the appearance or condition of the residence or accessory structure;

(4) Uses that are compatible with neighboring residential uses; and

(5) Do not detract from the residential character of the neighborhood.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

HOME OCCUPATION — Any use of a legally existing residential property which is consistent with the limitations established in Subsection B above and which is in compliance with the performance standards established in Subsection D below. Uses which are not consistent with the limitations established in Subsection B above and/or which are not in compliance with the

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performance standards established in Subsection D below shall not be registered as a home occupation or be issued a permit as a home occupation. Such activities shall be considered by definition either a conforming or a nonconforming commercial activity.

D. Performance standards. In any legally existing dwelling unit or accessory structure, home occupations may be conducted, provided that they are in compliance with the applicable requirements of Article VIII and the following performance standards:

(1) Number allowed per residential unit. The total number of home occupations conducted within a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted within the dwelling unit or on the premises thereof shall not be greater than the impact of one (1) home occupation.

(2) Appearance. In no way shall the appearance of the residential structure or the premises be altered by a home occupation, and in no way shall the home occupation be conducted such that the structure or premises differs from its residential character by the use of colors, materials, premises layout, construction or lighting.

(3) Garage sales and yard sales. Home occupations do not include garage sales and yard sales.

(4) Home occupations involving classes or instruction. If the home occupation is the type in which classes or instruction is given, there shall be no more than four (4) students or pupils in the dwelling unit or on the premises at any one (1) time, provided that the Planning Board may grant specific conditional approval of a reasonable number of additional students if it is found that the additional students will not generate additional motor vehicle traffic. This requirement limiting class size shall not be construed to prohibit occasional exceptions for

events such as recitals, demonstrations and other similar gatherings.

(5) Retail sales limited. Retail sales, on premises, shall be prohibited except for the retail sales of merchandise, products, supplies or goods produced or fabricated on the premises as a result of the home occupation, provided that incidental retail sales may be made in connection with other permitted home occupations. (Examples: a single-chair beauty parlor would be allowed to sell combs, hair spray and other miscellaneous items to customers. A dressmaker would be permitted to sell only clothing produced or fabricated on site and would not be allowed to purchase stocks of dresses for sale to the general public on-site.)

(6) Number of employees.

(a) Not more than one (1) person other than members of the immediate family permanently residing on the premises shall be employed, on a full-time or part-time basis, in the home occupation, except that the Planning Board may grant specific conditional approval of up to two (2) additional persons to be employed on a part-time basis for periods not to exceed three (3) months if it is found that the additional persons will not generate additional motor vehicle traffic.

(b) Persons engaged in building trades or similar fields, using their dwelling units or residential premises as an office for business activities carried on off the premises, may have more employees if they are not employed on the premises.

(7) Space/floor area devoted to home occupation. A home occupation shall be conducted only within the dwelling unit or an accessory building and shall not occupy more than fifty percent (50%) of the

combined total floor area of the dwelling unit and accessory buildings on the premises, excluding any unenclosed areas such as decks and open porches, etc.

(8) Outdoor display and storage. There shall be no outside operations, storage or display of products, materials, goods, supplies or equipment associated with the home occupation without the specific conditional approval of the Planning Board based upon a determination that such out-of-doors operation can be accomplished without adverse impact to adjoining properties and the traveling public, except that samples of goods sold or job-related materials may be carried in vehicles used for business purposes.

(9) Off-street parking. The home occupation shall not require more than two (2) on-street parking spaces, for clients or customers, in addition to the off-street parking spaces available to the residence. The two (2) on-street spaces shall be limited to parking within the street frontage of the residence.

(10) Home deliveries.

(a) Home occupations shall not involve the use or storage of tractor trailers, semi-trucks or heavy equipment such as fuel trucks, logging or construction trucks or equipment.

(b) Deliveries shall not exceed those normally and reasonably occurring from a residence and shall not include more than an average of four (4) deliveries of products or materials per day.

(c) At any one (1) time only one (1) commercial vehicle associated with the activities of the home occupation may be parked on-street near the premises for more than one (1) consecutive hour.

(11) Signs.

(a) There shall be no signs related to the home occupation present on the property, except one (1) flush-mounted wall sign, not over three (3) square feet in area, indicating only the address and occupant's name and occupation.

(b) The Planning Board may grant specific conditional approval of larger signs and non-flush-mounted signs upon a determination that a sign would not detract from the essential residential appearance of the particular dwelling and is consistent with the character of the zone in which it is located.

(c) Flush-mounted wall signs in existence prior to January 1, 1993, shall be considered as a legally existing nonconforming sign and shall not be used as a basis for not registering a use as a home occupation.

(12) Adverse impacts.

(a) A home occupation shall not be permitted to produce any offensive noise, vibration, smoke, electrical interference, dust, odors or heat. Any noise, vibration, smoke, electrical interference, dust, odors or heat detectable beyond the property lines shall constitute a violation of the terms of this provision.

(b) Home occupations which will constitute a fire hazard to neighboring residences, will adversely affect neighboring property values or will constitute a nuisance or otherwise be detrimental to the neighbors because of excessive traffic, excessive noise, odors or other circumstances shall not be approved.

(13) Hours of operation. In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. nor later than 9:00 p.m.

E. Administrative procedures.

(1) Registration required. All home occupations established, operated or maintained in the Town of Millinocket are required to register with the Code Enforcement Officer, as follows:

(a) Existing home occupations. Within six (6) months of the effective date of this provision all existing home occupations are required to register.

(b) Registration forms. Applications to register a home occupation shall be on forms provided by the Code Enforcement Officer.

(c) Registration limited. Uses which do not meet the definition of a home occupation, as provided in Subsection C above, shall not be registered as a home occupation.

(d) Failure to register. A failure to register as required in Subsection E(1)(a) above shall be deemed abandonment of any right to operate a nonconforming home occupation regardless of actual intent. Thereafter, that home occupation will be required to obtain a permit and treated as though it were a new home occupation.

(2) Permits required. Prior to the establishment of a new home occupation after the effective date of this provision, the owner of the residential property shall apply for a permit from the Code Enforcement Officer pursuant to § 125-93F.

(a) Application forms. Applications for a home occupation permit shall be on forms provided by the Code Enforcement Officer.

(b) Permits limited. Permits for home occupations are limited as follows:

[1] Permits for home occupations shall be granted to a designated person who resides at the residential address.

[2] Permits for home occupations are not transferable from person to person or from address to address.

[3] Should a home occupation permit holder die or move to a new location, the existing permit shall be automatically terminated, except that, in the case of death, the surviving spouse or child residing at the same address may continue the permit upon notice to and written authorization from the Code Enforcement Officer.

[4] In cases where an application is considered not to be in compliance with the home occupation performance standards, the application will be denied.

(c) Revocation of a permit. The Code Enforcement Officer may revoke any home occupation permit for noncompliance with the criteria set forth in this Part 2. If the permit is revoked, such home occupation use shall be terminated.

(d) Compliance with other applicable statutes and standards. Home occupations shall comply with all local, state or federal regulations pertinent to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.

(e) Inspections.

[1] Initial inspection. The premises to be used for a home occupation shall be inspected by the Code Enforcement Officer prior to any approval or registration of a home occupation permit.

[2] Compliance inspections. Home occupation applicants shall permit a reasonable inspection of the premises by the Code En-

forcement Officer or designee to determine compliance with this Part 2.

§ 125-55. Junkyards. [Amended 8-4-1994 by Ord. No. 4-94]

A. No junkyard as defined in this Part 2 shall be established, operated or maintained without first obtaining site plan approval by the Planning Board, a nontransferable land use permit issued by the Town Council in accordance with state licensing and local requirements, and complying with the following provisions:

(1) Junkyards shall be located a minimum of two hundred (200) feet from the edge of the right-of-ways and shall be set back one hundred (100) feet from all side and rear lot lines.

(2) Junkyards shall be located a minimum of three hundred (300) feet from any public park, facility or grounds.

(3) Junkyards shall be entirely screened from view by earth berms, plantings or fences, which shall be well constructed and properly maintained at a minimum height of six (6) feet and sufficient to accomplish the complete screening from ordinary view.

B. In addition, the following provisions apply to the operation of all junkyards, as defined, in the Town of Millinocket:

(1) Upon arrival at the junkyard, all fuel, engine oil and radiator, battery and transmission fluids, etc., shall be drained from all vehicles, and appropriate safety precautions, such as the removal of door and trunk locks, shall be taken to avoid injury and accidents.

(2) No vehicles may remain intact in the yard for more than thirty (30) days, and complete processing of vehicles into salvage materials shall be accomplished within four (4) months.

(3) All junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent area.

(4) No open burning of salvage material or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in an environmentally sound manner.

§ 125-56. Land not suitable for development.

A. The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the minimum lot size requirements of this Part 2:

(1) Land which is situated below the normal high-water mark of any water body.

(2) Land which is located within the one-hundred-year frequency floodplain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the developer shows proof through the submittal of materials prepared by a registered land surveyor that the property in question lies at least one (1) foot above the one-hundred-year flood level. The elevation of filled or made land shall not be considered.

(3) Land which is part of a right-of-way or easement, including utility easements.

(4) Land which, on or after the date of the adoption of this Part 2, is created by filling or draining a pond or wetland.

(5) Land that has been determined to be a freshwater wetland, as defined in 38 M.R.S.A. § 480-B.

B. This section does not apply to existing single lots of record proposed to be utilized for single-family residences only.

§ 125-57. Lighting.

All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.

§ 125-58. Mineral exploration and extraction.

The following requirements for mineral exploration and extraction activities shall apply in all zones, except as otherwise hereinafter provided:

A. The following requirements shall apply to mineral exploration activities:

(1) All excavations, including test pits and holes, shall be promptly capped, refilled or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety.

(2) Filter strip.

(a) Mineral exploration activities or associated accessways, where the operation of machinery used in such activities results in the exposure of mineral soils, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed

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mineral soil and the normal high-water mark of surface water areas:

Average Slope of Land Between Exposed Mineral Soil and Normal High-Water Mark (percent)	Width of Strip Between Exposed Mineral Soil and Normal High-Mark (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

(b) The provisions of this Subsection A(2) apply only on a face sloping toward the water; provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet. The provisions of this subsection do not apply where accessways cross such waters.

(3) Except when surface waters are frozen, accessways for mineral exploration activities shall not utilize stream channels bordered by protection zones except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with this Part 2, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surfaces which would not be eroded or otherwise damaged.

(4) Accessway approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream.

(5) In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated accessways, provision shall be made to effectively stabilize all areas of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to ensure effective stabilization.

B. The following requirements shall apply to mineral extraction activities in all zones:

(1) No portion of any ground area disturbed by the extraction activity on a face sloping toward the water shall be closer to the normal high-water mark of a flowing or standing body of water than is indicated by the following table; provided, however, that no portion of such ground area on a back face shall be closer than fifty (50) feet.

(2) No portion of any ground area disturbed by the extraction activity shall be closer than fifty (50) feet to any public roadway or one hundred (100) feet to any property line in the absence of the prior written agreement of the owner of such adjoining property.

Average Slope of Land Between Exposed Mineral Soil and Normal High-Water Mark (percent)	Width of Strip Between Exposed Mineral Soil and Normal High-Mark (feet along surface of the ground)
0	50
10	90
20	130
30	170
40	210
50	250
60	290
70	330

(3) Within two hundred fifty (250) feet of any water body, the extraction area shall be protected from soil erosion by ditches, sedimentation basins, dikes,

dams or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body. Any such control device shall be deemed part of the extraction area for the purposes of Subsection B(2) above.

(4) A natural vegetative screen of not less than fifty (50) feet in width shall be retained between any facility intended primarily for public use, excluding privately owned roads, and the mineral exploration or extraction activity.

(5) Within twelve (12) months following the completion of extraction operations at any extraction site, or when less than one hundred (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:

(a) All debris, stumps and similar material shall be removed for disposal in an approved location or shall be buried on-site. Only materials originating on site may be buried or covered on site.

(b) The final graded slope shall be two to one (2:1) slope or flatter.

(c) Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the areas. Additional topsoil or loam shall be obtained from off-site sources, if necessary, to complete the stabilization project.

(6) In keeping with the purposes of this Part 2, 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, including but not limited to any reasonable form of performance guaranty such as a performance bond.

C. The following requirements shall apply to topsoil, sand and gravel extraction in all zones:

(1) Topsoil shall be considered part of all developments, except mineral extraction, and shall not be removed from the site except for surplus topsoil from roads, parking areas and building excavations.

(2) Extraction shall not be allowed below three (3) feet above the average seasonal high-water table. No ditches, trenches, pumping or other methods shall be used to lower the water table or permit more gravel extraction than could occur under normal conditions.

(3) Access roads into and around the pit shall not be oiled, salted or paved.

(4) The pit shall not be used for storage or dumping of any substances that could produce a harmful leachate, both during operation of the pit and following its permanent closure.

(5) Storage of hazardous materials and petroleum products in the pit is prohibited.

(6) Refueling and oil changes in the pit are prohibited, unless adequate protection and containment is provided.

§ 125-59. Mobile home parks.

Mobile home parks shall conform to the regulations of Chapter 83, Article I, Mobile Home Parks, of the Millinocket Code.

§ 125-60. Mobile homes and recreation vehicles.

A. Any mobile home not intended to be a permanent fixture on the land shall be parked only in a duly authorized mobile home park, except that a mobile home may be

permitted on the site of a construction project for not more than two (2) consecutive six-month periods, provided that a special permit is issued by the Code Enforcement Officer for each six-month period. Such permit may only be issued if the Code Enforcement Officer is satisfied that:

(1) The mobile home is a necessary convenience for the construction project and is clearly subordinate to such project.

(2) No health hazards or problems of sanitation will be caused by improper disposal of sewage from the mobile home.

B. The Code Enforcement Officer may issue a special permit for use of a mobile home for a temporary construction office for up to six (6) months in zones where offices are permitted or on construction sites anywhere in the Town of Millinocket.

C. Recreation vehicles shall in no case be used as a permanent dwelling, and any recreation vehicles in use as a temporary dwelling shall be stationed only in an authorized campground or trailer park or on the premises of a consenting private property owner for use only by members of the property owner's family or social guests.

D. Except as specifically permitted by this Article, no mobile home shall be used for any purpose nor placed on any lot, except in the R1, RD, DC, HC and NC Zones or in an authorized mobile home park.

E. Notwithstanding the other provisions of this Article, unoccupied mobile homes may be placed on a lot for sale by a dealer where permitted by this Part 2.

§ 125-61. Multiple uses on a single lot.

A. No structure shall hereinafter be erected, altered or utilized if the effect of such erection, alteration or

utilization is to create more than one (1) use on a single lot unless multiple uses are permitted in the zone in which such lot is located.

B. More than one (1) use may be permitted in the same structure in the Neighborhood Commercial (NC), Downtown Commercial (DC), Highway Commercial (HC) and Industrial (ID) Development Zones on any lot that is not a nonconformity.

§ 125-62. Municipal services.

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

§ 125-63. Off-street loading and unloading requirements.

On every lot on which a commercial or industrial use is hereafter established, space with access to a public street shall be provided as indicated below for the loading and unloading of vehicles:

A. Retail business: one (1) space twelve by fifty-five (12 x 55) feet with a minimum overhead clearance of fifteen (15) feet for the first five thousand (5,000) square feet or fraction thereof of floor space, plus one (1) space for any floor space in excess of five thousand (5,000) square feet.

B. Wholesale business and industrial: one (1) space twelve by fifty-five (12 x 55) feet with a minimum overhead clearance of fifteen (15) feet for each eight thousand (8,000) square feet of floor space or fraction thereof.

C. Truck and bus terminals: sufficient space to accommodate the maximum number of buses or trucks

that would be stored, loaded and unloaded at the terminal at any one (1) time.

D. Applicability limited.

(1) The above off-street loading and unloading requirements do not apply to the conversion of any existing residential building to a commercial use or any existing commercial building from one commercial use to another commercial use or a permitted industrial use, in the Neighborhood Commercial Development Zone (NC), Downtown Commercial Development Zone (DC), Highway Commercial Development Zone (HC) or Industrial Development Zone (ID).

(2) The above off-street loading and unloading requirements do apply to the conversion of any existing residential building from a residential use to a permitted commercial use in the Downtown Residential Zone (R1) and Rural Development Zone (RD). **[Amended 11-19-1992 by Ord. No. 7-92]**

§ 125-64. Off-street parking.

A. Parking space shall be provided as follows:

(1) No structure shall be erected nor shall any of the following uses be established unless at least the minimum number of off-street parking spaces as specified below is provided. Where a fractional number of spaces would be called for, at least the next higher whole number of spaces shall be required. Each parking space shall measure at least nine (9) feet in width by eighteen (18) feet in length and shall have access for vehicles to a public street. Parking lots for more than five (5) vehicles shall be so arranged that vehicles can be turned around within such lots without entering the street. Private roads, separated from public rights-of-way, but not

allowing for turnaround space, are deemed adequate for these requirements.

(a) Automobile repair and filling stations: one (1) space for each regular employee, plus one (1) space for each fifty (50) square feet of floor area used for service work.

(b) Boarding- and rooming houses: one (1) space for each guest room.

(c) Drive-in restaurants and dairy stands: ten (10) spaces, plus one (1) additional space for each person serving or preparing food on the largest shift employed at least once a week on a regularly scheduled basis during the peak season of operations.

(d) Funeral parlors: twenty (20) spaces.

(e) Hospitals and nursing homes: one (1) space for each five (5) beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each four (4) employees.

(f) Hotels: one (1) space for each guest bedroom, plus one (1) space for each four (4) employees.

(g) Industrial establishments: one (1) space for each one (1) or two (2) employees, at the maximum employment level, on the two (2) shifts of highest employment combined, plus one (1) space for each company vehicle operating from the premises.

(h) Fraternal organizations and clubs: one (1) space for each five (5) members.

(i) Business and professional offices: one (1) space for each two hundred (200) square feet of working space.

(j) Places of amusement or public assembly: one (1) space for each fifty (50) square feet of floor area devoted to patron use.

(k) Residential: two (2) spaces for each dwelling unit.

(l) Restaurants, cocktail lounges and bottle clubs: one (1) space for each four (4) customer seats, plus one (1) space for each two (2) employees.

(m) Retail business: four (4) spaces for each one thousand (1,000) square feet of sales area.

(n) Roadside farm stands: four (4) spaces.

(o) Elementary schools: two (2) spaces per classroom, plus one (1) space for every four (4) seats of public assembly or ten (10) spaces for every one thousand (1,000) square feet of assembly space if there are no fixed seats.

(p) High schools: five (5) spaces per classroom, plus one (1) space for every four (4) seats of public assembly or ten (10) spaces for every one thousand (1,000) square feet of assembly space if there are no fixed seats.

(q) Banks: one (1) space per one hundred fifty (150) square feet of floor area.

(r) Tourist courts and motels: one (1) space for each accommodation.

(s) Wholesale business: one (1) space for each three hundred (300) square feet of floor space.

(t) Churches: one (1) space for each five (5) persons' seating capacity.

(2) For uses not specifically listed in this section, the Code Enforcement Officer shall prescribe the number which in no case will be less than an adequate number to provide for employees, customers and visitors anticipated on the site.

B. Location on other property. If the required automobile parking spaces cannot be provided on the same lot where the principal use is conducted, the Planning Board can permit that such spaces may be provided on other off-street property, provided that such property lies within four hundred (400) feet of the main entrance to such principal use and is in the same zone. Such automobile parking space shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner; provided, however, that it may serve different principal uses at different times of day.

C. Parking area shading.

(1) Parking areas shall be shaded by deciduous trees, either retained or planted by the developer, that have or will have when fully mature a trunk at least twelve (12) inches in diameter. When trees are planted by the developer to satisfy the requirements of this subsection, the developer shall choose trees that are suitable to the site, soils and climate.

(2) Each tree of the type to be used shall be presumed to shade a circular area having a radius of fifteen (15) feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, twenty percent (20%) of the parking area will be shaded.

(3) No paving may be placed within twelve and one half (12½) feet, measured from the center of the trunk, of any existing tree to be retained, and new trees planted shall be located so that they are surrounded by at least two hundred (200) square feet of unpaved area.

(4) Parking areas shall be laid out and provisions made to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three (3) feet six (6) inches.

(5) If space that would otherwise be devoted to parking cannot be so used because of the planting requirements above and, as a result, the parking requirements of this § 125-64 cannot be satisfied, the number of required spaces may be reduced by the number of spaces lost, up to a maximum of fifteen percent (15%) of the required spaces.

D. Applicability limited.

(1) The above off-street parking requirements do not apply to the conversion of any existing residential building to a commercial use or any existing commercial building from one commercial use to another commercial use or a permitted industrial use, in the Neighborhood Commercial Development Zone (NC), Downtown Commercial Development Zone (DC), Highway Commercial Development Zone (HC) or Industrial Development Zone (ID).

(2) The above off-street parking requirements do apply to the conversion of the existing residential building from a residential use to a permitted commercial use, in the Downtown Residential Zone (R1) and Rural Development Zone (RD). **[Amended 11-19-1992 by Ord. No. 7-92]**

§ 125-65. Oil and chemical storage.

A. All storage of petroleum or liquid petroleum products shall be in conformance with the provisions of 38 M.R.S.A. § 541 et seq., which, among other things, establishes a ten-year compliance schedule for the discontinuance and removal of nonconforming underground oil storage facilities and requires qualified personnel to oversee the removal of certain underground facilities.

B. Such storage shall be in conformance with the NFPA codes applicable to the stored substance.

C. When applicable, the applicant shall have the burden of proof to assure the Planning Board or Code Enforcement Officer that all provisions of the above statutes have been met before the issuance of any permits may take place.

§ 125-66. On-site circulation.

A. Vehicular circulation. The layout of the site shall provide for the safe movement of passenger, service and emergency vehicles through the site.

(1) Nonresidential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for all vehicles, including tractor trailers.

(2) Clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.

(3) The layout and design of parking areas shall provide for safe and convenient circulation of vehicles and prevent their backing out onto a street.

(4) All streets and accessways shall be designed to harmonize with the topographic and natural features of the site. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage and delivery and collection services.

B. Pedestrian circulation. The development plan shall provide for a system of pedestrian circulation within the development. This system shall connect with existing sidewalks if they exist in the vicinity of the project. The pedestrian network may be located within the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link residential units with recreational and commercial

facilities, other common facilities, school bus stops and existing sidewalks in the neighborhood.

C. Applicability limited.

(1) The above on-site circulation requirements do not apply to the conversion of any existing residential building to a commercial use or any existing commercial building from one commercial use to another commercial use or a permitted industrial use, in the Neighborhood Commercial Development Zone (NC), Downtown Commercial Development Zone (DC), Highway Commercial Development Zone (HC) or Industrial Development Zone (ID).

(2) The above on-site circulation requirements do apply to the conversion of any existing residential building from a residential use to a permitted commercial use, in the Downtown Residential Zone (R1) and Rural Development Zone (RD).

§ 125-67. Pollution levels.

Any pollutant introduced into soil on the site shall not exceed a concentration in the groundwater that is greater than the guideline established for it in the Safe Drinking Water Standard, Environmental Protection Agency (EPA) Health Advisory or National Academy of Science (NAS) Health Advisory. Any violation of this standard shall be cause to order the immediate cessation of the use or activity responsible for the contamination. The land owner, contractor, occupant or any other person with authority over the land, structure or activity responsible for the contamination shall be jointly responsible for the cost of all remedial actions and damages resulting therefrom.

§ 125-68. Preservation and enhancement of the landscape.

A. The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal and disturbance of soil and retaining existing vegetation during construction. After construction is completed, landscaping shall be completed 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.

B. 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 minimum adverse affect on the environment and aesthetic qualities of the developed and neighboring areas.

C. Environmentally sensitive areas, such as wetlands, steep slopes, floodplains and unique natural features shall be maintained and preserved to the maximum extent possible. Natural drainage areas shall be preserved to the maximum extent possible.

§ 125-69. Private rights-of-way.

A. No private right-of-way shall be created to satisfy the frontage requirements for any lot, any portion of which abuts a public way.

B. Any new private right-of-way shall be at least fifty (50) feet in width. No such right-of-way shall be created over any existing lot or lots so that the balance of any such existing lot, exclusive of the area occupied by the right-of-way, would fail to meet any of the requirements of this Part 2 for lot size, frontage, lot coverage or yard sizes.

§ 125-70. Signs.

A. Conformance of signs. No sign shall hereafter be erected, altered or maintained within the limits of the Town of Millinocket, Maine, except in conformance with the provisions of this section.

B. Signs prohibited. No sign, whether new or existing, shall be permitted within the Town of Millinocket, Maine, which causes a sight, traffic, health or welfare hazard or results in a nuisance, due to illumination, placement, display or obstruction of existing signs.

C. On-premise signs. Owners or occupants of real property may erect and maintain on-premise signs which advertise the sale or lease thereof or activities being conducted thereon, provided that said signs are in conformance with the regulations set forth below:

(1) The maximum size for each individual sign in a residential zone (R2) shall not exceed four square feet. **[Amended 8-26-1999 by Ord. No. 5-99; 3-11-2004 by Ord. No. 1-2004]**

(2) The maximum aggregate area of all signs for an individual use in the R2 Zone shall not exceed six square feet. **[Amended 3-11-2004 by Ord. No. 1-2004]**

(3) The maximum size for each individual sign in the Downtown Commercial Development Zone (DC) shall be determined by the Planning Board on the basis of the existing character of the area.

(4) The maximum size for each individual sign in the Highway Commercial Development Zone (HC) shall be 110 square feet.

(5) The maximum size for each individual sign located in all other zones, unless otherwise limited or prohibited, shall not exceed 40 square feet.

(6) On-premise signs, other than wall or projecting signs, shall not extend more than 20 feet above ground level and shall not have a supporting structure which extends more than two feet above such sign.

(7) Projecting signs must be at least nine feet above pedestrian level and may project no more than three feet from the building.

(8) No sign shall be permitted which is erected or maintained on any tree or painted or drawn upon any rock or other natural feature or any utility pole.

(9) One sign identifying the name, address and profession or occupation of a permitted home occupation or a lawfully existing nonconforming home occupation is permitted, provided that such sign does not exceed four square feet in area and is not internally illuminated.

(10) Directional signs solely indicating ingress and egress placed at driveway locations, containing no advertising material or display area, not exceeding two square feet and not extending higher than four feet above ground level are permitted.

D. Temporary signs. The following temporary signs are permitted, provided that said signs conform to all standards of this section and all other municipal, federal and state ordinances, statutes and/or regulations:

(1) Temporary signs giving notice. Signs of a temporary nature, such as political posters, advertisements of charitable functions, notices of meetings or other noncommercial signs of a similar nature, are permitted for a period not to exceed 30 days, provided that the persons who posted the signs shall be responsible for their removal.

(2) Temporary yard sale signs. Temporary yard sale signs are permitted, provided that they do not exceed the size standards of Subsection C of this

section and provided that they are removed within 24 hours of the completion of the sale. Yard sales which extend for more than three consecutive days are considered a commercial use.

E. Sign requirements. All signs within the limits of the Town of Millinocket shall meet the following requirements:

(1) No sign shall project over a walkway or interfere in any way with the normal flow of foot or vehicular traffic. All freestanding signs shall be set back a minimum of five feet from property lines in all zones, except in the Downtown Commercial Development Zone (DC).

(2) No sign shall contain, include or be illuminated by flashing, blinking, intermittent or moving lights.

(3) Signs may be illuminated only by shielded nonflashing lights so as to effectively prevent beams or rays of light from being directed at neighboring residential properties or any portion of the main traveled way of a roadway, or if the illumination is of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof.

F. Exempt signs. The following signs are exempt from the provisions of this section except as otherwise provided for herein:

(1) Signs erected by a government body.

(2) Traffic control signs, signals and/or devices.

(3) Signs legally in existence prior to the adoption of this Part 2, or subsequent amendment hereto.

§ 125-71. Site conditions.

A. During construction, the site shall be maintained and left each day in a safe and sanitary manner, and any condition which could lead to personal injury or property damage shall be immediately corrected by the developer upon an order by the Code Enforcement Officer or other authorized personnel. The developer shall make provision for disposal of oil and grease from equipment, and the site area should be regularly treated to control dust from construction activity.

B. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris. Excess or scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the Code Enforcement Officer prior to issuing a certificate of occupancy.

§ 125-72. Utilities; sewage disposal; waste disposal; water supply.

A. Utilities.

(1) Any utility installations remaining above ground shall be located so as to have a harmonious relation to neighboring properties and the site.

(2) Underground utilities shall be installed prior to the installation of the final gravel base of the road.

(3) The size, type and location of streetlights and utilities shall be shown on the plan and approved by the Planning Board.

B. Sewage disposal.

(1) Subsurface sewage disposal. No permit shall be issued for a project with subsurface sewage disposal unless:

(a) There is an area of sufficient size of suitable soils, under the Maine State Plumbing Code, to accommodate the proposed system.

(b) An acceptable plan to construct the absorption area is prepared in accordance with the Maine State Plumbing Code.

(2) In lieu of Subsection B(1)(a) and/or (b) above, the applicant shall demonstrate that any deficiencies of the soil for purposes of sewage disposal can and will be overcome by a suitable engineering solution.

C. Waste disposal. The proposed development shall provide for adequate disposal of solid wastes and hazardous wastes.

(1) All solid waste shall be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

(2) All hazardous wastes shall be disposed of at a licensed hazardous waste disposal facility, and evidence of a contractual arrangement with the facility shall be submitted.

D. Water supply. The development shall be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water.

ARTICLE IX
Shoreland Standards

§ 125-73. Applicability. [Amended 12-9-2004 by Ord. No. 2-2004]

All land use activities within 250 feet of the normal high-water line of any great pond or river, within 250 feet of the upland edge of a freshwater wetland or within 75 feet of the high-water line of a stream shall conform to the following

provisions, if applicable, except as noted for areas developed prior to the adoption of this Part 2.

§ 125-74. 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 United States Department of Agriculture (USDA), Water Conservation Commission, in July 1972.

B. Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA or within 75 feet, horizontal distance, of other water bodies, tributary streams or wetlands. Within five years of the effective date of this Part 2, all manure storage areas within the Shoreland Protection Zone (SP) 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. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area or the spreading, disposal or storage of manure within the Shoreland Protection Zone (SP) shall require a USDA Soil and Water Conservation Plan to be filed with and approved by the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this Part 2.

D. There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, from other water bodies; nor within 25 feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this

Part 2 and not in conformance with this provision may be maintained.

E. After the effective date of this Part 2, newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, of other water bodies; nor within 25 feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

§ 125-75. Archaeological sites.

The application for 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 Planning Board, 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 Planning Board. The Planning Board shall consider comments received from the Commission prior to rendering a decision on the application.

§ 125-76. Clearing of vegetation for development.

A. Within a shoreland area zoned as a Resource Protection Subzone abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, including the removal of safety hazards, without a permit from the Code Enforcement Officer. Elsewhere in any Resource Protection Subzone, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

(1) Areas developed prior to adoption of this Part 2 shall maintain a twenty-five-foot setback from the normal high-water mark or the average setback of the adjoining properties, whichever is greater. **[Added 12-9-2004 by Ord. No. 2-2004]**

B. Buffer strip within 100 feet of great ponds or 75 feet of other waters.

(1) Except in areas as described in Subsection A above, and except to allow for the development of permitted uses, within a strip of land extending 100 feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA and 75 feet, horizontal distance, from any other water body, tributary stream or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed 10 feet in width as measured between tree trunks is permitted, provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond classified GPA or stream or river flowing to a great pond classified GPA, the width of the footpath shall be limited to six feet.

(b) Selective cutting.

[1] Selective cutting of trees within the buffer strip is permitted, provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section, a "well-distributed stand of trees and other vegetation" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified

GPA shall be defined as maintaining a rating score of 12 or more in any twenty-five-foot by twenty-five-foot (625 square feet) square area as determined by the following rating system:

(Cont'd on page 12577)

Diameter of Tree at 4½ Feet Above Ground Level (inches)	Points
2 to 4	1
Greater than 4 to 12	2
Greater than 12	4

[2] Adjacent to other water bodies, tributary streams and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of eight (8) per twenty-five-foot square area.

[3] Notwithstanding the above provisions, no more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter, measured at four and one-half (4½) feet above ground level, may be removed in any ten-year period.

(c) In order to protect water quality and wildlife habitat adjacent to great ponds classified GPA and streams and rivers which flow to great ponds classified GPA, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in Subsection B(1)(a) above.

(d) Pruning of tree branches on the bottom one-third (⅓) of a tree is permitted.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

(2) The provisions contained in this Subsection B shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

C. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or river flowing to a great pond classified GPA and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten-year period, selective cutting of not more than forty percent (40%) of the volume of trees four (4) inches or more in diameter, measured four and one-half (4½) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty-percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area. In no event shall cleared openings for development, including but not limited to principal and accessory structures, driveways and sewage disposal areas, exceed, in the aggregate, twenty-five percent (25%) of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed.

D. Cleared openings legally in existence on the effective date of this Part 2 may be maintained but shall not be enlarged, except as permitted by this Part 2.

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

§ 125-77. Commercial and industrial uses.

The following new commercial and industrial uses are prohibited within the Shoreland Protection Zone (SP) adjacent

to great ponds classified GPA and rivers and streams which flow to great ponds classified GPA:

A. Auto washing facilities.

B. Auto or other vehicle service and/or repair operations, including body shops.

C. Chemical and bacteriological laboratories.

D. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms.

E. Commercial painting, wood preserving and furniture stripping.

F. Dry-cleaning establishments.

G. Electronic circuit assembly.

H. Laundromats, unless connected to a sanitary sewer.

I. Metal plating, finishing or polishing.

J. Petroleum or petroleum product storage and/or sale, except storage on the same property as the use occurs and except for storage and sales associated with marinas.

K. Photographic processing.

L. Printing.

§ 125-78. 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 under this Part 2 shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Code Enforcement Officer or Planning Board for approval, as required, 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 (1) week from the time it was last actively worked by use of riprap, sod, seed and mulch or other effective measures. In all cases, permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

(1) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

(2) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

(3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

E. Natural and man-made 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.

§ 125-79. Essential services.

A. Where feasible, 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 Subzone, except to provide services to a permitted use within said district or except where the applicant demonstrates that a clear necessity exists and that there is a lack of a reasonable alternative. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

§ 125-80. Individual private campsites.

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

A. One (1) campsite per lot of record existing on the effective date of this Part 2, or per thirty thousand (30,000) square feet of lot area within the Shoreland Protection Zone (SP), whichever is less dense, may be permitted.

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

high-water line of other water bodies, tributary streams or the upland edge of a wetland.

C. Campsites shall not be located on any type of permanent foundation except for a gravel pad.

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

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

§ 125-81. 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 one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures so as to restore disturbed 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 Subsection B(3) 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 one hundred (100) feet of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA and within seventy-five (75) feet of the normal high-water line of any other water body, tributary stream or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.

(3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (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:

(a) 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.

(b) The final graded slope shall be two to one (2:1) slope or flatter.

(c) Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

(4) In keeping with the purposes of this Part 2, 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, including but not

limited to any reasonable form of performance guaranty such as a performance bond.

§ 125-82. Minimum lot standards.

A. All lots in the shoreland area shall contain a minimum of one (1) acre [forty-three thousand five hundred sixty (43,560) square feet] and have a minimum shore frontage of two hundred (200) feet.

B. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

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

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

E. If more than one (1) residential dwelling unit or more than one (1) principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

§ 125-83. Parking areas.

A. Parking areas shall meet the shoreline setback requirements for structures for the zone in which such areas are located.

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 nine feet wide and 18 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.

§ 125-84. Piers, docks, wharfs and bridges.

Regulations for 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 are as follows:

A. Access to the shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

B. The location shall not interfere with existing developed or natural beach areas.

C. The facility shall be not larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use and character of the area.

D. 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.

E. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

§ 125-85. Principal and accessory structures. [Amended 4-13-1995 by Ord. No. 1-95]

A. All new principal and accessory single- and two-family residential structures shall be set back at least 100 feet from the normal high-water line of great ponds classified GPA and rivers that flow into great ponds classified GPA, and 75 feet from the normal high-water line of other water bodies, tributary streams or the upland edge of a wetland. All new principal and accessory multiple-family housing, commercial, industrial and other nonresidential structures shall be set back at least 150 feet from the normal high-water line of great ponds classified GPA and rivers that flow into great ponds classified GPA, and 100 feet from the normal high-water line of other water bodies, tributary streams or the upland edge of a wetland. In addition, the water body or wetland setback provision shall not apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, or to other functionally water-dependent uses.

(1) Principal and accessory single- and two-family residential structures in existence prior to adoption of this Part 2 shall maintain a twenty-five-foot setback from the normal high-water mark or the avenge setback of the adjoining properties, whichever is greater. **[Added 12-9-2004 by Ord. No. 2-2004]**

B. Principal or accessory structures and expansions of existing structures which are permitted in the shoreland area shall not exceed 35 feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas and similar structures having no floor area.

C. The first floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the one-hundred-year flood, the flood of record or, in the absence of these,

the flood as defined by soil types identified as recent floodplain soils.

D. The total area of all structures, parking lots and other nonvegetated surfaces within the shoreland area shall not exceed 20% of the lot, or a portion thereof, located within the shoreland area, including land area previously developed.

E. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of four feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the

(Cont'd on page 12587)

Board of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

§ 125-86. Roads and driveways.

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features:

A. Setback.

(1) Roads and driveways shall be set back at least one hundred (100) feet from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams or the upland edge of a wetland unless a clear necessity exists and there is a lack of a reasonable alternative as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include but are not limited to the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream or wetland.

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

(3) This subsection shall neither 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.

B. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.

C. New roads and driveways are prohibited in a Resource Protection Subzone, except to provide access to permitted uses within the district or as approved by the Planning Board upon a finding that a clear necessity exists and there is a lack of a reasonable alternative route or that a location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream or upland edge of a wetland.

D. Road banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in § 125-90 of this Article.

E. Road grades shall be no greater than ten percent (10%) except for short segments of less than two hundred (200) feet.

F. 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 fifty (50) feet, plus two (2) times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

G. 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 (percent)	Spacing (feet)
0 – 2	250
3 – 5	200 – 135
6 – 10	100 – 80
11 – 15	80 – 65
16 – 20	60 – 45
21 +	40

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

(3) On road sections having slopes greater than ten percent (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, as recommended by the Penobscot County Soil and Water Conservation District.

H. 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.

§ 125-87. Septic waste disposal.

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules.

§ 125-88. Signs.

All signs in the shoreland area shall conform to the provisions of § 125-70 of this Part 2.

§ 125-89. Soils.

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal and commercial or industrial development and other similar intensive land uses shall require a soils report, prepared by a state-certified soil scientist or geologist based on an on-site investigation. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal.

§ 125-90. Stormwater runoff.

A. All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment 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 stormwater.

B. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

§ 125-91. Timber harvesting.

A. Within the strip of land extending seventy-five (75) feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond, there shall be no timber harvesting, except to remove safety hazards.

B. Except in areas as described in Subsection A above, timber harvesting shall conform with the following provisions:

(1) Selective cutting of no more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter measured at four and one-half (4½) feet above ground level on any lot in any ten-year period is permitted. In addition:

(a) Within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams or the upland edge of a wetland, there shall be no clear cut openings, and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

(b) At distances greater than one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet, they shall be at least one hundred (100) feet apart.

Such clear cut openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered to be equivalent to basal area.

(2) Timber harvesting in excess of forty percent (40%) of the volume may be permitted by the Planning Board upon a showing, including a forest management plan signed by a Maine licensed professional forester, that such exception is necessary for sound forest management and will be carried out in accordance with the purposes of 38 M.R.S.A. § 435 et seq.

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

(4) Timber harvesting equipment shall not use stream channels as travel routes, except when:

(a) Surface waters are frozen; and

(b) The activity will not result in any ground disturbance.

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

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

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

§ 125-92. Water quality.

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

ARTICLE X
Code Enforcement Officer Permits

§ 125-93. Code Enforcement Officer permit required. [Amended 8-4-1994 by Ord. No. 4-94]

A permit issued by the Code Enforcement Officer shall be required before beginning or undertaking any of the following activities:

A. Flood hazard areas: All construction or earthmoving activities or other improvements within the one-hundred-year floodplain designated on the Flood

Insurance Rate Maps published by the Federal Emergency Management Agency.

B. New construction: New construction of buildings and structures, including the erection of fences and walls, the construction of retaining walls and the creation of roads or driveways and parking areas.

C. Alteration: Alteration of buildings, structures or land, or parts thereof, including interior renovations for change in use and the enclosing of unenclosed porches and decks, for the creation of additional sleeping space or any activity which increases the existing amount of water used daily, but not including normal maintenance and repair activities.

D. Placement of signs: Placement of signs except temporary signs.

E. Moving or demolition: All buildings or structures, including mobile homes, which are removed from or moved onto or moved around within a lot, or demolished.

F. Change of use: The change of any premises from one category of land use to any other land use under Chapter 125, Part 2, of this Town Code; the change of any building or structure or part thereof from one use group classification to any other use group classification listed in Article III of the BOCA Building Code, including the reoccupancy of any building, structure or part thereof being unoccupied for more than twelve (12) calendar months by one (1) of said use group classifications; or the change in any building occupancy classification to a different occupancy classification under the NFPA 101 Life Safety Code. **[Amended 11-30-1995 by Ord. No. 5-95]**

G. Home occupation: The establishment, operation or maintenance of a home occupation.

H. Article VII activities: Any activity as requiring Planning Board site plan review in Article VII, which meets the definition of a "minor development" under § 125-100A(2).

§ 125-94. Procedure. [Amended 8-4-1994 by Ord. No. 4-94]

A. Application. All applications for a Code Enforcement Officer permit shall be submitted in writing in duplicate to the Code Enforcement Officer on forms provided for the purpose, together with such fees as established in Article XIII.

B. Submissions.

(1) All applications for a Code Enforcement Officer permit shall be accompanied by a plan, accurately drawn to scale or showing actual dimensions or distances, and showing:

(a) The actual shape and dimensions of the lot for which a permit is sought.

(b) The location and size of all buildings, structures and other significant features currently existing on the lot, as well as all water bodies and wetlands within two hundred fifty (250) feet of the property boundaries.

(c) The location and building plans of new buildings, structures or portions thereof to be constructed.

(d) The existing and intended use of each building or structure.

(e) Where applicable, the location of soils test pits, subsurface sewage disposal system, parking lots and driveways, signs buffer strips and private wells.

(f) Such other information as may be reasonably required by the Code Enforcement Officer to provide for the administration and enforcement of this chapter.

(2) Any application for minor site plan review of a minor development shall include the information required by § 125-102A through G.

C. To whom issued. No permit shall be issued except to the owner of record or his authorized agent. Written proof of authorization shall be required.

D. Compliance. All activities undertaken pursuant to a permit issued under this section shall comply with all applicable standards set forth or adopted by reference in this Town Code. **[Amended 11-30-1995 by Ord. No. 5-95]**

E. Deadline for decision. The Code Enforcement Officer shall, within thirty (30) days of receipt of an application, issue the permit if all proposed construction and uses meet the provisions of this Part 2, refer the applicant to the Planning Board for site plan review or deny the application. All decisions of the Code Enforcement Officer shall be in writing.

F. Conditions of approval. The Code Enforcement Officer, upon determination of compliance with applicable standards of this Part 2, shall issue a permit granting approval subject to such terms and conditions as are considered advisable to ensure conformity with such standards and to protect the public health, safety or general welfare.

G. Copies. One (1) copy of the application, with the permit or other written decision of the Code Enforcement Officer, shall be returned to the applicant, and one (1) copy, with a copy of the permit or written decision, shall be retained by the Code Enforcement Officer as a permanent public record.

H. Posting. The applicant shall cause any permit issued to be conspicuously posted on the lot where the activity will occur at a location clearly visible from the street.

I. Commencement and completion of work.

(1) Construction and alteration activities on projects for which a permit has been granted under this section shall commence within twelve (12) months of the date of issuance of the permit and shall be

substantially completed within twenty-four (24) months of that date.

(2) Activities which are not commenced or substantially completed within the time limits provided above shall be subject to new application and the permit issued under this section shall be considered void.

(3) Activities may be extended for up to twelve (12) months by the Code Enforcement Officer, for good cause, if an application for an extension is submitted not later than thirty (30) days prior to expiration of the prior permit.

J. Appeals. Appeals from decisions of the Code Enforcement Officer may be taken pursuant to Article XV of this Part 2.

§ 125-95. Procedural exceptions to activities requiring site plan review.

Activities requiring site plan review which are classified as a minor development shall be reviewed by the Code Enforcement Officer, except as follows:

(Cont'd on page 12597)

A. If, within seven (7) calendar days of receipt of a completed application for a minor development, the Code Enforcement Officer determines that said application warrants the review of the Planning Board, the Code Enforcement Officer shall forward such application to the Planning Board for its review. The Planning Board, at its next regularly scheduled monthly meeting, shall review the application and either approve, deny or schedule a public hearing on the application.

B. Notice.

(1) The Code Enforcement Officer, within seven (7) calendar days of receipt of a completed application which involves a change of use from one land use classification to another land use classification, shall notify the Planning Board and all owners of property located within seventy five (75) feet of the property involved.

(2) Any abutter may request, within seven (7) calendar days of receipt of such notice, that the Planning Board review such application.

(3) The Planning Board, within thirty (30) calendar days of the receipt of a request from an abutter, shall review the application and either approve, deny or schedule a public hearing on the application.

§ 125-96. Annual report on shoreland activities.

The Code Enforcement Officer shall provide the Commissioner of the Department of Environmental Protection a report on shoreland zoning activities, including the number and type of permits issued, variances granted, violations noticed and enforcement actions taken. Such reports shall be made by the Code Enforcement Officer once every two (2) years, with the first report to be submitted no later than May 1994.

ARTICLE XI
Planning Board Site Plan Review

§ 125-97. Purpose.

The purpose of site plan review by the Planning Board is to promote the public health, safety and general welfare by requiring Planning Board review of plans for certain uses or structures which have a significant potential impact on the neighborhood or the environment but which, when properly designed with respect to their surroundings, can become uses or structures that are compatible with the neighborhood and environment.

§ 125-98. Activities requiring site plan review.

Except as provided in § 125-99 below, site plan review and approval by the Planning Board shall be required for:

A. Any proposed activity designated in Article VII as requiring site plan approval from the Planning Board, not classified as a minor development pursuant to § 125-100A(2).

B. The construction of a new building or structure or the external enlargement of any existing building or structure devoted to a use not classified as a minor development pursuant to § 125-100A(2).

C. Any activity referred to the Planning Board by the Code Enforcement Officer pursuant to § 125-95.

§ 125-99. Activities not requiring site plan review.

Unless specifically required by Article VII, site plan review by the Planning Board shall not be required for:

A. Uses designated in § 125-93G as requiring only a permit from the Code Enforcement Officer.

(2) Any hazardous activity identified by the Maine Department of Environmental Protection as exempt from the definition of hazardous activity in 38 M.R.S.A. § 482, Subsection 2-C, including domestic and other uses of substances in quantities too small to present a significant risk of groundwater contamination.

§ 125-100. Classification of projects.

A. Projects subject to site plan review shall be classified by the Code Enforcement Officer into one (1) of the following classes:

(1) Major developments. Projects involving any of the following shall be classified by the Code Enforcement Officer as a major development:

(a) Any project which contemplates drilling for or excavating natural resources, including mineral extraction, on land or under water where the area affected is in excess of thirty thousand (30,000) square feet.

(b) Hazardous activities involving the consumption, generation or handling of:

[1] Hazardous wastes as defined in 38 M.R.S.A. § 1303.

[2] Hazardous materials as defined in 38 M.R.S.A. § 1317.

[3] Oil as defined in 38 M.R.S.A. § 542.

[4] Low-level radioactive wastes as defined in 38 M.R.S.A. § 1451.

(c) Any building or buildings on a single parcel constructed or erected with a fixed location on or in the ground or attached to something on or in the ground which occupies a ground area in excess of twenty thousand (20,000) square feet.

(d) Any project where parking lots, roads, paved areas or other areas to be stripped or graded and not to be revegetated causes the total project, including any buildings, to occupy a ground area in excess of sixty thousand (60,000) square feet.

(e) Any project which is a conversion of an existing project meeting the description in Subsection A(1)(c) and (d) above.

(f) Any multiunit housing development involving a building or buildings built for the purpose of providing ten (10) or more housing units located on a single parcel of land.

(2) Minor developments. Projects not classified by the Code Enforcement Officer as a major development shall be considered a minor development under this section.

B. Projects classified as minor developments have to submit the information specified in § 125-102A through G below. Projects classified as major developments, in addition to submitting the information required of minor developments, are required to submit the additional information specified in § 125-103A through M.

§ 125-101. Prohibition.

No activity or use described in § 125-98 shall commence until the property owner has received site plan approval from the Planning Board and has received any necessary permits from the Code Enforcement Officer.

§ 125-102. Site plan review application.

Applications for site plan review shall be submitted on application forms provided by the town. The complete application form, required fees, and the required plans and

related information shall be submitted to the Code Enforcement Officer who shall forward it to the Planning Board. The submission shall contain at least the following exhibits and information:

A. Application form: a fully executed and signed copy of the application form.

B. Fees: site plan review fees in the amounts established in § 125-117.

C. Originals: one (1) original of all maps and drawings on durable, permanent transparency material.

D. Copies: ten (10) copies of written materials, plus ten (10) sets of maps or drawings containing the information listed below. The written materials shall be contained in a bound report or a three-ring notebook. The maps or drawings shall be at a scale sufficient to allow review of the items listed under the criteria for approval.

E. General information: The following general information is required:

(1) Name of owner of record and address.

(2) Applicant's name and address if different.

(3) The name of the proposed development.

(4) Names and addresses of all property owners within three hundred (300) feet of the edge of the property line.

(5) Sketch map showing general location of the site within the town.

(6) Location map showing the boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.

(7) The tax map(s) and lot number(s) of the parcel or parcels.

(8) A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.

(9) The names and addresses and registration numbers, if registered, of the land surveyor, architect, engineer and/or similar professionals assisting with the preparation of the plan.

F. Information regarding existing conditions: The following information regarding existing conditions is required:

(1) Zoning classification(s) of the property and the location of zoning district boundaries if the property is located in more than one (1) zoning district or abuts a different district.

(2) The bearings and distances of all property lines of the property to be developed and the source of this information, prepared by a registered land surveyor as a standard boundary survey.

(3) Location and size of any existing sewer and water mains, culverts and drains on the property to be developed and of any that will serve the development from abutting streets or land.

(4) Location, names and present widths of existing streets and rights-of-way within or adjacent to the proposed development.

(5) The location, dimensions and ground floor elevations of all existing buildings on the site.

(6) The location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site.

(7) Location of intersecting roads or driveways within two hundred (200) feet of the site.

(8) Topography of the site at an appropriate contour interval [one (1) foot, two (2) feet or five (5) feet],

depending on the nature of the use and character of the site.

(9) Major natural features on the site and including, within two hundred fifty (250) feet of the boundaries of the site, wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats or other important natural features.

(10) Soils information if on-site sewage disposal is proposed. This information should be detailed enough to allow those portions of the site not suitable for on-site disposal systems to be identified.

(11) The location of open drainage courses, wetlands, significant stands of trees and other important natural features, with a description of such features to be retained.

(12) The direction of existing surface water drainage flow across the site.

(13) The location and dimensions of existing signs.

(14) The location and type of all existing exterior lighting.

(15) A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the tract. Such covenants or deed restrictions shall be referenced on the plan.

G. Information regarding proposed development activity: The following information regarding the proposed development activity is required:

(1) The location of all building setbacks, yards and buffers required by this Part 2.

(2) The location, dimensions, including heights and ground floor elevations, of all proposed buildings on the site.

(3) The location and dimensions of proposed driveways, parking and loading areas and walkways.

(4) The location and dimensions of all proposed water supply and wastewater disposal systems.

(5) The direction of proposed surface water drainage flow across the site.

(6) Location, front view and dimensions of proposed signs.

(7) Location and type of proposed exterior lighting.

(8) Proposed landscaping and buffering.

(9) A schedule of construction, including anticipated beginning and completion dates.

§ 125-103. Additional information required of major developments.

Applications for major developments shall include the following additional information:

A. Existing and proposed topography of the site at one- , two- or five-foot contour intervals, or such closer interval as the Planning Board may determine.

B. A stormwater drainage and erosion control program showing:

(1) The existing and proposed method of handling stormwater runoffs.

(2) The direction flow of the runoff through the use of arrows.

(3) The location, elevation and size of all catch basins, dry wells, drainage ditches, swales, retention basins and storm sewers.

(4) Engineering calculations used to determine drainage requirements based upon the twenty-five-year twenty-four-hour storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new

impervious surfaces (such as paving and building area) being proposed.

(5) Methods of controlling erosion and sedimentation during and after construction.

C. A groundwater impact analysis prepared by a groundwater hydrologist for projects involving common on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons or more per day.

D. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone and any other utility services to be installed on the site.

E. A planting plan and schedule keyed to the site plan and indicating the general species and sizes of trees, shrubs and other plants to be planted on the site.

F. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets.

G. A written statement from the Millinocket Water Company as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, if public water supply is to be utilized.

H. The location, width, typical cross section, grades and profiles of all proposed streets and sidewalks.

I. Construction drawings for streets, sanitary sewers and water and storm drainage systems, designed and prepared by a professional engineer registered in the State of Maine or a person who has demonstrated competence in the eyes of the Planning Board.

J. The location of any pedestrian ways, lots, easements, open spaces and other areas to be reserved for or dedicated to public use and/or ownership. For any proposed easement, the developer shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon

approval of the development. In the case of any streets or other ways dedicated to public ownership, the developer shall submit a signed statement that he will maintain such streets or ways year round until such time as they may be accepted by the town.

K. Written offers of dedication or conveyance to the municipality, in a form satisfactory to the Town Attorney, of all land included in the streets, highways, easements, parks or other open space dedicated for public use, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the developer, are to be maintained.

L. If the development is a condominium or a clustered development, evidence that all requirements relative to establishment of a homeowners' association or condominium owners' association have been met. If the development is a clustered development, evidence shall be presented that all other requirements of this Part 2 pertaining to clustered development have been met. The submission shall include copies of the bylaws of any homeowners' or condominium association charged with maintaining common spaces and lands. Homeowners' associations or condominium documents shall clearly state that the association or condominium shall properly maintain private roadways serving the development after the developer has legally relinquished that responsibility and until such time as the town may accept them as public ways.

M. Cost of the proposed development and evidence of financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed and its interest in financing the project.

§ 125-104. Review procedures.

The procedures for site plan review are as follows:

A. Step 1: submission of completed application to the Code Enforcement Officer. The applicant shall submit the requisite number of copies of his/her application and supporting information required by § 125-102.

B. Step 2: Code Enforcement Officer classification and review.

(1) Dated receipt. The Code Enforcement Officer shall issue the applicant a dated receipt.

(2) Classification. The Code Enforcement Officer shall review the application and classify it as either a major or minor development in accordance with the provisions of § 125-100. If the proposal is classified as a major development, the applicant shall be required to submit the additional information required in § 125-103 of this Article.

(3) Fees submitted. After classification, the applicant shall provide the Code Enforcement Officer with the applicable fees established in § 125-117.

(4) Review for completeness. The Code Enforcement Officer shall initially review the application and determine whether or not it is complete.

(5) Notice of incomplete application. If the application is found to be incomplete, the Code Enforcement Officer shall, within ten (10) days, notify the applicant in writing of the information needed to complete the application. Upon the applicant's submission of such additional information, Steps 1 and 2 shall be repeated.

(6) Application forwarded. The Code Enforcement Officer shall forward copies of the application and supporting documents to the Town Planner, if the town has retained the services of a Town Planner, and the members of the Planning Board and place

the project on the agenda of the next regular Planning Board meeting occurring not less than fourteen (14) days later.

(7) Incomplete applications will not be acted upon. Applications forwarded to the Planning Board which are incomplete shall not be acted upon by the Board until the meeting following the determination by the Code Enforcement Officer that the application is complete.

(8) Notice to abutters. Abutting property owners shall be notified by mail by the town of all pending applications for site plan review. This notice shall indicate the time, date and place of Planning Board consideration of the application.

C. Step 3: Town Planner review. If the town has retained the services of a Town Planner, upon receipt of the application and supporting documents, the Town Planner shall review the material and determine whether or not the application is complete with regard to:

(1) Complete application: whether or not the information has been submitted required by § 125-102 and, if applicable, § 125-103.

(2) Compliance with land use standards: whether or not the proposed development meets the requirements of the applicable land use standards contained in Article VIII of this Part 2.

(3) Criteria of approval: whether or not the applicant has adequately addressed the site plan review criteria contained in § 125-111 of this Article.

D. Step 4: Planning Board review. At the meeting of the Planning Board at which the proposed development is scheduled to be reviewed, the Planning Board shall perform the following:

(1) Code Enforcement Officer (CEO) and Town Planner reports. The Planning Board shall hear any reports of the Code Enforcement Officer and, if the town has retained the services of a Town Planner, the report of the Town Planner regarding the proposed development.

(2) Applicant's response. The Planning Board shall hear any comments of the applicant regarding the Code Enforcement Officer's and Town Planner's report.

(3) Request for waivers. The Planning Board shall hear any requests from the applicant for waivers pursuant to §§ 125-112 and 125-113.

(4) Determination of completeness. The Planning Board shall determine whether or not the application is complete.

(5) Notice of incompleteness. If the application is determined to be incomplete, the Board shall inform the Code Enforcement Officer of the information required to make the application complete. The Code Enforcement Officer shall, within ten (10) days, inform the applicant, in writing, of the additional information required by the Planning Board. Upon the applicant's submission of such additional material, Steps 1, 2, 3 and 4 shall be repeated.

(6) Deciding on public hearing.

(a) If the application is determined to be complete, the Board shall deem the application pending and shall determine whether or not to set the matter to public hearing. If a public hearing is set, such hearing shall take place within forty-five (45) days of the Planning Board's determination that the application is complete. This deadline may be extended by mutual agreement of the Board and the applicant,

either in writing or orally, on the record at a public meeting.

(b) If the proposed development has been classified as a major development, such public hearing shall be mandatory. If the proposed development has been classified as a minor development, such public hearing shall be held at the discretion of the Planning Board.

(c) Public hearings held for the purpose of hearing testimony regarding proposals requiring site plan approval under this Part 2, and notice thereof, shall be governed by § 125-105.

E. Step 5: Planning Board deliberation and decision.

(1) Deliberation. Within thirty (30) days after the public hearing on an application, or within thirty (30) days of a determination of completeness by the Board, if no hearing is held, the Planning Board shall deliberate to determine whether the proposed site plan complies with all applicable land use standards set forth in Article VIII and meets the site plan review criteria set forth in § 125-111. This deadline may be extended by mutual agreement of the Board and the applicant, either in writing or orally, on the record at a public meeting.

(2) Decision. If the Planning Board finds that the proposed site plan complies with all such standards, it shall issue an order granting site plan approval subject to such terms and conditions as the Board considers advisable to ensure conformity with site plan review standards and criteria of this Part 2 or to protect the public's health, safety or general welfare. If the Planning Board finds that the proposed site plan does not comply with all applicable review standards, it shall issue an order denying site plan approval. In either case, the Planning Board shall, within ten (10) working days after the completion of its deliberations, issue

specific written findings of fact supporting its decision.

F. Step 6: CEO building permit. If the Board shall vote to approve the site plan application, the Code Enforcement Officer shall issue a building permit, provided that, in his/her opinion, all other requirements of this Part 2 have been met.

§ 125-105. Public hearing procedures.

Site plan review public hearings and notice thereof shall comply with the following procedures:

A. Published notice. Notice of said hearing shall be published in a newspaper of general circulation in the Town of Millinocket at least ten (10) days prior to the hearing date.

B. Mailed notice. At least ten (10) days prior to the hearing date, written notice of said hearing shall also be mailed to the applicant, to the owners of all property within three hundred (300) feet of the property in question and to the Chairperson of the Millinocket Town Council. The owners of property shall be considered to be those shown on the town's tax list as the persons against whom taxes are assessed. The Planning Board shall, in each case, maintain a list of property owners so notified. Notice shall be deemed received if mailed to an owner's last known address according to the town tax records. Failure of any property owner to actually receive notice shall not necessitate another hearing or invalidate any actions of the Planning Board.

C. Content of notice. Notice of said hearing shall identify the applicant and the property involved, describe the specific nature of the proposal, state the date, time and place of the hearing and explain how the recipient of the notice may attend and present evidence.

D. Rules. Said hearings shall be conducted according to rules adopted by the Planning Board.

E. Representation. At any hearing a party may be represented by an agent or attorney; provided, however, that, if any party is not present, any person acting as that party's agent or attorney shall provide written evidence of such authority.

F. Continuation. Any hearing may be continued or recessed to another time for good cause shown or upon written or recorded agreement of the Board and the applicant.

§ 125-106. Professional review.

A. Additional studies. The Planning Board may require the applicant to undertake any additional studies which it deems reasonable and necessary to ensure that the requirements of this Part 2 are met. The cost of all such studies shall be borne by the applicant.

B. Independent technical review.

(1) The Planning Board may require that an independent consultant(s) review one (1) or more submissions of an application. The independent consultant(s) shall report to the Planning Board as to the project's compliance or noncompliance with the applicable provisions of this Part 2 and recommend, if appropriate, those actions which will result in compliance. Such consultants shall be fully qualified to provide the required information and shall be mutually acceptable to the town and the applicant and may include:

(a) An attorney;

(b) A registered professional engineer;

(c) A registered architect;

(d) A registered landscape architect;

(e) A registered geologist;

(f) A licensed soil scientist;

(g) A registered land surveyor; or

(h) Any other registered/licensed professional or independent expert witness deemed fully qualified and mutually acceptable to the town and the applicant.

(2) The consultant(s) selected shall estimate the cost of such review, and the applicant shall deposit with the town the full estimated cost which the town shall place in an escrow account in accordance with § 125-117.

§ 125-107. Failure to act.

A. Failure of the Planning Board to act within two (2) weeks after any of the time requirements set forth herein shall constitute a denial of the application, unless a time extension has been mutually agreed to, in writing, by the applicant and the Planning Board.

B. Failure of the Code Enforcement Officer to act within thirty (30) days from receipt of a complete application shall constitute a denial of the application, unless a time extension has been mutually agreed to, in writing, by the applicant and the Code Enforcement Officer.

§ 125-108. Expiration of approvals.

All site plan approvals shall expire within eighteen (18) months of the date of issuance unless work thereunder is commenced within eighteen (18) months from the date of issuance. If work is not completed within two (2) years from the date of issuance, a new application may be required. The expiration date may be extended upon request.

§ 125-109. Other permits.

The granting of site plan approval does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use. Such other required permits or approvals may include but are not limited to subdivision approval, building, plumbing and electrical permits, licenses granted pursuant to 38 M.R.S.A., Subsection 1022, Maine Department of Environmental Protection and United States Army Corps of Engineer's approvals, subsurface wastewater disposal permits, sewer connection permits, Maine Department of Transportation approvals and the like. The fact that the applicant may have obtained or may have been granted such permits or approvals prior to site plan review may be considered by the Planning Board as evidence as to the plan's compliance with applicable review standards but shall not be deemed conclusive evidence as to compliance.

§ 125-110. Access to site and records.

The town shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents related to the project. The applicant, by accepting a building permit, waives any objection to the town having access to the site to review the progress of the work or to review all records and documents related to the project.

§ 125-111. Site plan review criteria.

The Planning Board, in reviewing projects requiring site plan approval under this Part 2, shall make positive written findings that the applicant has submitted clear and convincing evidence that:

A. Adequate provision has been made for off-street parking and loading.

B. Adequate provision has been made for traffic movement of all types, including pedestrian, into, out of and within

the proposed project. The Board shall consider traffic movement both on site and off site in making its determination under this criteria.

C. Any traffic increase attributable to the proposed project will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development.

D. The proposed project will be built on soil types which are suitable to the nature of the project and that adequate provision has been made to avoid erosion, contamination of ground- or surface waters, interference with adjacent land, overburdening of natural or artificial drainage systems and/or any other adverse effects of inadequate drainage.

E. Adequate provision has been made to locate and design proposed outdoor display and/or storage areas so as to avoid any safety hazard to vehicular and pedestrian traffic on and off the site.

F. Adequate provision has been made to avoid any hazard to travel on public or private ways or any glare or other nuisance to the use of adjoining public or private property.

G. Adequate provision has been made with regard to buffers, screening, landscaping and the preservation and enhancement of significant natural features.

H. Adequate provision has been made to avoid unreasonable adverse effects on the scenic or natural beauty of the area, aesthetics, historic sites, rare and irreplaceable natural areas, existing uses, air quality, water quality or other natural resources within the town or in neighboring towns.

I. Whenever a project is situated, in whole or in part, within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river or within two hundred fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland or

within seventy five (75) feet, horizontal distance, of the normal high-water line of a stream, adequate provision has been made to conserve shoreland vegetation, visual points of access to waters as viewed from public facilities and actual points of public access to waters.

J. Adequate provision has been made to prevent any significant adverse effect upon the public health, safety or general welfare of the neighborhood or community.

K. Adequate provision has been made to prevent any undue adverse effect upon the property values of adjacent or nearby properties.

L. Adequate provision has been made to avoid any undue burden on municipal services.

M. Adequate provision has been made to assure the proper operation of the proposed business(es) or activity(ies) on the site through the provision of adequate and appropriate utilities, drainage, water supply, sewage disposal, solid waste disposal, access, parking and loading and other necessary site improvements.

N. Adequate provision has been made to assure that the proposed development conforms in all respects with the provisions of this Part 2.

O. The applicant has adequate technical and financial capability to carry out the project as proposed and to meet any conditions of approval applied by the Planning Board.

§ 125-112. Waiver of submissions requirements.

The Planning Board may, for good cause shown and only upon the written request of an applicant specifically stating the reasons therefor, waive any of the application requirements set forth in § 125-102 and 125-103 of this Article, provided that such waiver will not unduly restrict the review process. The Planning Board may condition such a waiver on the applicant's compliance with alternative requirements. Good cause may

include the Board's finding that particular submissions are inapplicable, unnecessary or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.

§ 125-113. Waiver of review criteria.

The Planning Board may, upon the written request of an applicant specifically stating the reasons therefor, waive any of the review criteria set forth in § 125-111 when it finds that such waiver is reasonable and that the public health, safety or welfare would not be adversely affected by such a waiver.

ARTICLE XII
Certificate of Use and Occupancy
[Amended 11-30-1995 by Ord. No. 6-95]

§ 125-114. Certificate required before use and occupancy.

A. A certificate of use and occupancy shall be obtained from the Code Enforcement Officer whenever required by Section 119 of the BOCA Building Code as adopted as Chapter 48 of the Town Code.

B. No building or part thereof requiring a certificate of use and occupancy shall be used or occupied until a certificate has been issued by the Code Enforcement Officer.

C. A certificate of use and occupancy shall be issued only after a final inspection has been conducted and the Code Enforcement Officer has determined that the building part thereof is in compliance with the applicable provisions of this Part 2 of the BOCA Building Code

adopted by reference pursuant to Chapters 48 and the NFPA Life Safety Code adopted by reference pursuant to Chapter 49 of the Town Code, and any conditions of approval attached by the Planning Board or Code Enforcement Officer to any applicable permits or plan approvals.

D. Temporary occupancy may be permitted, upon request of the holder of a permit and the issuance of a temporary and conditional certificate of use and occupancy by the Code Enforcement Officer, provided that the Code Enforcement Officer has determined that the building or portion thereof can be occupied safely prior to full completion of the building without endangering life or public welfare.

ARTICLE XIII
Administrative Fees
[Amended 7-1-1993 by Ord. No. 3-93; 9-8-1994 by Ord. No. 5-94]

§ 125-115. General provisions.

A. Applications considered incomplete until payment of required fee. Applications for any of the permits, approvals or certificates specified below which are not accompanied by a check in the amount of the required fee shall be considered incomplete, and no action will be taken on said application until a check for the required amount has been received by local officials.

B. Check to be made payable to town. All fees shall be paid in the form of a check made payable to the Town of Millinocket, and the purpose of the fee shall be clearly indicated on the check.

§ 125-116. Code Enforcement Officer permit fees.

A. Code Enforcement Officer permit applications. All applications for permits issued by the Code Enforcement Officer under this Part 2 shall be accompanied by a check in the amount required below:

(Cont'd on page 12619)

§ 125-116. Code Enforcement Officer permit fees. [Amended 8-22-2002 by Ord. No. 1-2002]

A. Code Enforcement Officer permit applications. All applications for permits issued by the Code Enforcement Officer under this Part 2 shall be accompanied by a check in the amount required below:

(1) Flood hazard areas.

(a) Minor construction improvements: $25 per unit.

(b) Floodproofing nonresidential structures: $50 per structure.

(c) Major construction/substantial improvements: $50 per unit.

(2) New residential buildings and structures.

(a) New single- and multi-family dwelling units: $50 per unit.

(b) New residential accessory structures: $10 per structure if 200 square feet or less; $25 per structure if over 200 square feet.

(3) New commercial and institutional buildings and structures.

(a) New commercial and institutional buildings with a floor area of 1,000 square feet or less: $50 per building.

(b) New commercial and institutional buildings with a floor area greater than 1,000 square feet: $50 plus $0.03 per square foot for each square foot over 1,000 square feet.

(c) New commercial and institutional accessory structures with a floor area of 200 square feet or less: $10 per structure.

(d) New commercial and institutional accessory structures with a floor area greater than 200 square feet: $10 for the first 200 square feet,

plus $1 for each additional 10 square feet over the first 200.

(4) New industrial/transportation/public utility buildings and structures.

(a) New industrial/transportation/public utility buildings with a floor area of 1,000 square feet or less: $200 per building.

(b) New industrial/transportation/public utility buildings with a floor area greater than 1,000 square feet: $200, plus $0.05 per square foot over 1,000 square feet.

(c) New industrial/transportation/public utility accessory structures with a floor area of 200 square feet or less: $25 per structure.

(d) New industrial/transportation/public utility accessory structures with a floor area greater than 200 square feet: $25 per structure plus $0.05 per square foot for each square foot over 200 square feet.

(5) Alterations to existing buildings and structures.

(a) Alterations to existing residential buildings:

[1] Up to $1,000 in value: $10 per alteration.

[2] In excess of $1,000 in value: $25 per alteration.

(b) Alterations to existing commercial and institutional buildings and structures: $25 per alteration.

(c) Alterations to existing industrial/transportation/public utility buildings and structures: $100 per alteration.

(6) Placement of signs: $5 per sign.

(7) Change of use permit.

(a) Change of use with a floor area less than 1,000 square feet: $25 per change.

(b) Change of use with a floor area more than 1,000 square feet: $25 plus $0.03 per square foot for each square foot over 1,000 square feet.

(8) Moving or demolition permit. Moving or demolition of principal buildings or structures, not including mobile homes: $5 per move/demolition.

B. Electrical permits.

(1) Residential: $5.

(2) Commercial: $25.

C. Residential buildings only (summary and explanation of charges).

(1) Alteration permit.

(a) Up to $1,000 in value: $10.

(b) Over $1,000 in value: $25.

(c) This application is for changes to the structure that is already built, such as building a second story on top of a one-story home or changing a porch into living space.

(2) New accessory structure.

(a) For structures up to 200 square feet: $10.

(b) For structures greater than 200 square feet: $25.

(c) This application is for adding portions to the property, such as adding a deck, garage, shed, etc.

(3) New principal structure: $50. This application is for building a new house, or placing a brand new mobile home or modular home on a lot.

(4) Sign permit; residential/home occupation $5 per sign.

(5) Moving or demolition: $5. This is for moving a building or mobile home in or out of Town. In the case of a mobile home, if it is brand new, it must have a new principal structure permit, not a moving permit. All real estate taxes must be paid prior to moving a mobile home out of Town. Send people to the Tax Collector for tax payment. The demolition permits are for anything that is being torn down. Make sure that they are told to talk to the Supervisor at the transfer site and that they are given a copy of the letter which is also filed in the demolition file.

(6) Fence(s)/retaining walls: $5 for location of a new fence that did not exist before.

(7) Electrical: $5 residential. They must contact the Electrical Inspector for the inspection.

(8) General information. A permit is not required for normal maintenance and repair. As long as everything is being built the same size and place, a permit is not required. For example, if the fence is the same length and height and is put in the same location as the old fence, no permit is required or if the deck is the same size as the old deck and is in the same location, no permit is required. No permit is required to reroof or re-side a structure.

D. Where a permit is not obtained until after construction begins, the above fee shall be doubled. This double fee is in addition to any fine or penalty imposed for violating this Part 2 by failing to obtain a building permit prior to starting construction.

Table of Zoning Map Amendments
Millinocket, ME

Ordinance No.	Adoption Date	Description/ Zone Change
1-98	5-14-1998	Lot 3 (3-1 through 3-27) from R2 to RD
6-98	11-5-1998	Huber property and additional adjacent land from CF to ID
8-98	12-3-1998	Rice farm from ID to RD
5-2005	12-8-2005	Part of Medway Road from RI to NC
1-2006	3-9-2006	Part of Bates Street and all of Kelley's Trailer Park located just off Bates Street from R-1 to NC
6-2006	12-14-2006	Tax Map U08, Lot 004, from NC to R-2

§ 125-117. Site plan review fees.

A. Application packet fee. The application packet fee required to cover printing costs for copies of the application form and copies of this Part 2 are as follows:

(1) Copies of site plan review applications. The nonrefundable fee for copies of the site plan review application form is $5 per copy.

(2) Copies of Part 2. The nonrefundable fee for copies of this Part 2 is $10 per copy.

B. Application processing fees. The application processing fees required to cover the administrative handling costs associated with site plan review under this Part 2 are as follows:

(1) Minor developments. The nonrefundable fee to accompany the application for minor developments is $150.

(2) Major developments. The nonrefundable fee to accompany the application of major developments is $300.

C. Technical review account.

(1) The technical review fee, if required, shall be paid prior to the start of the Planning Board's review of any application for site plan review.

(2) This fee shall be paid in the form of a check made payable to the Town of Millinocket, and the purpose of the fee shall be clearly indicated on the check. The Town shall deposit this fee in a special account.

(3) Any balance in the account remaining after the completion and inspection of required improvements shall be returned to the applicant.

§ 125-118. Zoning Board of Appeals administration fees.

A. Application for administrative appeals and variances. All applications for administrative appeals and the approval of variances by the Zoning Board of Appeals under this Part 2 shall be accompanied by a check in the amount of $50.

(Cont'd on page 12621)

ARTICLE XIV
Enforcement

§ 125-119. Enforcement procedure.

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Part 2. If the Code Enforcement Officer shall find that any provision is being violated, he or she shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of the illegal use of land, buildings or structures or work being done, removal of illegal buildings or structures and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record. Any such notice is not a prerequisite to bringing any legal action noted in § 125-120 below, and failure to give notice shall not in anyway affect such legal action.

B. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Part 2.

C. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, violations investigated, violations found and fees collected. In the case of violations within two hundred fifty (250) feet of the normal high-water line of any great pond or river, within two hundred fifty (250) feet of the upland edge of a freshwater wetland or within seventy-five (75) feet of the high-water line of a stream, the Code Enforcement Officer shall, on an annual basis, submit a summary of this record to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

§ 125-120. Legal action.

The Town Council or its authorized agent, upon notice from the Code 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 Part 2 in the name of the municipality. The Town Council, or its authorized agent, is hereby authorized to enter into a consent agreement for the purpose of eliminating violations of this Part 2 and recording fines without court action. Such agreements should 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 acted in bad faith.

§ 125-121. Fines.

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 Part 2 shall be penalized in accordance with 30-A M.R.S.A. § 4452.

ARTICLE XV
Zoning Board of Appeals

§ 125-122. Establishment. [Amended 11-19-1992 by Ord. No. 7-92]

A Zoning Board of Appeals, consisting of five (5) regular members and two (2) alternates, is hereby created in accordance with the provisions of 30A M.R.S.A. § 4353. The Zoning Board of Appeals shall keep minutes of its proceedings, recording the vote of each member on all matters coming before the Board. The minutes of that Board and all correspondence shall be a public record. Three (3) members of the Board shall constitute a quorum for conducting a meeting and taking action, and the

concurring vote of at least three (3) members is necessary to grant any variance request or reverse any action of the Code Enforcement Officer or Planning Board. The Zoning Board of Appeals is governed by the procedures set forth at 30-A M.R.S.A. § 2691 and in this Part 2. In addition, the Board may adopt any procedural rules not in conflict with Title 30-A or this Part 2, which it deems necessary or proper for the conduct of its business. The members of the existing Board of Appeals established under Chapter 5 of the Town Code are hereby appointed to the Zoning Board of Appeals for their respective terms as remain to them on the Board of Appeals.

§ 125-123. Powers and duties.

A. Administrative appeals. The Board of Appeals shall have the power to hear and decide appeals where it is alleged that there is an error in any order, requirements, decision or determination made by, or failure to act by, the Code Enforcement Officer or the Planning Board in the enforcement or administration of this Part 2. When errors of administrative procedures or interpretation are found, the case shall be remanded back to the Code Enforcement Officer for correction.

B. Variance appeals. The Board of Appeals shall have the power to authorize variances upon appeal, within the limitations set forth in this Part 2.

(1) Dimensional variances may be granted only from dimensional requirements including frontage (including shore frontage), lot area, lot width, height, percent of lot coverage and setback requirements.

(2) Variances shall not be granted for establishment of any uses otherwise prohibited by this Part 2.

(3) The Board shall not grant a variance unless it finds that:

(a) The proposed structure or use would meet the performance standards of this Part 2, except for the specific provision which has created the nonconformity and from which relief is sought; and

(b) The strict application of the terms of this Part 2 would result in undue hardship. The term "undue hardship" shall mean all of the following:

[1] That the land in question can not yield a reasonable return unless a variance is granted.

[2] That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

[3] That the granting of a variance will not alter the essential character of the locality.

[4] That the hardship is not the result of action taken by the applicant or a prior owner.

(4) The Board may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under 5 M.R.S.A. § 4553.

(5) The Board shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Part 2 to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

(6) In areas subject to the Mandatory Shoreland Zoning Act, a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board. Any comments received from the Commissioner prior to action by the Board shall be made part of the record and shall be taken into consideration by the Board.

§ 125-124. Appeal procedure.

A. Time limit. An administrative or variance appeal may be taken to the Board by an aggrieved party from any decision of the Code Enforcement Officer. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty-day requirement.

B. Written notice. Such appeal shall be made by filing with the Board a written notice of appeal which includes:

(1) A concise written statement indicating what relief is requested and why it should be granted; and

(2) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief requested.

C. Record of case. Upon being notified of an appeal, the Code Enforcement Officer shall transmit to the Board all

of the papers constituting the record of the decision or action being appealed.

D. Notice to abutters. Abutting property owners shall be notified by mail by the town of all notices of appeal received by the Board pursuant to Subsection B above. The notice to abutters shall indicate the time, date and place of any public consideration of the appeal.

E. Public hearing. The Board shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of any appeal request.

F. Decision by the Board.

(1) Quorum. A majority of the Board shall constitute a quorum for the purpose of deciding an appeal.

(2) Majority vote. The concurring vote of at least three (3) members is necessary to reverse an order, requirement, decision or determination of the Code Enforcement Officer or the Planning Board in their administration of this Part 2, or to decide in favor of the applicant on any matter on which it is required to decide under this Part 2, or to affect any variation in the application of this Part 2 from its stated terms. **[Amended 11-19-1992 by Ord. No. 7-92]**

(3) Burden of proof. The person filing the appeal shall have the burden of proof.

(4) Action on appeal. Following the public hearing on an appeal, the Board may reverse the decision or failure to act of the Code Enforcement Officer only upon a finding that the decision or failure to act was clearly contrary to specific provisions of this Part 2.

(5) Time frame. The Board shall decide all appeals within thirty-five (35) days after the close of the hearing and shall issue a written decision within seven (7) days of the Board's decision.

(6) Board decisions shall only be made by voting at a public meeting. All decisions shall become a part of

the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor and the appropriate order, relief or denial thereof.

G. Reconsideration. The Board may reconsider any decision reached within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

§ 125-125. Appeal to Superior Court.

An appeal may be taken by any aggrieved party to Superior Court in accordance with state laws within thirty (30) days from the date of any decision of the Board.

ARTICLE XVI
Performance Guaranties

§ 125-126. Required improvements.

Applicants whose developments are subject to site plan review shall provide performance guaranties sufficient to insure that the site is environmentally stable in the event that the project is not completed. An environmentally stable condition shall mean that the ground cover has been restored so that there is no erosion from the site, public safety hazards have been removed or otherwise protected and partially completed buildings are not a health or safety hazard.

§ 125-127. Contents of guaranty.

The conditions and amount of a performance guaranty shall be determined by the Planning Board with the advice of the Town Manager and/or the Town Attorney.

§ 125-128. Types of guaranties.

A performance guaranty may take any one (1) of the following forms:

A. Escrow account. A cash contribution to the establishment of an escrow account may be made by either a certified check made out to the town, the direct deposit into a savings account or the purchase of a certificate of deposit. For any account opened by the developer, the town shall be named as 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 unless the expenditure of the interest by the town is necessary in order to complete the required improvements.

B. Performance bond. A performance bond shall be provided, issued by a surety company approved by the Town Council, made payable to the town. A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the developer and the procedures for collection by the town. The bond documents shall specifically reference the development for which approval is sought.

C. Irrevocable letter of credit. An irrevocable letter of credit, issued by a financial institution approved by the Town Council or the Town Manager, may establish funding for the development from which the town may draw if construction is inadequate. An irrevocable letter of credit 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.

D. Conditional agreement. In the case of a subdivision, the Planning Board, at its discretion, may provide for the developer to enter into a binding agreement with the town in lieu of other performance guaranties. Such an agreement shall provide for approval of the final plan on the condition that no lots may be sold or built upon until either:

(1) It is certified by the Planning Board, or its agent, that all of the required improvements have been installed in accordance with this Part 2 and the regulations of the appropriate utilities; or

(2) A performance guaranty, 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. Notice of the agreement and any conditions shall be on the final plan which is recorded at the registry of deeds.

§ 125-129. Release of guaranty.

Upon issuance of a certificate of occupancy/use, the performance guaranty shall be released. In the event that the project is not completed, the balance that has not been used to stabilize the site shall be released.

§ 125-130. Default.

If, upon inspection, the Code Enforcement Officer or his/her designee finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he/she shall so report in writing to the Town Council, the Planning Board and the Town Manager. The Town Council shall take any steps necessary to preserve the town's rights.

ARTICLE XVII
Definitions

§ 125-131. Construction of language.

A. In this Part 2, certain terms or words should be interpreted as follows:

(1) The word "person" includes a firm, association organization, partnership, trust, company or corporation, as well as an individual.

(2) The present tense includes the future tense, the singular number includes the plural and plural includes the singular.

(3) The word "shall" is mandatory.

(4) The word "may" is permissive.

(5) The words "used" or "occupied" include the words "intended," "designed" or "arranged to be used or occupied."

(6) The word "dwelling" includes the word "residence."

B. In the case of any difference of meaning or implication between the text of this Part 2 and any map or illustration, the map shall control.

C. Terms not defined shall have the customary dictionary meaning.

§ 125-132. Definitions of words.

For the purpose of interpreting this Part 2, the following terms, phrases, words and their derivations shall have the meanings given herein:

ABUTTING — Having a common border with or being separated from such common border by an alley or easement.

ACCESS — A means of approach or entry to or exit from property.

ACCESS DRIVE — A private roadway primarily intended to transport vehicles from a public or private way to a point within private property.

ACCESSORY STRUCTURE OR USE — A use or structure which is incidental and subordinate to the

principal use or structure. "Accessory uses," when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

ACRE — A measure of land containing forty-three thousand five hundred sixty (43,560) square feet.

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 Part 2; 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 forages 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 or the construction, creation or maintenance of land management roads.

ALTERATION — As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

APPEAL — A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Part 2 as expressly authorized by the provisions of this Part 2.

ATTIC — That part of a building which is immediately below, and wholly or partly within, the roof framing.

AUTOMOBILE SALES LOT — A lot arranged, designed or used for the storage and display for passenger automobiles and trucks up to three-fourths (3/4) ton in size and where no repair work is done except minor incidental repair of automobiles or trailers displayed and sold on the premises.

AUTOMOBILE SERVICE STATION (FILLING STATION) — Any premises used for supplying gasoline and oil at retail, direct to the customer, including the sale of minor accessories and minor services for automobiles.

AUTO REPAIR GARAGE — A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; overall painting and undercoating of automobiles.

BASEMENT — The substructure of a building that is partially or wholly below ground level which may or may not be used for living space.

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.

BUFFERS — Units of land, together with a specified type and amount of vegetative planting thereon and any structures which may be required between land uses to eliminate or minimize conflicts between them.

BUILDING:

A. BUILDING — Any structure used or intended for supporting or sheltering for any use or occupancy. Where independent units with separate entrances are divided by walls, each unit is a "building."

B. BUILDING, ACCESSORY — A building which is subordinate in area, extent and purpose to the principal building or use served, which is located on the same lot as the principal building or use served except as otherwise expressly authorized by the provisions of this Part 2 and which is customarily incidental to the principal building or use. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an "accessory building."

C. BUILDING, PRINCIPAL — A building (structure) in which is conducted or in which is intended to be conducted the main or primary use of the lot on which it is located.

BUILDING FRONT LINE — Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches whether enclosed or unenclosed but does not include steps.

BUILDING HEIGHT — The vertical distance between the mean elevation of the finished grade of the building and the highest point of the roof. For those structures with multiple roofs, each roof shall be considered in relation to the finished grade upon which that part of the structure rests.

CAMPGROUND — Any land area specifically designed and developed, containing two (2) or more individual campsites which accommodate that segment of the traveling public seeking temporary camping accommodations for tents, recreational vehicles and/or towed travel trailers for compensation. Accessory uses, subject to a site plan review, include camper services and facilities, such as shower and laundry facilities, electricity, fresh water, propane and gas sales, ice, outlet for camping supplies and equipment, recreational services, etc.

CHURCH — A building, together with its accessory buildings and uses, where people regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLINIC — An establishment where patients who are not lodged overnight are admitted for examination and/or treatment by a physician or dentist or by a group of physicians or dentists.

CLUSTER DEVELOPMENT — The development, according to an approved plan, of a large tract of land where three (3) or more buildings are constructed on lots smaller than normally required in the zone where located, provided that the overall density of the development of the tract does not exceed the density or requirements of the zone and land not built upon is permanently preserved as common open space. The term also refers to a planned unit development.

CODE ENFORCEMENT OFFICER — A person appointed by the municipal officers to administer and enforce this Part 2. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector and the like where applicable.

COMMERCIAL COMPLEX (SHOPPING MALL) — Commercial premises owned or managed as a single entity, which accommodates more than one (1) retail or service business, including professional offices and which contains more than twelve thousand (12,000) square feet of gross floor area, including department stores and grocery stores with more than twelve thousand (12,000) square feet of gross floor area.

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.

A. COMMERCIAL INDOOR RECREATION USE — Includes, but is not necessarily limited to, the following commercial uses: arcades, bowling alleys, indoor sports, arenas, tennis courts, race tracks, indoor animal exhibits, etc.

B. COMMERCIAL OUTDOOR RECREATION USE — Includes, but is not necessarily limited to, the following commercial uses: golf courses, tennis courts, amusement and theme parks, water slides, zoos and animal parks, race tracks, speedways, motorcycle tracks, riding stables, etc.

CONDOMINIUM — As defined in the Maine Condominium Act of 1983, means real estate, portions of which are designated for separate ownership and the remainder of which are designated for common ownership solely by the owners of those portions under a declaration, duly recorded pursuant to this Act. A "condominium" is a legal form of ownership, not a land development type. Real estate is not a "condominium" unless the undivided interests in the common elements are vested in the unit owners.

CONDOMINIUM CONVERSION — A building that at any time before creation of the condominium was occupied wholly or partially by one (1) or more persons other than purchasers and persons who occupy with the consent of the purchasers.

CONGREGATE HOUSING — A private, licensed establishment operated for the purpose of providing domiciliary care for a group of persons who, by reason of age or physical condition, do not desire to, but are financially capable of, providing such care for themselves and who are not in need of medical or nursing treatment except in the case of temporary illness.

DBH (DIAMETER AT BREAST HEIGHT) — A measurement of the size of a tree equal to the diameter of its trunk measured at four and one-half (4½) feet above the natural grade.

DAY-CARE FACILITY — As defined in 22 M.R.S.A. § 1673, a house or other place in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day, providing care and protection for three (3) or more children under the age of sixteen (16) unrelated to the operator, not to include nursery schools, summer camps, formal public or private schools and further defined by the Department of Human Services as follows:

A. DAY-CARE CENTER — A day-care facility as defined in state statutes for thirteen (13) or more children on a regular basis.

B. DAY-CARE HOME — A day-care facility as defined in state statutes for three (3) to twelve (12) children on a regular basis.

DECK — An accessory attachment to a principal structure. It shall be constructed primarily of wood and shall not be enclosed. It shall not have a roof, canopy or awning, nor shall it have framed or screened walls. It shall be supported above the ground on posts or beams and shall not have a foundation. It may contain railings with screening and gates to enclose pets or children.

DEDICATION — The transfer of property interests from private to public ownership for a public purpose. The transfer may be fee-simple interest or of a less-than-fee-simple interest, including an easement.

DEVELOPER — The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including the holder of an option or contract to purchase, tenant, contractor, development corporation or entity.

DEVELOPMENT — Any activity requiring a permit pursuant to this Part 2.

DRAINAGE — The removal of surface or ground water from land by drains, grading or other means. "Drainage" includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation and prevention or alleviation of flooding.

DRIVEWAY — A vehicular accessway fewer than five hundred (500) feet in length serving two (2) lots or fewer.

DWELLING:

A. DWELLING — A building or portion thereof used exclusively for residential occupancy, including single-family, two-family and multiple-family dwellings.

B. DWELLING UNIT — A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking and eating.

C. DWELLING, SINGLE-FAMILY DETACHED — A dwelling designed for and occupied by not more than one (1) family and having no roof, wall or floor in common with any other dwelling unit. The term shall include manufactured and prefabricated homes.

D. DWELLING, TWO-FAMILY — A detached or semidetached building used for residential occupancy by two (2) families living independently of each other.

E. DWELLING, MULTIFAMILY — A building or portion thereof used for residential occupancy by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses and row houses.

EASEMENT — Authorization by a property owner of the use by another, and for a specified purpose, of any designated part of his property.

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

ENLARGEMENT or TO ENLARGE — An addition to the floor area of an existing building, an increase in the size of any other structure or an increase in that portion of a tract of land occupied by an existing use. "To enlarge" is to make an enlargement.

ESSENTIAL SERVICES — The construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel or water transmission or distribution systems; collection, supply or disposal systems. Such systems may include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but shall not include buildings which are necessary for the furnishing of such services.

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

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.

EXTENSION or TO EXTEND — An increase in the amount of existing floor area used for an existing use within an existing building. "To extend" is to make an extension.

FAMILY — One (1) or more persons occupying a premises and living as a single housekeeping unit.

FLOODPLAIN — May be either riverine or inland depressional areas. Riverine floodplains are those areas contiguous to a lake, river, stream or stream bed whose elevation is greater than the normal water pool elevation but equal to or lower than the projected one-hundred-year flood elevation. Inland depressional floodplains, not associated with a stream system, are low points to which surrounding lands drain.

FLOOR AREA — The sum of the horizontal surface areas of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure, such as porches and decks.

FLOWING WATER — Surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as "rivers," "streams" and "brooks."

A. MAJOR FLOWING WATERS — Flowing water downstream from the point where such water drains fifty (50) square miles or more.

B. MINOR FLOWING WATERS — Flowing water upstream from the point where such water drains less than fifty (50) square miles.

FOOD PROCESSING FACILITY — A place housing any operation which changes the chemical composition or physical properties of food materials for human consumption. An example would be a creamery where dairy products, such as butter, cheese and ice cream, are made. The term does not include slaughterhouses nor does it include restaurants where food is prepared and sold at retail.

FOREST MANAGEMENT ACTIVITIES — Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber

harvesting and other similar associated silvicultural activities, but not the construction or creation of roads.

FORESTED WETLAND — A freshwater wetland dominated by woody vegetation that is six (6) meters tall or taller.

FOUNDATION — The supporting substructure of a building or other structure, including but not limited to basements, slabs, sills, posts or frost walls.

FRESHWATER WETLAND:

A. Freshwater swamps, marshes, bogs and similar areas which are:

(1) Of ten (10) or more contiguous acres or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that, in a natural state, the combined surface area is in excess of ten (10) acres; and

(2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support and which, under normal circumstances, do support a prevalence of wetland vegetation typically adapted for life in saturated soils.

B. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition. (See "wetlands associated with great ponds and rivers" below.)

C. "Freshwater wetlands" do not include forested wetlands.

FRONTAGE, ROAD — The continuous linear distance, measured along the lot line which separates the lot from a public or private way.

FRONTAGE, SHORE — The horizontal distance, measured in a straight line, between the intersections of

the side lot lines with the shoreline at normal high-water elevation. "Shore frontage" may be measured in running linear feet instead of the method herein proposed, provided that such measurement is made by a licensed professional surveyor and is submitted to the Board under the seal of such surveyor at the expense of the applicant.

GARAGE, COMMERCIAL — A structure used for parking or storage of motor vehicles, generally available to the public and involving payment of a charge for such parking or storage. A garage used solely in conjunction with a multiple-family dwelling or hotel shall not be construed to be a commercial garage, but rather a permitted accessory structure and use, even though not on the same premises as the multiple-family dwelling or hotel.

GARAGE, RESIDENTIAL — An accessory building for parking or temporary storage of motor vehicles belonging to residential occupants of the premises or a part of the residence usually occupying the ground floor area of principal one- or two-family dwellings. Not more than one (1) space may regularly be used by the private passenger automobile of a person not resident on the premises.

GRADE — In relation to buildings, the average of the finished ground level at the center of each wall of a building.

GREAT POND — Any inland body of water which in a natural state has a surface area in excess of ten (10) acres and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres, except, for the purposes of this Part 2, 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 some but not all impoundments of rivers that are defined as great ponds.

GREENHOUSE, COMMERCIAL — An enclosed building, permanent or portable, which is used for the growth and sale of plants either wholesale or retail or for business purposes.

GREENHOUSE, NONCOMMERCIAL — An accessory building to a residence designed or used for the growth of small plants.

GROCERY STORE — A small neighborhood establishment retailing food and related commodities, as distinguished from a supermarket, defined as a "major retail outlet."

GUEST ROOM — A room in a hotel, motel, tourist home or bed-and-breakfast residence offered to the public for compensation, in which room no provision is made for cooking.

HOME OCCUPATION — The use of a legally existing residential property as defined in § 125-54C of this Part 2. **[Added 8-4-1994 by Ord. No. 4-94]**

HOSPITAL — An institution providing health services primarily for inpatients and medical or surgical care of the sick or injured, including, as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

IMPERVIOUS SURFACE — Surfaces which do not absorb water, specifically all buildings, parking areas, driveways, roads, sidewalks and any areas of concrete or asphalt. In the case of lumberyards, areas of stored lumber constitute "impervious surfaces."

INDIVIDUAL PRIVATE CAMPSITE — An area of land which is not associated with a campground but which is developed for repeated camping by only one (1) group not to exceed ten (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.

INDUSTRY — Use of a premises for assembling, fabricating, finishing, manufacturing, packaging or processing. These include but are not limited to assembly plants, laboratories, power plants, pumping stations and repair shops.

JUNKYARD:

A. AUTOMOBILE GRAVEYARD — A yard, field or other area used as a place of storage for three (3) or more unregistered, unserviceable, discarded, worn-out or junked automobiles. This provision does not apply to serviceable, but unregistered vehicles offered for sale by a state-licensed automobile dealer.

B. JUNKYARD — A yard, field or other area used as a place of storage for discarded, worn out or junked plumbing or heating supplies, household appliances, furniture, discarded scrap and junked lumber, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous and nonferrous material, including garbage dumps, waste dumps and sanitary landfills.

KENNEL, COMMERCIAL — Any place in or at which any number of dogs or cats are kept for the purpose of sale or in connection with boarding, care, training or breeding, for which a fee is charged.

KENNEL, NONCOMMERCIAL — An accessory building to a residence designed or used for the accommodation of dogs or cats owned by the occupant of the residence.

LAKES and PONDS — Natural or artificial bodies of water which retain water year round. Artificial "ponds"

may be created by dams or may result from excavation. State regulations apply to any body of water which has a surface area in excess of ten (10) acres, except a man-made body of water completely surrounded by land held by a single owner.

LEVEL OF SERVICE — A qualitative measure that incorporates the collective factors of speed, travel time, traffic interruptions, freedom to maneuver, safety, driving comfort and convenience and operating costs provided by a highway facility under a particular volume condition, as established by the Institute of Transportation Engineer's Transportation and Traffic Engineering Handbook, Second Edition.

LOADING SPACE — An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street, alley or other appropriate means of access.

LOT — A parcel of land undivided by any street or public road and occupied by, or designated to be developed for, one (1) building or principal use and the accessory buildings or uses incidental to such building, use or development, including such open spaces and yards as are designed and arranged or required by this Part 2 for such building, use or development.

LOT AREA — The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two (2) lots.

LOT, CORNER — A lot abutting two (2) or more streets at their intersection.

LOT COVERAGE — The percentage of the lot covered by the footprints of buildings and structures. **[Amended 2-17-1994 by Ord. No. 2-94]**

LOT DEPTH — The mean horizontal distance between the front and rear lot lines, measured within the lot boundaries.

(Cont'd on page 12645)

LOT LINE — A line bounding a lot which divides one lot from another or from a street or any other public or private space, as defined below:

A. FRONT LOT LINE — In the case of a lot abutting only one (1) street, the lot line separating such lot from such street; in the case of a double-frontage lot, each lot line separating such lot from a street shall be considered to be the "front lot line," except where the rear yard requirement is greater than the front yard requirement, in which case one (1) of two (2) opposing yards shall be a rear yard. In the case of a lot with no road frontage, the "front lot line" shall be considered to be the line parallel to the front of the building.

B. REAR LOT LINE — That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance from the front line shall be considered to be the "rear lot line." In the case of lots which have frontage on more than one (1) road or street, the "rear lot line" shall be opposite the lot line through which the lot takes access to a street.

C. SIDE LOT LINE — Any lot line other than a front or rear lot line.

MANUFACTURED HOUSING — A structural unit or units designed for occupancy and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. For purposes of this Part 2, three (3) types of manufactured housing will be referred to:

A. NEWER MOBILE HOMES — Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards and comply with the

Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq., which, in the traveling mode, are fourteen (14) body feet or more in width and are seven hundred fifty (750) or more square feet and are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation.

B. OLDER MOBILE HOMES — Those units constructed before June 15, 1976, and not in compliance with the Manufactured Housing Construction and Safety Standards Act of 1974, which are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, but does not include those smaller units commonly called "travel trailers."

C. MODULAR HOMES — Those units which the manufacturer certifies are constructed in compliance with the state's Manufactured Housing Act and regulations, meaning structures, transportable in one (1) or more sections, which are not constructed on a permanent chassis and are deigned to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein.

MARINA — A business establishment having frontage on navigable water within the town and providing for hire offshore mooring or docking facilities for boats and accessory services and facilities, such as boat sales, rental and storage, marine supplies and equipment, marina engine and hull repairs, construction and outfitting for pleasure craft, fuel and oil, electricity, fresh water, ice, shower and laundry facilities and on-premises restaurant.

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 one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat or other like material from its natural location and transports the product removed away from the extraction site.

MOBILE HOME PARK — A parcel of land under unified ownership approved by the Town of Millinocket for the placement of three (3) or more manufactured homes.

MOTOR VEHICLE — Every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons.

MOTOR VEHICLE, UNSERVICEABLE — Any motor vehicle which is wrecked, dismantled, cannot be operated legally on any Maine public highway or which is not being used for the purpose for which it was manufactured.

MULTIUNIT RESIDENTIAL — A residential structure containing three (3) or more residential dwelling units.

MUNICIPAL FACILITIES — Buildings or land which is owned by the Town of Millinocket and operated under its supervision.

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

NORMAL MAINTENANCE AND REPAIR — Any work necessary to maintain an improvement or structure in its original or previously improved state or condition.

"Normal maintenance and repair" shall not include reconstruction, change in design, change in structure, change in uses, change in location or change in size or capacity.

NURSERY, COMMERCIAL — An enterprise which conducts the retail and wholesale sale of plants grown on the site, as well as accessory items (but not power equipment, such as gas or electric lawnmowers) and farm implements directly related to their care and maintenance. The accessory items normally sold are clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes and shovels.

NURSING HOME — A facility for the care of the aged or infirm person or a place of rest for those suffering bodily disorders, but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism or narcotics addiction.

OPEN SPACE USE — A use which does not disturb the existing state of the land except to restore this land to a natural condition.

OWNER — The person or persons having the right of legal title to, beneficial interest in or a contractual right to purchase a lot or parcel of land

PARKING LOT — An open area other than a street used for the parking of more than four motor vehicles and available for public use whether free, for compensation or as an accommodation for clients or customers.

PARKING SPACE — A surfaced area, not less than nine (9) feet wide and eighteen (18) feet long, enclosed or unenclosed, sufficient in size to store one motor vehicle and permit ingress and egress of that vehicle without the necessity of moving any other motor vehicle.

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:

A. TEMPORARY — Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

B. PERMANENT — Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

PLANNED UNIT DEVELOPMENT — See "cluster development."

PORCH — An accessory attachment to a principal structure. It shall be constructed primarily of wood and have a roof, canopy or awning and may have framed or screened walls. It shall be supported above the ground on posts, beams or by a foundation. It may contain railings with screening and gates to enclose pets or children.

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.

PROFESSIONAL OFFICE BUILDING — A building in which there is located the office of a professional, such as an architect, accountant, dentist, doctor of medicine, lawyer, etc., or in which a business conducts its administrative, financial or clerical operations, but not including any other manufacturing, commercial or industrial activity.

PUBLIC FACILITY — Any facility, including but not limited to buildings, property, recreation areas and

roads, which are owned, leased or otherwise operated or funded by a governmental body or public entity.

PUBLIC UTILITY — Any person, firm, corporation, municipal department, board or commission authorized by the Maine Public Utilities Commission to furnish gas, steam, electricity, communication facilities or transportation of water to the public.

RECENT FLOODPLAIN SOILS — The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial
Charles
Cornish
Fryeburg
Hadley
Limerick
Lovewell
Medomak
Ondawa
Podunk
Rumney
Saco
Suncook
Sunday
Winooski

RECONSTRUCTION — The restoration, remodeling or rebuilding of a structure, whether necessitated by deterioration, obsolescence, casualty or other occurrence, where the costs of such work equal or exceed the value of the property in its existing condition.

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

RECREATIONAL VEHICLE — A vehicle or an attachment to a vehicle designed to be towed and

designed for temporary sleeping or living quarters for one (1) or more persons and which may include a pickup camper, travel trailer, tent trailer, camp trailer and motor home.

REPLACEMENT SYSTEM — A sewage disposal system intended to replace:

A. An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or

B. Any existing overboard wastewater discharge system.

RESEARCH FACILITY — A building or part of a building devoted to scientific inquiry and ancillary functions. No manufacturing is conducted on the premises except, as related to the scientific research being conducted.

RESIDENTIAL DWELLING UNIT — A room or group of rooms designed and equipped exclusively for use as permanent, seasonal or temporary living quarters for only one (1) family. The term shall include mobile homes but not recreational vehicles.

RESTAURANT — An establishment whose principal business is the sale of food and/or beverages to consumers in a ready-to-consume state and whose principal method of operation includes one (1) or more of the following characteristics:

A. Customers normally provided with an individual menu and are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed.

B. A cafeteria-type operation where food and beverages generally are consumed within the restaurant building.

C. A carry-out or delivery service, drive-in service and service or consumption outside a fully enclosed structure.

RETAIL ESTABLISHMENT — Any business, housed in a permanent structure, engaged primarily in the sale of goods and services to the consumer for direct consumption and/or use, but not for resale.

RIPRAP — Rocks, irregularly shaped and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

RIVER — A free-flowing body of water, including its associated floodplain wetlands, from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

ROAD — A thoroughfare or way consisting of a bed of exposed mineral soil, gravel, asphalt or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

A. PRIVATE ROAD — A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

B. PUBLIC ROAD — A public thoroughfare, way or easement permanently established for passage of persons or vehicles.

ROADSIDE STAND — A roadside stand selling at retail on the premises only farm produce, camp firewood or garden, greenhouse or nursery products and, between Labor Day and Christmas, cut Christmas trees, garlands, wreaths and wreath materials primarily produced on the property.

SCHOOL, MUNICIPAL — A publicly owned facility within which educational classes for any grades, kindergarten through twelve (12), are conducted

pursuant to a program approved by the State Board of Education or similar governmental agency.

SCHOOL, PRIVATE — A privately owned facility within which instruction is provided for a fee.

SERVICE DROP — Any utility line extension which does not cross or run beneath any portion of a water body, provided that:

A. In the case of electric service:

(1) The placement of wires and/or the installation of utility poles is located entirely upon a roadway right-of-way; and

(2) The total length of the extension is less than one thousand (1,000) feet.

B. In the case of telephone service:

(1) The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or

(2) The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

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

SHORELAND AREA — The land area located within two hundred fifty (250) feet of the normal high-water line of any great pond or river, within two hundred fifty (250) feet of the upland edge of a freshwater wetland or within seventy-five (75) feet of the high-water line of a stream. All distances shall be measured as horizontal distances.

SIGN ITEMS:

A. SIGN — A device, model, banner, pennant, insignia, flag or other representation which is used as or is in

the nature of an advertisement, announcement or direction.

B. BILLBOARD — Anything designed, intended or used for advertising a product, property, business, entertainment, service, amusement or the like, and not located where the matter advertised is available or occurs.

C. FREESTANDING SIGN — A sign supported by one (1) or more uprights or braces permanently affixed into the ground.

D. PORTABLE SIGN — A sign not designed or intended to be permanently affixed into the ground or to a structure.

E. ROOF SIGN — A sign which is attached to a building and is displayed above the eaves of such building.

F. TEMPORARY SIGN — A sign of a temporary nature, erected for less than ninety (90) days, exemplified by the following: political poster, charitable signs, construction signs, carnival signs, garage sale signs, lawn sale signs, rummage sale signs, all signs advertising sales of personal property and for-rent signs.

G. WALL SIGN — Any sign painted on or attached parallel to the wall surface of a building and projecting therefrom not more than six (6) inches.

H. WINDOW SIGN — Any on-premise, nontemporary sign visible from the exterior of the building or structure which is permanently painted, attached, glued or otherwise affixed to a window.

I. AREA OF A SIGN:

(1) The exposed surface of the sign, including all ornamentation, embellishment, background and symbols but excluding the structure which does

not form a part of the message of the sign, measured in square feet.

(2) The sign area of a sign composed of characters or words attached directly to a uniform building wall surface or window surface (wall sign or window sign) shall be the smallest rectangle which encloses the whole group or message.

(3) The aggregate sign area for a premises shall be taken to mean the sum of the area of all signs visible from public streets, sidewalks, parks, etc., and includes wall signs, window signs, freestanding signs, roof signs and small signs attached to the principal sign for a premises. Examples of the latter are exemplified by small signs attached to the principal sign indicating "fireplaces," "swimming pool," "Master Card, Diners Club or American Express accepted." If the shape of a sign is convoluted or irregular, then the area is to be taken as the smallest rectangle which encloses the sign.

STREAM — A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey, seven-and-one-half-minute series topographic map, or, if not available, a fifteen-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the Shoreland Protection Zone (SP).

STREET — Any public way.

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, raised walkways, handicapped access ramps and satellite dishes.

SUBDIVISION — The division of a tract or parcel of land into three (3) or more lots within a five-year period, whether accomplished by sale, lease, development, buildings or otherwise, and as further defined in state statutes, 30-A M.R.S.A. § 4401.4, as amended.

SUSTAINED SLOPE — A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

TEMPORARY USE — A use established for a fixed period of time with the intent to discontinue such upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

TIMBER HARVESTING — The cutting and removal of trees from their growing site, and the attendant operation of harvesting machinery, but not the construction of roads. "Timber harvesting" does not include the clearing of land for approved construction for which a lawful permit has been issued in accordance with state and local codes, ordinances, statutes, rules and regulations.

TOWN — The Town of Millinocket, Maine.

TRANSIENT — A nonresident person residing within the town less than thirty (30) days.

TRANSIENT ACCOMMODATIONS I (also referred to as "bed-and-breakfast") — Includes buildings where accommodations are provided for compensation as a business in the private year-round residence of the host family, consisting of a maximum of three (3) guest rooms and six (6) guests at any one (1) time, not including children of the paying guests under twelve (12) years of age. Breakfast is the only meal, if any, to be provided for compensation.

TRANSIENT ACCOMMODATIONS II (also referred to as "small inns and boardinghouses") — Includes buildings where accommodations are provided for compensation, where a maximum of ten (10) guest rooms

are provided at any one (1) time and meals, if provided, are provided to guests only.

TRANSIENT ACCOMMODATIONS III (also referred to as "motels, hotels and inns") — Includes buildings where accommodations are provided for compensation, where a maximum of twenty-five (25) guest rooms are provided at any one (1) time and no meals are provided.

TRANSIENT ACCOMMODATIONS IV (also referred to as "motels, hotels and inns") — Includes buildings where accommodations are provided for compensation, where a maximum of twenty-five (25) guest rooms are provided at any one (1) time and meals are provided to guests only.

TRANSIENT ACCOMMODATIONS V (also referred to as "motels, hotels and inns") — Includes buildings where accommodations are provided for compensation, where twenty-five (25) or more guest rooms are provided at any one (1) time and meals are provided for guests. Accessory uses, such as restaurants, cocktail lounges, gift shops, conference rooms and recreational facilities, such as swimming pools and game rooms, may be included on the premises. This type of accommodation and its accessory uses are subject to site plan review.

TRANSPORTATION FACILITIES — Structures and grounds used for transportation service activities, such as ticket booths and waiting shelters for bus, taxi or touring van.

TRIBUTARY STREAM — A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland, as defined. This definition does not include the term "stream" as defined elsewhere in this Part 2 and only applies to that portion of the tributary stream located

within the Shoreland Protection Zone (SP) of the receiving water body or wetland.

UNDERTAKING ESTABLISHMENT — A dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

USE — The purpose or activity for which land or any building thereon is designed, arranged or intended, or for which it is occupied or maintained.

VARIANCE — A relaxation of the terms of this Part 2 where such a variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Part 2 would result in unnecessary or undue hardship.

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

WAREHOUSING AND STORAGE FACILITY — A structure for the storage of merchandise or commodities, including bulk storage and bulk sales outlet.

WATER BODY — Any great pond, river or stream.

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 but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines and cables, as well as maintenance work on these crossings.

WATER-RELATED STRUCTURE — Includes piers, docks, wharves, floats, cribs, pilings, boathouses, breakwaters, causeways and similar structures projecting into water bodies.

WETLANDS ASSOCIATED WITH GREAT PONDS AND RIVERS — Wetlands contiguous to or adjacent to a great

pond or river and which, during normal high-water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway or similar feature less than one hundred (100) feet in width and which have a surface elevation at or below the normal high-water line of the great pond or river. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

WHOLESALE BUSINESS ESTABLISHMENT — Any business, housed in a permanent structure, engaged in the sale of goods in large amounts to retailers or jobbers, rather than directly to consumers.

WILDLIFE — All vertebrate species (animals with backbones), except fish.

WILDLIFE MANAGEMENT PRACTICES — Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one (1) or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation, controlled burning, planting, impounding water, controlled hunting and trapping, relocation of wildlife, predator and disease control and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species.

YARD — The area of land on a lot not occupied by buildings.

A. FRONT YARD — The open, unoccupied space on the same lot with the principal building between the front lot line and the nearest part of any building on the lot and extending the entire width of the lot.

B. REAR YARD — The open, unoccupied space on the same lot with the principal building between the rear lot line and the nearest part of any building on the lot and extending the entire width of the lot.

C. SIDE YARD — The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot and extending from the front yard to the rear line.

ZONE — A specified portion of the town, delineated on the Official Zoning Map, within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this Part 2.

Table of Zoning Map Amendments
Millinocket, ME

Ordinance No.	Adoption Date	Description/ Zone Change
1-98	5-14-1998	Lot 3 (3-1 through 3-27) from R2 to RD
6-98	11-5-1998	Huber property and additional adjacent land from CF to ID
8-98	12-3-1998	Rice farm from ID to RD
5-2005	12-8-2005	Part of Medway Road from RI to NC
1-2006	3-9-2006	Part of Bates Street and all of Kelley's Trailer Park located just off Bates Street from R-1 to NC
6-2006	12-14-2006	Tax Map U08, Lot 004, from NC to R-2

Zoning Map
Town of Millinocket



November 19, 19

Town of Millinocket
Schedule of Uses
(Part 1)

Activities	Districts											
	R1	R2	RD	DC	HC	NC	ID	AD	OR	WP	SP[1]	CF[1]
1. Noncommercial Recreational Activities [Amended 4-13-1995 by Ord. No. 1-95]												
a. Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross-country skiing and snowshoeing	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
b. Trails, provided that they are constructed and maintained so as to avoid sedimentation of water bodies	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
c. Motorized vehicular traffic on roads and trails, and snowmobiling	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
d. Primitive campsites and access points	N	N	S	N	S	N	N	N	S	N	S	S
e. Nonpermanent docking and mooring structures	N	N	N	N	N	N	N	N	N	N	N	N
f. Permanent docking or mooring structures	N	N	N	N	N	N	N	N	N	N	N	N
g. Accessory uses and structures that are essential for the exercise of uses listed above	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Resource Management Activities												
a. Wildlife and fishery management practices	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
b. Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement and search and rescue operations	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
c. Surveying and other resource analysis	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
d. Forest management activities, not including timber harvesting, pesticide and fertilizer application	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
e. Agricultural management activities, not including pesticide and fertilizer application	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
f. Mineral exploration to discover or verify the existence of mineral deposits, including the removal of specimens or trace quantities, provided that such exploration is accomplished by methods of hand sampling, including panning, hand test boring, diggings and other nonmechanized methods, which create minimal disturbance and take reasonable measures to restore the disturbed area to its original condition	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y
g. Noncommercial structures for scientific, educational or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by the district in which it is located	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
h. Signs other than those listed as exempt in Articles VIII and IX	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
i. Accessory uses and structures that are essential for the exercise of uses listed above	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3. Resource Extraction Activities [Amended 4-13-1995 by Ord. No. 1-95]												
a. Commercial timber harvesting	N	N	Y	N	S	N	S	S	S	S	S	Y
b. Production of commercial agricultural products	N	N	Y	N	S	S	S	S	N	N	N	Y
c. Mineral extraction for road purposes only, affecting an area of less than 2 acres in size	S	S	Y	N	S	S	Y	S	S	N	N	Y
d. Mineral extraction operations for any purpose affecting an area 2 acres or greater in size	N	N	S	N	S	S	S	S	N	N	N	S
e. Filling, grading, draining, dredging or alteration of water table or water level, not including individual wells	S	S	S	S	S	S	S	S	S	N	N	S
f. Accessory uses and structures that are essential for the exercise of uses listed above	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Residential Activities [Amended 8-4-1994 by Ord. No. 4-94; 4-13-1995 by Ord. No. 1-95]												
a. Single-family detached dwelling	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
b. Single-family mobile homes	Y	N	Y	Y	Y	Y	N	N	N	N	N	N
c. Multifamily dwelling: 2-family duplexes	Y	Y	N	Y	Y	Y	N	N	N	N	N	N
d. Multifamily dwelling: 3 or more families, including apartments, grouped houses and row houses	S	N	N	S	S	S	N	N	N	N	N	N
e. Mobile home parks	S	N	N	N	S	S	N	N	N	N	N	N
f. Subdivisions	S	S	S	S	S	S	S	S	S	N	N	N
g. Nursing/convalescent home, congregate housing and boarding care facilities	S	N	N	S	S	S	N	N	N	N	N	N
h. Home occupations	S	S	S	S	S	S	N	N	N	N	N	N
i. Accessory uses and structures that are essential for the exercise of uses listed above	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N

NOTES:

[1] In floodplain/flood hazard areas, beyond one hundred (100) feet from the normal high-water line of the water bodies specified in § 125-33K(2)(a), beyond seventy-five (75) feet from the normal high-water line of the streams specified in § 125-33K(2)(b), beyond seventy-five (75) feet of the upland edge of the wetlands specified in § 125-33K(2)(c) and beyond two hundred fifty (250) feet of the upland edge of the high- or moderate-value wetland wildlife habitats specified in § 125-33K(2)(d) of this Part 2, uses and activities shall be governed by the provisions of the Floodplain Management Ordinance (Chapter 68 of the Town Code).

[2] [Added 4-13-1995 by Ord. No. 1-95]

Town of Millinocket
Schedule of Uses
(Part 2)

Activities	Districts											
	R1	R2	RD	DC	HC	NC	ID	AD	OR	WP	SP[1]	CF[2]
5. Institutional Activities [Amended 4-13-1995 by Ord. No. 1-95]												
a. Hospital and medical clinic	S	N	N	S	S	S	S	N	N	N	N	N
b. Government facilities and grounds	S	N	S	S	S	S	N	S	S	S	S	N
c. Public schools	S	N	N	S	S	S	S	N	S	N	N	N
d. Private schools (under 15 students)	S	N	N	S	S	S	N	N	S	N	N	N
e. Day-care centers	S	N	N	S	S	S	S	N	S	N	N	N
f. Churches	S	S	N	S	S	S	N	N	N	N	N	N
g. Cemetery	S	N	N	S	S	S	N	S	N	N	N	N
h. Fraternal orders and service clubs	S	N	S	S	S	S	S	N	N	N	N	N
i. Summer youth camps	N	N	S	S	S	S	N	N	S	N	N	N
j. Museums	S	N	S	S	S	S	N	S	S	N	N	N
k. Conference centers	S	N	S	S	S	S	N	N	N	N	N	N
l. Research and development facility	S	N	S	S	S	S	S	S	N	N	N	N
m. Accessory uses and structures that are essential for the exercise of uses listed above	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
6. Commercial Activities [Amended 1-20-1994 by Ord. No. 1-94; 4-13-1995 by Ord. No. 1-95]												
a. Motor vehicle, recreation vehicle, aircraft and mobile home sales and rentals	N	N	N	S	S	S	N	S	N	N	N	N
b. Motor vehicle, recreation vehicle and mobile home service station and repair garage	N	N	N	S	S	S	S	N	N	N	N	N
c. Commercial parking garage/parking lot	N	N	N	S	S	S	N	S	N	N	N	N
d. Grocery and variety store	S	N	S	S	S	S	N	N	N	N	N	N
e. Laundry/dry-cleaning establishments	N	N	N	S	S	S	N	N	N	N	N	N
f. Liquor store	N	N	N	S	S	S	N	N	N	N	N	N
g. Restaurant	N	N	S	S	S	S	S	S	N	N	N	N
h. Cocktail lounge	N	N	S	S	S	S	N	S	N	N	N	N
i. Upholstery shop	N	N	N	S	S	S	N	N	N	N	N	N
j. Bottle and can redemption facilities	N	N	N	S	S	S	S	N	N	N	N	N
k. Veterinary clinic	N	N	S	N	S	S	N	N	N	N	N	N
l. Professional offices and office building	S	N	S	S	S	S	S	N	N	N	N	N
m. Repair service (other than auto)	S	N	S	S	S	S	S	N	N	N	N	N
n. Commercial art gallery, craft shop, etc.	S	N	S	S	S	S	N	N	N	N	N	N
o. Funeral parlors	S	N	N	S	S	S	N	S	N	N	N	N
p. General contractors, construction, heating and plumbing	N	N	S	S	S	S	S	S	N	N	N	N
q. Commercial greenhouse, gardens and nurseries	N	N	S	S	S	S	S	S	N	N	N	N
r. Take-out food services	N	N	S	S	S	S	S	S	S	N	N	N
s. Commercial complex (e.g., shopping malls)	N	N	N	S	S	N	N	N	N	N	N	N
t. Theater	N	N	N	S	S	S	N	N	N	N	N	N
u. Grain and feed stores	N	N	S	S	S	S	N	N	N	N	N	N
v. Pet stores	N	N	N	S	S	S	N	N	N	N	N	N
w. Health spas, fitness clubs, gymnasiums, etc.	S	N	S	S	S	S	S	N	N	N	N	N
x. Commercial outdoor recreation activities and uses, not elsewhere listed, and as defined herein	N	N	S	S	S	S	S	S	S	N	S	N
y. Commercial indoor recreation activities and uses, not elsewhere listed, and as defined herein	N	N	S	S	S	S	N	N	N	N	N	N
z. Banks, credit unions and similar financial institutes	N	N	N	S	S	S	S	S	N	N	N	N
aa. Furniture and appliance sales	N	N	N	S	S	S	N	N	N	N	N	N
bb. Mobile home and recreational vehicle sales lots	N	N	N	S	S	S	N	N	N	N	N	N
cc. Hardware stores and nonindustrial lumberyards	N	N	N	S	S	S	N	N	N	N	N	N
dd. Transient Accommodations I: bed-and-breakfast	S	N	S	S	S	S	N	N	N	N	N	N
ee. Transient Accommodations II: motels, hotels and inns, maximum of 10 rooms/no meals served	S	N	S	S	S	S	N	S	N	N	N	N

NOTES:

[1] In floodplain/flood hazard areas, beyond one hundred (100) feet from the normal high-water line of the water bodies specified in § 125-33K(2)(a), beyond seventy-five (75) feet from the normal high-water line of the streams specified in § 125-33K(2)(a), beyond seventy-five (75) feet of the upland edge of the wetlands specified in § 125-33K(2)(c) and beyond two hundred fifty (250) feet of the upland edge of the high- or moderate-value wetland wildlife habitats specified in § 125-33K(2)(d) of this Part 2, uses and activities shall be governed by the provisions of the Floodplain Management Ordinance (Chapter 68 of the Town Code).

[2] [Added 4-13-1995 by Ord. No. 1-95]

Activities	Districts											
	R1	R2	RD	DC	HC	NC	ID	AD	OR	WP	SP[1]	CF[2]
ff. Transient Accommodations III: motels, hotels and inns, maximum of 25 rooms/no meals served	N	N	S	S	S	S	N	S	N	N	N	N
gg. Transient Accommodations IV: motels, hotels and inns, maximum of 25 rooms/serving meals to guests only	N	N	S	S	S	S	N	S	N	N	N	N
hh. Transient Accommodations V: motels, hotels and inns, 25 or more rooms/serving meals to guests only	N	N	S	S	S	N	N	S	N	N	N	N
ii. Transient Accommodations VI: campgrounds	N	N	S	N	S	S	N	N	S	N	N	N
jj. Retail establishments of more than 2,500 square feet, not listed above	N	N	n	S	S	S	N	S	N	N	N	N
kk. Retail establishments of less than 2,500 square feet, not listed above	N	N	S	S	S	S	N	S	N	N	N	N
ll. Accessory uses and structures that are essential for the exercise of uses listed above	Y	N	Y	Y	Y	Y	Y	Y	Y	N	Y	N
7. Industrial Activities [Amended 8-4-1994 by Ord. No. 4-94; 4-13-1995 by Ord. No. 1-95]												
a. Lumberyard, sawmill and pulp mill	N	N	N	N	N	N	S	N	N	N	N	N
b. Transportation facility and terminal yard	N	N	N	N	S	N	S	S	N	N	N	N
c. Bulk oil and fuel tank storage (in excess of 50 gallons), except for on-site heating and cooking purposes	N	N	N	N	S	N	S	S	N	N	N	N
d. Food processing and freezing	N	N	N	N	S	N	S	S	N	N	N	N
e. Junkyards	N	N	N	N	S	N	S	N	N	N	N	N
f. Light manufacturing assembly plant	N	N	N	N	N	N	S	S	N	N	N	N
g. Newspaper and printing facility	N	N	N	S	S	S	S	S	N	N	N	N
h. Other processing and manufacturing facilities	N	N	N	S	S	N	S	S	N	N	N	N
i. Warehousing and storage facility	N	N	N	S	S	S	S	S	N	N	N	N
j. Wholesale business facility	N	N	N	S	S	S	S	S	N	N	N	N
k. Disposal of solid waste	N	N	N	N	N	N	S	S	N	N	N	N
l. Solid waste transfer station	N	N	S	N	N	N	S	S	N	N	N	N
m. Disposal of hazardous/leachable materials	N	N	N	N	N	N	S	N	N	N	N	N
n. Sewage treatment facilities	N	N	N	N	N	N	S	S	N	N	N	N
o. Accessory uses and structures that are essential for the exercise of uses listed above	N	N	Y	Y	Y	Y	Y	Y	N	N	N	N
8. Transportation and Utilities												
a. Land management roads and water crossings of minor flowing waters	Y	Y	Y	Y	Y	Y	Y	Y	Y	S	S	
b. Land management roads and water crossings of standing waters and of major flowing waters	S	S	S	S	S	S	S	S	S	S	S	Y
c. Road construction projects, other than land management roads, and not part of a project requiring a Planning Board permit	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	S
d. Road construction projects, other than land management roads, which are part of projects requiring Planning Board review	S	S	S	S	S	S	S	S	S	S	S	S
e. Minor utility facilities, including service drops	Y	Y	Y	Y	Y	Y	Y	Y	S	S	S	S
f. Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops	N	N	S	N	S	S	S	S	S	S	S	S
g. Airport terminal building and attendant airport uses	N	N	N	N	N	N	N	S	N	N	N	N
h. Accessory uses and structures that are essential for the exercise of uses listed above	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

NOTES:

[1] In floodplain/flood hazard areas, beyond one hundred (100) feet from the normal high-water line of the water bodies specified in § 125-33K(2)(a), beyond seventy-five (75) feet from the normal high-water line of the streams specified in § 125-33K(2)(b), beyond seventy-five (75) feet of the upland edge of the wetlands specified in § 125-33K(2)(c) and beyond two hundred fifty (250) feet of the upland edge of the high- or moderate-value wetland wildlife habitats specified in § 125-33K(2)(d) of this Part 2, uses and activities shall be governed by the provisions of the Floodplain Management Ordinance (Chapter 68 of the Town Code).

[2] [Added 4-13-1995 by Ord. No. 1-95]

APPENDIX

Chapter A127

AFFIRMATIVE ACTION

§ A127-1. Town of Millinocket Affirmative Action Plan.

[HISTORY: Approved by the Maine Human Rights Commission 12-15-81. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policy — See Ch. A128.

§ A127-1. Town of Millinocket Affirmative Action Plan.[1]

ARTICLE III AFFIRMATIVE ACTION PLAN

Sec. 2-301 Equal employment opportunity policy.

The Town Council reaffirms its desire that the town employ, without discrimination on the basis of race, color, religion, sex, national origin, ancestry, physical or mental handicaps or age or veteran's status, qualified persons who are available at the salary and wage levels established for town employment.

The Town Council recognizes its obligation to comply with the provisions of the Equal Employment Opportunity Act of 1972 (P.L. 261), amending Title VII of the Civil Rights Act of 1964 (42 U.S.C.A. § 2000 et seq.) and the Maine Human Rights Act of 1972 (5 M.R.S.A. § 4551), as amended, which prohibit such discrimination in employment.

The Town Council further recognizes its obligation to comply with the provisions of Title VI of the Civil Rights Act of 1964 (P.L. 88-352), being a recipient of federal financial assistance, which prohibits

[1] Editor's Note: The Affirmative Action Plan has been included in this chapter in its original numbering and format.

discrimination on the basis of race, color or national origin with respect to the enjoyment of such assistance.

Therefore, the Town Council desires that the town take such affirmative action as is necessary to enforce and promote the Town Council's policy of equal employment opportunity by implementing a continuing program which will:

Prevent any unlawful discrimination in advertising, recruitment, hiring, layoff, termination, upgrading, demotion, transfer, compensation or other terms, conditions or privileges of town employment.

Determine whether any qualified applicants or employees are being subjected to unlawful discrimination because of race, color, religion, sex, national origin, ancestry, physical or mental handicap, age or veteran's status and provide for appropriate corrective action.

Identify and correct those techniques, procedures and results of personnel actions which have or may have an adverse effect upon the employment opportunities or status of such applicants or employees.

Achieve the fullest and most effective utilization of skills which may be identified and developed among all town employees for the purpose of rendering better service to the residents of the Town of Millinocket.

Sec. 2-302 Assignment of responsibilities.

In order to ensure full implementation of the plan, department directors, managers, supervisors and employees must fully support the plan and and know their responsibilities in designated areas.

1. The Town Manager holds primary responsibility for the operation and success of the Affirmative Action Program. This responsibility may be delegated to the Personnel Director or other executive to act as the Affirmative Action Officer (as of 5/81).
2. The Affirmative Action Officer's responsibilities will include but not be limited to the following:

(a) Develop policy statements, affirmative action objectives and internal and external communication techniques.

(b) Assist in the identification and resolution of problem areas.

(c) Design and implement reporting and monitoring systems.

(d) Evaluate the effectiveness of the plan and the degree to which goals and objectives have been attained.

(e) Indicate the need for remedial action.

(f) Keep all employees informed of the latest developments in the equal employment opportunity (EEO) area.

(g) Report the status of the Affirmative Action Program(s) and his/her recommendations at regular intervals.

(h) Maintain and utilize employees' skills inventory forms to promote employee advancement.

(i) Ensure compliance with the town's sexual harassment policy and procedures.[1] **[Added 1-30-1992]**

3. Each department director, manager and supervisor is responsible for the application of the equal employment opportunity/affirmative action (EEO/AA) policy within each specific department or section. This includes supporting programs and practices designed to develop understanding, acceptance, commitment and compliance within the framework and intent of the town's EEO/AA policy. Specifically, they shall be responsible to the Town Manager for:

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1 **Editor's Note: See Ch. A129, Sexual Harassment.**

(a) Prevention of unlawful discrimination and enforcement of the Town Council's equal employment opportunity policy.

(b) Identifying and reporting to the Affirmative Action Officer problem areas in interpreting or applying policy guidelines and reporting any charges or grievances involving alleged discrimination and the manner in which they were remedied or dismissed.

(c) Review of job descriptions, selection techniques and employment practices as necessary to ensure that all individuals are afforded working conditions free of discrimination.

4. Employees are expected to support and enforce the town's EEO/AA policy, explained in departmental workshops in terms of acceptable employment practices and behavior in the work setting.

Sec. 2-303. Communication of Affirmative Action Plan.

To ensure that this policy is understood by all current and potential employees of the town and to announce the Town Council's full commitment to equal employment opportunity, this policy should be given the widest possible exposure.

1. Internal dissemination.

(a) The Town Manager will issue a written statement to all supervisory personnel reaffirming this policy and announcing a personal commitment to its enforcement.

(b) Notice of this policy will be posted in conspicuous places, published and prepared for distribution.

(c) All personnel in charge of the screening, selection, hiring and promotion of applicants or employees will be expected to operate within

these guidelines to ensure uniform compliance with this policy.

(d) The cooperation of all collective bargaining units will be solicited in achieving adherence to the nondiscrimination clause in our labor agreements via the Affirmative Action Program.

(e) Specific implications of this policy will be discussed periodically at departmental staff meetings.

(f) New employees will receive information regarding the town's policy and acceptable employment behavior within the framework of EEO.

(g) Periodic departmental workshops will be conducted to inform employees of their responsibilities to follow the town's EEO policy.

(h) The Affirmative Action Plan will be made available to any and all employees.

(Cont'd on page A12705)

2. External dissemination.

(a) All public and private employment agencies will be given notice of this policy with any requests for referral of applicants.

(b) All contractors, suppliers and other services doing business with the town will be given notice of this policy with respect to any contractors involving federal and state financial assistance.

(c) Notice of this policy will be sent to any secondary school and college or university placement services who desire information on available job openings with the town.

(d) Notice of this policy will be sent to local chapters of regional or national minority and women's organizations who may desire to refer applicants for specific positions with the town.

(e) All advertisements for job openings not filled in house will be placed in a local newspaper of general circulation with the statement "an equal opportunity/affirmative action employer" included in such advertisements.

Sec. 2-304 Personnel procedures.

A. Recruitment. Recruitment procedures are the responsibility of the Personnel Officer. In job categories where under representation is evident, extensive outreach recruitment will ensure that applicant lists submitted for resume screening will contain a representative number of women and minorities; specifically:

(1) When deemed necessary and prior to advertising, job descriptions will be reviewed and revised to ensure that the employment qualification requirements are job-related and do not discriminate by title or unnecessary distinctions.

(2) A current list of organizations serving women and minorities will be utilized and maintained by the Affirmative Action Officer. The different groups will be

notified of all vacancies within the Town of Millinocket at the same time the vacancy is announced to in-house employees.

(3) All employment advertising will include the words "equal opportunity/affirmative action employer" and will reflect the minimum qualifications necessary for that position.

(4) The application form will collect, along with voluntary EEO-related data, information relative to the applicant's knowledge, skills and abilities based upon previous employment, training and education. See the appendix for a sample of the application form.[2]

(5) Periodic reviews of applicants' confidentially maintained EEO information will serve as a monitoring tool of the town's recruitment efforts.

B. Selection. Developing selection procedures is the overall responsibility of the Personnel Officer. He/she will ensure that the formal process, including resume screening, testing and interviewing, complies with the town's EEO/AA policy; specifically:

(1) The vacancy will be announced to minority/women's groups and to in-house employees for a period of no less than five (5) days before newspapers are notified.

(2) Interviews for all management/department head positions are conducted by the Personnel Officer and the Town Manager. Interviews for positions within each department are conducted by the Personnel Officer and the appropriate department head.

Questions are formulated by the department head, the Town Manager (if involved in the interview) and the Personnel Officer. The Personnel Officer reviews all questions prior to the interview and selects and eliminates questions and items for discussion according to appropriateness, clarity and relevance to the position. All position requisites reflect the knowledge, skills and abilities actually needed for the job in question.

[2] **Editor's Note: The application form is on file in the office of the Personnel Officer.**

Each interviewer has a copy of the questions being asked and keeps an evaluative record of the responses. Following the interviews, the interviewers discuss their ratings of the applicants' responses.

At the time of the interview, the applicant is offered the opportunity to ask questions about the position. Salary and fringe benefits, contracts and/or the personnel policy are explained and discussed.

(3) Records will be maintained on applicants, interviewees and new hires as a monitoring tool of the town's selection process.

(4) Testing is used in the selection process in both the Fire and Police Departments. [General aptitude tests from the International Personnel Management Association (IPMA) are used for entry-level fire fighter, entry-level police officer, Fire Chief and Police Chief positions. The exams are used as criteria for advancing to the interview phase of the selection process. To justify their validity, the Association will provide information on the job analyses, test development and validation research for each exam. Aside from the statistical evidence, IPMA's specified rules and regulations regarding rental of tests minimize the influence of exterior and administrator biases.] (Reserved herein is the right to use other acceptable validated tests and/or testing organizations.)

(5) New fire fighters and police officers will be required to have a physical exam, paid for by the town.

(6) Applicants applying for clerical positions are given a five-minute typing exercise. Accuracy and skill are judged.

Sec. 2-305 Upgrading and upward mobility.

The Town of Millinocket encourages its personnel to participate in in-house training as available and educational programs and seminars directly related to their field of work. Maine Municipal Association sponsored programs, training at the Maine Criminal Justice

Academy, emergency medical training and University of Maine workshops are some of the sponsors of programs utilized by personnel.

Attendance at training sessions, seminars, workshops, etc., will be encouraged and supported. To show its support, the town will incur related expenses, or parts thereof, whenever possible.

All departments within the system provide varying amounts of in-house training for improved performance in present jobs and to provide the opportunity for advancement to a higher classification of employment where that is possible.

Promotions and Transfers

Vacancies within the Town of Millinocket system are announced to all personnel through an advertisement of the position opening posted for a period of no less than five (5) working days. The announcement of the position opening informs the employee of the specific steps to be taken to apply for the position.

It is the policy of the Town of Millinocket to interview all qualified in-house applicants and qualified applicants/respondents from the resource list before outside advertising. The intention of this procedure is to promote qualified employees and protected classes before outside recruitment/hiring is considered. If there are no qualified and/or suitable applications, then outside advertising is conducted.

The opportunity for vacancies to be filled internally is available for every position within the system. The selection process is constant for all vacancies, and the potential for promotion is never disregarded.

The skills inventory form will be offered to all in-house applicants when they apply for positions. New employees will also be asked if they would be interested in completing a form. It is the intention of the town to keep and maintain accurate and useful information about employees in order to further their professional advancement.

Sec. 2-306 Grievance procedure.

A. The following grievance procedure is established with respect to complaints of discrimination. [NOTE: For specific reason(s), the employee may desire to commence grievance action with

the department head or the Affirmative Action Officer. The specific reason must be in writing with the Affirmative Action Officer.]

(1) The employee shall submit his/her grievance in writing to the immediate supervisor within five (5) days of the alleged discriminatory act.

(2) The immediate supervisor shall, within five (5) days of the receipt of the grievance, discuss the grievance with the employee.

(3) If the difficulty is not resolved, the grievance may be discussed directly with the department head.

(4) If the grievance is not resolved with the department head, the employee may then request to discuss his/her grievance with the Affirmative Action Officer. This request must be in writing to establish the date presented.

(5) The Affirmative Action Officer will, within ten (10) days of receipt of the request, hold a meeting to discuss the matter with the employee and his/her department head.

(6) If this meeting fails to resolve the issue, the employee may, within five (5) working days from the above meeting, request in writing a meeting between the employee, the department head, the Affirmative Action Officer and the Town Manager.

(7) The Town Manager will hold the meeting within ten (10) days from receipt of the written request. The decisions of the Town Manager shall be final as pertaining to the town.

B. Along with the above in-house procedures, the employee can file a complaint with the Maine Human Rights Commission any time within six (6) months of the date of the alleged discrimination.

Sec. 2-307 Description of EEO categories applicable to utilization analysis.

Officials and Administrators: characterized by occupations requiring administrative personnel who set broad policies, exercise overall responsibility for those policies and direct individual departments. Included in this category are the Town Manager, Public Works Director, Assistant Public Works Director, Police and Fire Chiefs, Recreation Director, Librarian, Personnel Officer and Welfare Director.

Professionals: occupations which require specialized and theoretical knowledge usually acquired through college training or work experience and other relevant training which provides comparable knowledge. Included are the Health Nurse and the Wastewater Plant Operator.

Technicians: includes occupations requiring technical knowledge, skills and abilities which could be obtained through specialized post secondary school education or through equivalent on-the-job training. Included are the Town Clerk, Assistant Wastewater Plant Operator, Police Detective, Assistant Fire Chief, Police Sergeant and Tax Assessor.

Protective Service: occupations in which workers are entrusted with public safety, security and protection from destructive forces. Included are patrol officers and fire fighters.

Office and Clerical: occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. Included are bookkeeper, executive secretary, dispatcher, children's librarian, general/clerical clerk and a librarian technician/secretary.

Skilled Craft: occupations in which workers perform jobs requiring manual skill and a thorough and comprehensive knowledge of the processes involved. Knowledge is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Included are operators and leadman/mechanics.

Service-Maintenance: occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and

care of buildings, facilities or grounds. Included are truck drivers and laborers/custodians.

Sec. 2-308 Program evaluation.

An annual report of this Affirmative Action Plan will be submitted to the Town Manager on January 1 of each year by the Affirmative Action Officer. (NOTE: The Personnel Officer has been delegated the Affirmative Action Officer.) This report will contain at least the following information:

A. An updated utilization analysis based upon the most recent EEO-4 report.

B. Applicant flow data for all positions advertised during the previous year.

C. A copy of the affirmative action file and a review of its effect on the town's affirmative action efforts.

D. A copy of all new job descriptions and those which have been revised since the last annual report.

E. A record of all hiring, terminations, promotions, transfers, demotions and layoffs by name, date, sex and race in order to review the impact on the town's affirmative action efforts.

F. An annual review of the wage scales for both union and nonunion employees.

Sec. 2-309 Affirmative action steps.

Recruitment	Responsibility	Target Date
All Town of Millinocket advertising will contain the words "equal opportunity/ affirmative action employer"	Personnel Officer	Upon approval of AA plan and continuing

Recruitment	Responsibility	Target Date
Position vacancies involving external recruitment will be announced to current agencies, colleges and organizations serving women, minorities and the handicapped and veterans	Personnel Officer	Immediate and continuing
Employment qualification requirements will be job-related and will not be written in such a manner as to discriminate by title or unnecessary distinctions	Town Manager, Personnel Officer and department directors	Immediate and continuing

Selection	Responsibility	Target Date
Job descriptions shall be reviewed prior to filling a vacancy to assure accurate reflection of necessary work requisites. (All job descriptions are maintained at the Personnel Office, and employees are entitled and encouraged to review and make suggestions for their job descriptions.)	Personnel Officer and department directors	Immediate and continuing
All interviewers will be briefed by the Personnel Officer regarding the legal and ethical considerations of interviewing	Personnel Officer	Immediate and continuing

Selection	Responsibility	Target Date
Appropriate tests, where used, steps in the testing process and selection criteria shall be determined and recorded for each distinct position to ensure uniformity of process when filling vacancies	Personnel Officer and department directors	To occur prior to the filling of any vacancy; to be reviewed as vacancies occur

Promotions and Transfers	Responsibility	Target Date
All position vacancies to be filled from within or outside the Town of Millinocket system will be announced to all staff by an in-house posting. The announcement will specify the steps to be taken for interested persons to make application for consideration.	Personnel Officer	Immediate and continuing
Job descriptions and job specifications will undergo the same review where vacancies are to be filled internally as is required when outside recruiting is planned	Personnel Officer and department directors	Immediate and continuing

Compensation and Benefits	Responsibility	Target Date
A review of the salaries of union and nonunion employees will ensure that the compensation levels do not discriminate against minorities and women	Personnel Officer	August 1 of each year

Employee Development	Responsibility	Target Date
Encourage supervisors to identify and recommend women and minorities to more-responsible positions	Personnel Officer	To occur as positions become available
Organize and conduct departmental affirmative action workshops to ensure that employees are aware of the Town of Millinocket's affirmative action policy	Personnel Officer	To occur periodically and as needed

Training Recruitment Staff	Responsibility	Target Date
The Personnel Officer and/or the Town Manager will attend training in personnel administration made available and sponsored by the Maine Municipal Association and the Bureau of Public Administration	Personnel Officer and Town Manager	As frequently as possible, in order to remain informed of changes and to solidify the town's commitment toward AA and EEO

Training Recruitment Staff	Responsibility	Target Date
In-house training to heads and/or other staff will be conducted by the Personnel Officer on selection procedures, affirmative action and other related issues	Personnel Officer and Town Manager	Immediate and continuing; to achieve 4 training sessions per year

NOTE: Clarifying and/or implementing formats are available for review at the Personnel Office and may be seen during normal business hours. These items are subject to change periodically.

Chapter A128

PERSONNEL POLICY

§ A128-1. Purpose; administration; amendments.
§ A128-2. Definitions.
§ A128-3. Employment and promotion.
§ A128-4. Probationary employees.
§ A128-5. Disciplinary procedures.
§ A128-6. Holidays.
§ A128-7. Vacations.
§ A128-8. Sick leave.
§ A128-9. Call-in.
§ A128-10. Bereavement.
§ A128-11. Absence from work.
§ A128-12. Termination of services.
§ A128-13. Leave of absence without pay.
§ A128-14. Military leave and jury duty.
§ A128-15. Grievances.
§ A128-16. Overtime.
§ A128-17. Benefits.
§ A128-18. Relationship to union contracts.
§ A128-19. Training and career development.
§ A128-20. Business and travel reimbursement.
§ A128-21. Computer usage.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 1-10-1987; amended in its entirety effective 1-1-2002. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Personnel Appeals Board — See Charter § C1009
Administration of government — See Ch. 3.
Affirmative action — See Ch. A127.
Sexual harassment — See Ch. A129.
Family medical leave policy — See Ch. A131.

§ A128-1. Purpose; administration; amendments.

A. Statement of intent. This policy is intended as informational guidance only, and the Town reserves the right to interpret, delete, or amend the provisions contained herein with reasonable notice to employees. This policy and its contents should not be interpreted as promises of specific treatment or as contractual rights for any employee.

B. Purpose. It is the purpose of these rules and regulations to provide a uniform and standard system of personnel administration and to inform fully the nonunion employees of the Town of Millinocket of the conditions of work.

C. Administration. These rules shall be administered by the Town Manager. He/She may, through the department heads and supervisors, specify procedure for the administration of this policy to ensure a minimum of disruption of Town operations. However, in no way are the administrative procedures to alter or dilute the meaning or intent of this policy in the application of said procedures.

D. Nondiscrimination. It is the policy of the Town of Millinocket not to discriminate on the basis of race, creed, color, national origin, or sex in the hiring and promotion of employees.

E. Amendments. Amendments to these rules shall be by order of the Town Council. The Town Council reserves the right to amend, repeal, or modify this policy from time to time as deemed necessary. The personnel policy shall be reviewed annually by the Manager and a delegate of the nonunion employees. Revisions shall be submitted to the Town Council for consideration.

§ A128-2. Definitions.

As used in these rules, the following words and terms shall have the meanings indicated below:

DEPARTMENT HEAD or ASSISTANT DEPARTMENT HEAD — One who works in a supervisory capacity, manages budgets, and performs other administrative work for a fixed sum per scheduled workweek but does not receive compensation for extra hours worked, including: Town Manager, Assessor, Police Chief, Fire Chief, Public Works Director, Assistant Public Works Director, Personnel/General Assistance Director, Town Clerk, Tax Collector, Librarian, Recreation Director, Wastewater Chief Operator, Wastewater Assistant Chief Operator, and Deputy Treasurer.

EMERGENCY WORK — That work deemed by the Manager, department heads, or supervisor (as delegated by the department head) necessary in the best interests of the Town to be carried out immediately.

FULL-TIME EMPLOYEE — One who works a forty-hour workweek.

HOURLY WAGED EMPLOYEE — One whose wage is based on a fixed hourly rate.

PART-TIME EMPLOYEE — A person hired to fill a position involving less than a full-time schedule (i.e., less than 40 hours per week).

REGULAR PART-TIME EMPLOYEE — An employee who works between 30 to 39 hours a week.

SEASONAL EMPLOYEE — One who is employed to work, including a full-time equivalent workweek when required, certain months or seasons of the year.

TOWN MANAGER — The Chief Executive and Chief Administrative Officer of the Town or his/her designee.

§ A128-3. Employment and promotion.

A. The Town shall employ, within the provision of the Millinocket Affirmative Action Plan,[1] qualified persons who are available at a negotiated level of compensation, the maximum of which shall be established by the Town Council.

B. The normal working hours for department managers and other employees covered by this policy shall be 8:00 a.m. to 5:00 p.m., Monday through Friday, with one hour being allowed for lunch. Any variances from these hours must be approved by the Manager.

C. Present employees shall be given every opportunity for advancement within the department and shall generally be given first consideration for filling a vacancy, provided that minimum qualifications are met and the employee has a good history of work performance and performance evaluations.

D. New employees are to be hired at a rate consistent with Subsection A above and will be advanced according to such pay schedule as may be in effect from time to time, but in no instance will a pay increase be made until the employee has completed a probationary period of six months.

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1 **Editor's Note: See Ch. A127, Affirmative Action.**

E. Such salary and wage schedules as may be put into effect by the annual budget shall remain for the fiscal year.

F. In the event of layoff of a regular full- or part-time position, the employee with the least seniority within the classification shall be laid off first. Employees offered reemployment shall be reemployed within the department by classification in the order of their earned seniority, and no new employee shall be hired until all laid-off employees have been given an opportunity to return to work within their classification. An employee shall retain laid-off privileges no longer than six months after layoff notice.

G. Seasonal employees shall be carried as seasonal employees if hired for seasonal purposes. Such employees will not establish seniority rights, nor will they be eligible for vacation, sick leave, or any other benefits that the Town offers.

H. Part-time or seasonal employees currently employed at the time of a vacancy are to be given consideration as an in-house applicant for an opening in the regular service before new employees are hired.

§ A128-4. Probationary employees.

A. All employees are subject to dismissal without recourse for a trial period of six months from date of employment. At the end of 60 days for full-time employees, all vacation, sick leave, and floating holidays will commence and be retroactive to the date of hire.

B. Application for insurance will be done within 30 days from the date of employment. New full-time employees will be eligible for health insurance upon filing of the proper application and completion of the waiting period required by the insurance plan.

§ A128-5. Disciplinary procedures.

A. Discipline may be imposed by the Town. Any employee covered under this policy shall not be terminated, however, except for just cause. Probationary employees are exempt from the just cause requirement.

B. Examples of just cause may include, but not be limited to, the following:

(1) Reporting for duty impaired by or under the influence of alcoholic beverages and/or illegal drugs and/or misuse of prescription medications.

(2) Bringing intoxicants or drugs to work or having them at work.

(3) Destruction or unauthorized removal of Town property.

(4) Refusal to comply with Town rules and personnel and affirmative action policies.

(5) Giving or taking a bribe of any nature as an inducement to obtaining work or retaining a position or other municipal favors.

(6) Insubordination.

(7) Failure to use safety appliances or observe safety rules.

(8) Unauthorized absenteeism, tardiness, or excessive demonstrated abuse of sick leave.

(9) Theft, embezzlement, or filing of false reimbursement forms.

(10) Sexual harassment or other harassment found to be offensive to other employees or customers.[2]

(11) Behavior toward customers that is offensive and that flagrantly disregards the interests of the Town.

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[2] **Editor's Note: See Ch. A129, Sexual Harassment.**

(12) Abuse of computers or other media (i.e., sending or downloading of obscene material, erasure or alteration of Town records without permission, excessive non-work-related use of equipment, etc.).

(13) Causing jeopardy to self or others in the workplace.

(14) Possession, display, or use of explosives, firearms, or other dangerous weapons, while on duty or on Town property, except for police officers and other authorized employees in the performance of their duties.

§ A128-6. Holidays.

A. Holidays which will be observed are as follows:

New Year's Day
Martin Luther King Day
Washington's Birthday
Memorial Day
Fourth of July
Labor Day
Columbus Day
Veterans Day
Patriot's Day
Thanksgiving Day
Day after Thanksgiving
Christmas
1 floating holiday

B. A recognized holiday that falls on a Saturday will be observed on the preceding Friday. A recognized holiday that falls on a Sunday will be observed on the following Monday. Holiday pay will not be granted unless the employee has worked or was paid sick leave or vacation pay the last workday before the holiday and worked the first scheduled workday after the holiday.

C. Administrative time off and/or floating holidays shall be taken so as not to interfere with the operation of the de-

partment and are subject to approval by the Manager. Administrative time off shall be at the discretion of the Manager. Floating holidays may not be carried forward into the next year, nor be paid as additional compensation, if not taken by the end of the year they were to be used.

D. Regular part-time people will be paid for the same 12 holidays as full-time employees receive prorated to correspond with their regular schedule of work (New Year's Day, Martin Luther King Day, Washington's Birthday, Memorial Day, Fourth of July, Labor Day, Columbus Day, Veterans Day, Patriot's Day, Thanksgiving Day, Day after Thanksgiving, Christmas).

§ A128-7. Vacations.

A. All full-time employees are entitled to earned vacation.

B. The vacation year shall run from January 1 to December 31 annually, and vacation entitlement shall be determined as of the first day of the vacation year as follows:

(1) Employees with less than one year of continuous service shall earn one day per full month worked, not to exceed 10 days.

C. Employees will be credited, for vacation purposes only, for longevity they had in their immediate past position based on their continuous full-time employment with the Town.

D. The following vacation schedule shall apply to eligible employees:

Years of Continuous Service	Number of Weeks Per Year
1 to 5	2
6 to 10	3
11 to 15	4
16 to 20	5
21 or more	6

E. When any full-time employee is entitled to two or more weeks of vacation, he/she will have the option to accrue 1/2 of his/her yearly vacation entitlement up to maximum accrual that is equal to his/her yearly vacation entitlement. Example: The maximum amount of vacation that a Town employee is entitled to is six weeks. An employee with six weeks' vacation entitlement can place up to three weeks per year into their accrual, not to exceed six weeks. The accrual does not include the vacation entitlement credited them on January 1 of that year. The most a person could have is 12 weeks on January 1. In that event, six weeks would need to be used within that calendar year or the employee would lose them, without additional compensation.

F. Department heads are to schedule vacations so that the work of the department will not be impaired. In case of conflict, vacations shall be granted in order of seniority.

G. All employees shall schedule vacation so as not to interfere with department operations. All are subject to approval by the Manager.

H. Vacations will be extended to compensate for holidays occurring during an employee's vacation.

I. Unused but earned vacation time, and unused accrued vacation time, shall be paid to the employee upon termination.

§ A128-8. Sick leave.

A. Full-time employees shall be entitled to 1½ days sick leave per month, commencing after a period of 60 days, retroactive to the first day of employment. Sick leave is not to be considered a right, which an employee may use at his/her discretion, but rather a privilege not to be abused. Sick leave may accumulate up to 120 days.

B. At the discretion of the Town Manager, consecutive sick leave of up to five days may be granted. Sick leave pay greater than five days must be requested in writing, and a doctor's certificate may be required. Up to five days of any accumulated sick leave may be used for a family sickness at the request of the employee and approval of the Town Manager. (Immediate family is considered to be father, mother, children, spouse, brothers and sisters.)

C. Any employee who has been absent from work for a period exceeding two weeks due to illness or injury that is non-work-related will provide, at the request of the Town Manager, a medical statement from a doctor certifying him/her be in good health upon his/her return.

D. Sick leave shall be reported to the Personnel Officer and approved by the department head. The Town Manager has the right to review and question any and all sick leave.

E. Full-time employees hired on or before July 1, 2000, including full-time employees as of July 1, 2000, who are subsequently promoted to a department head position after that date, upon separation from service after five years of continuous service with the Town, shall receive ½ day's pay for each day of vested sick leave.

F. Full-time employees hired on or before July 1, 2000, including full-time employees as of July 1, 2000, who are subsequently promoted to a department head position after that date, upon retirement or separation, with 15 years of continuous service shall receive ¾ day's pay for each day of vested sick leave; employees with 25 or more

years of continuous service shall receive full pay for unused sick leave, not to exceed 120 days.

G. For the purpose of calculating the sick leave payout at termination, the amount of sick leave earned by the eligible employee as of the date January 1, 2002, shall serve as the cap on the amount of time eligible for payout.

H. Any employee completing 120 consecutive working days in a calendar year without using any sick leave shall be entitled to one extra floating holiday for that year.

I. An employee covered by disability insurance must, after six calendar days of sickness or injury (non-job-related), apply for his/her disability coverage. The Town, in turn, will continue to pay the weekly salary but will become the beneficiary of the disability insurance. At the end of the illness or injury the employee must present a fit-to-return-to-work slip from his/her doctor.

§ A128-9. Call-in.

Overtime work must have the prior approval of the respective department head.

§ A128-10. Bereavement.

A. An employee may receive up to three working days off with pay when a death occurs in his or her immediate family. The "immediate family" shall be defined as the employee's parents, husband or wife, children, brothers, sisters, mother-in-law, father-in-law, grandparents, brother-in-law, sister-in-law, stepparents, and stepchildren.

B. Any employee may receive one working day off when a death occurs to an aunt or uncle.

C. The authorized days may only be the employee's regularly scheduled working days following the date of

death up to and including the date of the funeral. One extra day may be granted when extra travel time is required, at the discretion of the Town Manager.

§ A128-11. Absence from work.

In case an employee is detained on account of sickness or any other good cause, he/she shall notify the Town Manager or respective department head promptly or as soon as reasonably possible.

§ A128-12. Termination of services.

A. An employee, upon two weeks' notice to the Town Manager for a non-department head and four weeks' notice for a department head, may terminate his/her service with the Town. The employee shall be subject to an accounting and return of equipment, records, funds, etc., that were entrusted to him by the position the employee held.

B. Pay in proportion to the employee's normal wages shall be granted the employee for his/her unused earned vacation days at the time of the employee's termination.

C. Any employee hired on or after July 1, 2000, shall not be entitled to the benefit of payout of accumulated sick time at retirement or termination of services with the Town of Millinocket, except as noted in § A128-8, Subsections E and F.

D. Notwithstanding § A128-8, Subsections E and F, employees dismissed involuntarily for cause shall not be eligible for the payout of accumulated sick leave.

E. The rate of pay used to calculate the termination payout shall be the employee's ending rate.

§ A128-13. Leave of absence without pay.

A full-time employee may be granted a leave of absence without pay by the Town Manager, but not for a period greater than 60 days. Failure of an employee to return to work at the expiration of the leave without having arranged for an extension will be deemed a resignation. Full seniority rights shall be maintained during the approved absence, but they shall not accrue vacation, sick leave, or PTO days during the leave. The Manager will advise the Council on granted leaves of absence.

§ A128-14. Military leave and jury duty.

The Town will supplement the employee's military or jury duty pay for up to but not exceeding the pay received by the employee for working a normal workweek while he/she is away. Supplemental payments will only be for a two-week period for annual training.

§ A128-15. Grievances.

A. Any employee aggrieved because of some condition of his/her employment may file a grievance in writing to his immediate supervisor and/or the Personnel Officer. The Supervisor and/or Personnel Officer shall make an effort to settle the grievance within 10 working days after its presentation, said settlement to be in writing.

B. If a satisfactory settlement cannot be reached and the employee wishes to appeal the decision, the employee may appeal to the Town Manager, who shall schedule a hearing within five working days. The employee may be represented by any person of his/her choosing.

C. The Town Manager will consult freely with the employee on matters affecting employer-employee relationships.

D. The decision of the Town Manager is final, except that said decisions may be appealed to the Personnel Appeals

Board within 30 calendar days of the date of the Town Manager's written decision. The Personnel Appeals Board may:

(1) Confirm the Manager's decision; or

(2) Modify and/or set aside the decision if the discipline was too severe and remand to the Town Manager for recommended lesser discipline.

E. Discipline shall generally be by progressive steps: oral reprimand, written reprimand, suspension and termination, but not necessarily in that order, depending on the gravity of the offense.

F. Offenses shall be documented as to the exact nature of the offense and the disciplinary measures taken.

§ A128-16. Overtime.

Any overtime work is to be authorized in advance by the respective department head or the Town Manager. When it becomes necessary for employees to work overtime, they shall not be laid off during regular working hours to equalize the time. Overtime will be distributed equally with adaptability of employees to do the work to be considered. Local record of overtime shall be kept by the Personnel Director.

§ A128-17. Benefits.

A. The Town is a participating member of the Maine State Retirement System.

B. The Town offers a life insurance and group hospitalization plan with which the employees should become familiar. This plan is presently a part of the Maine Municipal Employees Health Trust. The Town reserves the right to discontinue this benefit or to change coverage and providers from time to time as well as the portion of the premiums paid by the Town and its employees with or without prior notice. Until July 31,

1999, the Town shall pay the premium for employee and dependent coverage. As of August 1, 1999, the Town shall pay 90% of the premium for employee and dependent coverage and the employee shall pay 10% of such premium. Employee premium contributions shall be paid in advance by the employee or by duly authorized payroll deduction. The Town shall be under no obligation to pay the employee's portion of such premium if the employee fails to pay it.

C. The Town shall increase the life insurance benefits to an amount equal to the employee's salary to the nearest thousand.

D. Group hospitalization plan.

(1) Employees hired prior to June 10, 1999, other than School Department employees, shall continue as members of the Town's group hospitalization plan, provided that:

(a) The employee retired from Town service and qualified for retirement or disability benefits under the Maine State Retirement System; and

(b) The employee was a member of MSRS on or prior to January 1, 2002, and maintained such membership to the time of retirement without interruption or became a member upon the employee's first employment anniversary date immediately following January 1, 2002; and

(c) The employee is vested in MSRS at the time of retirement; and

(d) The employee has at least 15 years of continuous service with the Town of Millinocket immediately prior to retirement; and

(e) The employee retires from the Town of Millinocket.

(2) The Town shall also provide coverage for the former employee's spouse if the employee so elects. The

Town shall pay the premium for the former employee, spouse, and legally dependent children as defined in the plan. This benefit extends only to the spouse and dependents of the employee at the time of retirement, but the spouse will lose coverage in the event of a divorce, separation, or remarriage. For those receiving MSRS disability payments, this benefit extends only to those former employees who continue to qualify to receive disability benefits from the Maine State Retirement System until normal retirement age and then qualify for and receive a retirement benefit from the Maine State Retirement System. If a former employee who receives this benefit ceases to qualify, his or her spouse shall no longer qualify for this benefit. The Town reserves the right to change providers and coverage from time to time as well as the portion of premiums paid by the Town and former employee with or without prior notice. This benefit will apply in the following manner:

(a) For employees who have retired prior to January 1, 2002, this benefit will be provided by the Town at 100% of its cost.

(b) For employees who were employed full-time by the Town on or before June 10, 1999, and who become eligible for retirement after January 1, 2002, those employees will make a contribution to their health insurance benefit (co-payment) at the same rate as that for current employees.

(c) Unionized employees hired prior to August 8, 1991, and not retired prior to January 1, 2002, shall be eligible for this benefit as described in Subsection D(2)(b) above.

(d) For employees hired into full-time positions on or after June 10, 1999, this retirement benefit shall not be available.

E. When an individual becomes eligible for Medicare, he/she must sign up for Medicare B (major medical portion). Medicare A (hospitalization portion) will be automatic when the employee becomes eligible for Social Security. The Medicare premium is automatically taken out of the Social Security check. This makes Medicare the employee's primary insurance and the Town's insurance secondary. This includes the employee's spouse and dependents. Failure to comply will result in ineligibility for health insurance under the Town of Millinocket.

F. The Town is covered under the Federal Insurance Contribution Act (social security tax and Medicare hospital insurance). The required contributions from both the Town and the employee will be paid in accordance with federal law.

§ A128-18. Relationship to union contracts.

Union personnel will be governed solely under their respective union contracts, while nonunion personnel shall be governed solely under the personnel policy.

§ A128-19. Training and career development.

A. Requests for training.

(1) Education courses. Education courses may be granted upon recommendation of the Town Manager if approved by the Town Council.

(2) Workshops. Employees may request to attend workshops or training sessions they feel may benefit them or the Town.

(3) Procedure for requesting training. The employee must submit the request to his/her immediate supervisor on the request-for-training form. The request will be reviewed on the following basis:

(a) The course or workshop is in the same or a closely related field to that of the employee, and it can be reasonably expected that completion of the training will directly improve the performance of regular duties. Training requests that are to improve performance of an employee's current duties are to be given highest priority.

(b) Sufficient funds are available to cover costs of training.

(c) The course or workshop, while not expected to directly relate to performance of current duties, can be expected to improve the potential of the employee to be qualified for work of a higher level in the Town's service. Courses totally unrelated to the employee's occupational field or to the Town's service will not be approved unless required to obtain a degree.

(4) A supervisor or department head may request training for a group of employees using the same procedures.

(5) If a department head is unable to determine if the requested training is sufficiently related to the employee's work and/or the benefit of Town service, he/she may request the Personnel Officer to review the request.

(6) Approved requests for training must be submitted to the Personnel Officer in order to make necessary arrangements for training, document the employee's file and keep records of the costs of training.

B. Identifying training needs. At the time of the semiannual employee evaluation discussion, the supervisor and employee should discuss areas where training is needed or desirable for performance in the employee's present job or would be helpful in developing additional skills for growth into other positions in the

Town's service. Specific training and/or courses to be taken should be identified then, if possible.

§ A128-20. Business and travel reimbursement.

A. Employees are eligible for reimbursement of reasonable expenses incurred while on business and/or travel for the Town. All such expenses must be preapproved by the respective department head or Town Manager. Employees are responsible for making their own travel arrangements.

B. Reimbursible expenses include, but are not limited to, the actual costs of travel, meals, gratuities, lodging, tolls, and fares. Unless otherwise approved, alcoholic beverages are not allowed. Employees are expected to limit expenses to reasonable levels. Abuse of such reasonable limits or the filing of false travel reports shall be a matter for disciplinary action.

C. Mileage will be reimbursed at a rate as set by the Town Council from time to time.

D. Receipts for all expenses are to be submitted with the travel expense form for reimbursement. Travel expenses should be submitted within one week of the employee's return.

E. Should an employee be involved in an accident or other incident while on Town business, the event is to be reported as soon as possible to his/her immediate supervisor. The supervisor is to notify the Town Manager as soon thereafter as possible.

F. Vehicles owned, leased, or rented by the Town of Millinocket are not to be used for personal use without approval.

§ A128-21. Computer usage.

A. Computers, computer files, the e-mail system, and software furnished to employees of the Town of Millinocket are the property of the Town and intended for business use. All work performed on the Town's computers is to be considered the property of the Town. Personal use is to be occasional in nature and is not to otherwise violate the terms of this policy.

B. The Town retains the right to monitor computer and e-mail usage to ensure compliance with this policy.

C. The unauthorized use, installation, copying, or distribution of copyrighted, trademarked, or patented material on the Internet is expressly forbidden.

D. Violation of this policy is subject to disciplinary action. Such action may be taken for, but not be limited to, the following:

(1) Sending or posting discriminatory, harassing, pornographic, slanderous, libelous, or threatening communications or enticing others to do so.

(2) Copying, pirating, or downloading copyrighted, trademarked, and patented materials or sending or posting confidential information from Town files without proper authorization.

(3) Jeopardizing the security of the Town's electronic communications system, sending anonymous e-mail messages, or engaging in any other illegal activities.

Chapter A129

SEXUAL HARASSMENT

§ A129-1. Purpose.
§ A129-2. Sexual harassment defined.
§ A129-3. When prohibited.
§ A129-4. Reporting.
§ A129-5. Protection.
§ A129-6. Duties of implementation.
§ A129-7. Penalties for noncompliance.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 1-30-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policy — See Ch. A128.

§ A129-1. Purpose.

The Town of Millinocket finds sexual harassment creates an illegal and undesirable working environment, the town resolves to prevent such activity. It is the policy of the Town of Millinocket to maintain a working environment which is free of sexual harassment. Sexual harassment violates federal and state law, and such conduct will result in disciplinary action up to and including dismissal.

§ A129-2. Sexual harassment defined.

The Town of Millinocket adopts the following definition of sexual harassment:

A. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals.

(3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

B. Any of the following activities, when combined with the above conditions, is sexual harassment:

(1) Unwelcome sexual advances.

(2) Requests for sexual favors.

(3) Other verbal and physical conduct, such as:

(a) Offensive sexual flirtations, advances or propositions.

(b) Unwanted hugs, touches, kisses.

(c) Touching, patting, pinching.

(d) Subtle pressure or requests for sexual activity.

(e) Forced sexual relations.

(f) Verbal abuse of a sexual nature.

(g) Sexual jokes.

(h) Sexually suggestive remarks or innuendos.

(i) Persistent remarks about another person's clothing, body or sexual activities.

(j) Off-color humor.

(k) Graphic verbal commentaries about an employee's body.

(l) Sexually degrading words used to describe employees.

(m) Display in the work place of sexually suggestive objects or pictures.

(n) Insults or degrading sexual remarks or conduct used to abuse the dignity of another employee.

(o) Threats, demands or suggestions that employees' work status depends on their tolerance of sexual advances.

(p) Retaliation against employees who complain about sexually offensive behavior.

C. Sexual harassment does not mean compliments and conversations of a socially acceptable nature. Sexual harassment means unwelcome sexual advances or propositions, requests for sexual favors and other verbal or physical conduct which offends employees, harms morale or interferes with any employee's working environment.

§ A129-3. When prohibited.

The Town of Millinocket prohibits sexual harassment at all levels of employment at all times, and especially whenever it directly or indirectly threatens a term or condition of employment, affects an employment decision, interferes with any employees' work performance or creates an intimidating, hostile or offensive work environment.

§ A129-4. Reporting.

A. Employees who believe they have been sexually harassed may contact their supervisor, the Town Affirmative Action Officer, the Town Manager and/or the Maine

Human Rights Commission at State House Station 51, Augusta, Maine 04333; (207)289-2326.

B. The following procedure is established with respect to complaints of sexual harassment:

(1) The employee shall submit his/her complaint in writing to his or her immediate supervisor, the Affirmative Action Officer and/or the Town Manager within five (5) days of the alleged sexual harassment. The Town Manager, supervisor and/or Affirmative Action Officer shall make an effort to intervene and investigate within ten (10) working days of receipt of a complaint, and all facets of the investigation are to be in writing. The employee may also file a complaint with the Maine Human Rights Commission any time within six (6) months of the date of the alleged sexual harassment.

(2) Upon a finding that an employee or employees have engaged in conduct which constitutes sexual harassment, the town shall take immediate and appropriate corrective action which shall include, at a minimum, disciplinary action, appropriate under the circumstances, in accordance with the Personnel Policy or union contract.[1]

(3) All sexual harassment complaints received by employees or supervisors will be immediately brought to the attention of the Affirmative Action Officer and Town Manager. Any immediate corrective action shall be considered preliminary and not final pending investigation and final decision by the Affirmative Action Officer with the consent of the Town Manager.

(4) Any complaint involving the Affirmative Action Officer alleging sexual harassment shall be investigated and resolved by the Town Manager.

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1 **Editor's Note: See Ch. A128, Personnel Policy.**

(5) Any complaint involving the Town Manager alleging sexual harassment shall be investigated and resolved by the Chairman of the Town Council with final action being approved by the Town Council.

(6) Refusal to answer questions or to cooperate during an investigation of alleged sexual harassment shall be an independent ground for discipline.

§ A129-5. Protection.

The Town of Millinocket will protect the privacy of those employees involved in a sexual harassment investigation to the extent possible. The town shall also ensure that employees who file a complaint of sexual harassment are protected from illegal retaliatory actions. Sexual harassment complaints will be taken seriously. All involved employees shall be treated fairly and with dignity.

§ A129-6. Duties of implementation.

A. Affirmative Action Officer.

(1) The Affirmative Action Officer will provide all employees with annual written notification as to the illegality of sexual harassment commencing before April 1, 1992. This notice shall:

(a) Define sexual harassment under state and federal law and describe sexual harassment utilizing examples.

(b) Explain the internal complaint procedure available to employees and the legal recourse and complaint procedure available through the Maine Human Rights Commission (MHRC).

(c) Explain how to contact the MHRC.

(d) Describe the protection against retaliation under the Maine Human Rights Act.

(2) The Affirmative Action Officer shall provide the above information to all new employees within one (1) year of their dates of hire. This information will be provided in writing and, if necessary, by employee educational programs.

(3) The Affirmative Action Officer will also conduct training for supervisory and managerial employees within one (1) year of their date of hire. Such training will include the methods supervisory and managerial employees must use to ensure immediate and appropriate corrective action addressing sexual harassment complaints.

(4) The Affirmative Action Officer will conduct periodic review of job descriptions, selection techniques and employment practices as necessary to ensure that all individuals are afforded working conditions free of sexual harassment.

(5) The Affirmative Action Officer shall ensure that notice of the town's sexual harassment policy is posted in conspicuous places, published and prepared for distribution. The Affirmative Action Officer will ensure that the town posts in all its workplaces a poster which defines sexual harassment, using examples; which state such conduct is illegal; and which outlines the complaint process through, and ways to contact, the Maine Human Rights Commission.

B. Departmental directors, managers and supervisors.

(1) Each departmental director, manager and supervisor is responsible for prevention of sexual harassment and promotion and enforcement of the town's sexual harassment policy. Supervisory or managerial employees who receive a complaint of sexual harassment occurring in the workplace will immediately report such a complaint to the Affirmative Action Officer and/or the Town Manager so an immediate investigation and appropriate

action can be undertaken. Supervisory and managerial employees shall take such immediate corrective action as is necessary pending investigation and disposition of a complaint.

(2) Each departmental director, manager and supervisor is responsible for identifying and reporting to the Affirmative Action Officer and/or Town Manager problem areas in interpreting or applying policy guidelines and reporting any complaints of sexual harassment and the manner in which they were remedied or dismissed.

(3) Each departmental director, manager and supervisor is responsible for periodically discussing specific implementation of this policy at departmental staff meetings. All managerial or supervisory employees will attend educational programs, within one (1) year of being hired, which provide special instructions with regard to their responsibility to promptly address complaints of discrimination or sexual harassment and methods of dealing with such complaints.

(4) Each departmental director, manager and supervisor is responsible for periodic review of job descriptions, selection techniques and employment practices as necessary to ensure that all individuals are afforded working conditions free of sexual harassment.

C. Nonsupervisory employees.

(1) All employees are expected to support and enforce the town's sexual harassment policy in terms of acceptable employment practices and behavior in the work setting. All employees who witness or become aware of instances of sexual harassment will immediately report the incident(s) to their supervisor, the Affirmative Action Officer or the Town Manager.

(2) New employees are responsible for receiving, within one (1) year of being hired, information regarding acceptable employment behavior within the framework of the sexual harassment policy which will be provided to the employee by the town. The employee is responsible for knowing that sexual harassment is illegal; what the definition of sexual harassment is under state and federal laws; what constitutes examples of sexual harassment; what the town's internal complaint process is; how to contact the MHRC with a complaint; and what protection from retaliation employees have under Maine law. In addition, every employee is expected to refrain from sexual harassment of others.

§ A129-7. Penalties for noncompliance.

Sexual harassment violates federal and state law. Refusal to comply with the town's sexual harassment policy will result in disciplinary action up to and including dismissal.

Chapter A130

BLOODBORNE PATHOGENS CONTROL

§ A130-1. Definitions.
§ A130-2. Exposure Control Plan.
§ A130-3. Hepatitis B.
§ A130-4. Exposure incident protocol.
§ A130-5. Communication of biohazardous dangers.
§ A130-6. Information and training.
§ A130-7. Medical recordkeeping.
§ A130-8. Hepatitis B vaccine declination (mandatory).

[HISTORY: Adopted by the Town Council of the Town of Millinocket 10-29-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policy — See Ch. A128.

§ A130-1. Definitions.

A. For purposes of this Chapter A130 of the Millinocket Code, the following shall apply:

ASSISTANT SECRETARY — The Assistant Secretary of Labor for Occupational Safety and Health, or designated representative.

BLOOD — Human blood, human blood components and products made from human blood.

BLOODBORNE PATHOGENS — Pathogenic microorganisms that are present in human blood and

can cause disease in humans. These pathogens include but are not limited to hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

CLINICAL LABORATORY — A workplace where diagnostic or other screening procedures are performed on blood or other potentially infectious materials.

CONTAMINATED — The presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.

CONTAMINATED LAUNDRY — Laundry which has been soiled with blood or other potentially infectious materials or may contain sharps.

CONTAMINATED SHARPS — Any contaminated object that can penetrate the skin, including but not limited to needles, scalpels, broken glass, broken capillary tubes and exposed ends of dental wires.

DECONTAMINATION — The use of physical or chemical means to remove or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use or disposal.

DIRECTOR — The Director of the National Institute for Occupational Safety and Health, United States Department of Health and Human Services, or designated representative.

ENGINEERING CONTROLS — Controls (e.g., sharps disposal containers, self-sheathing needles) that isolate or remove the bloodborne pathogens hazard from the workplace.

EXPOSURE INCIDENT — A specific eye, mouth, other mucous membrane, nonintact skin or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.

HANDWASHING FACILITIES — A facility providing an adequate supply of running potable water, soap and single-use towels or hot-air drying machines.

LICENSED HEALTH CARE PROFESSIONAL — A person whose legally permitted scope of practice allows him or her to independently perform the activities required by hepatitis B vaccination and postexposure evaluation and follow-up.

HBV — Hepatitis B virus.

HIV — Human immunodeficiency virus.

OCCUPATIONAL EXPOSURE — Reasonably anticipated skin, eye, mucous membrane or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

OTHER POTENTIALLY INFECTIOUS MATERIALS:

(1) The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood and all body fluids in situations where it is difficult or impossible to differentiate between body fluids.

(2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead).

(3) HIV-containing cell or tissue cultures, organ cultures and HIV- or HBV-containing culture medium or other solutions; and blood, organs or other tissues from experimental animals infected with HIV or HBV.

PARENTERAL — Piercing mucous membranes or the skin barrier through such events as needle sticks, human bites, cuts and abrasions.

PERSONAL PROTECTIVE EQUIPMENT — Specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts or blouses) not intended to function as protection against a hazard are not considered to be "personal protective equipment."

PRODUCTION FACILITY — A facility engaged in industrial-scale large-volume or high-concentration production of HIV or HBV.

REGULATED WASTE — Liquid blood or other potentially infectious materials or contaminated items that would release blood or other potentially infectious materials in a liquid or semiliquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials.

RESEARCH LABORATORY — A laboratory producing or using research-laboratory-scale amounts of HIV or HBV. "Research laboratories" may produce high concentrations of HIV or HBV but not in the volume found in production facilities.

SOURCE INDIVIDUAL — Any individual, living or dead, whose blood or other potentially infectious materials may be a source of occupational exposure to the employee. Examples include but are not limited to hospital and clinic patients; clients in institutions for the developmentally disabled; trauma victims; clients of drug and alcohol treatment facilities; residents of hospices and nursing homes; human remains; and individuals who donate or sell blood or blood components.

STERILIZE — The use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.

UNIVERSAL PRECAUTIONS — An approach to infection control. According to the concept of "universal precautions," all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV and other bloodborne pathogens.

WORK PRACTICE CONTROLS — Controls that reduce the likelihood of exposure by altering the manner in which a task is performed (e.g., prohibiting recapping of needles by a two-handed technique).

B. This list of definitions may be expanded as needed.

§ A130-2. Exposure Control Plan.

A. To eliminate or minimize employee exposure to bloodborne pathogens, the town hereby adopts the following Exposure Control Plan. As an integral part of this plan, the town has developed the following exposure risk determination, which is made without regard to the use of personal protective equipment:

(1) Job classifications in which all employees have occupational exposure are ambulance attendants; all Police and Fire Department personnel; and Public Works employees assigned to garbage handling, the transfer station and the sewer treatment plant.

(2) Job classifications in which some employees have occupational exposure are Public Works employees not described above and employees of the Recreation Department.

(3) Those tasks and procedures or groups of closely related task and procedures in which occupational exposure occurs and that are performed by employees in job classifications listed in accordance with the provisions of Subsection A(1) and (2) above of the Town Code are responding to emergency situations (specifically including assisting in treatment or extrication of victims of emergencies);

the apprehension and/or transportation of criminal suspects or intervention to prevent criminal behavior; and the handling and/or exposure to raw and processed municipal garbage and municipal sewage.

(4) The classifications in Subsection A(1) and (2) above and the tasks and procedures and groups of closely related tasks and procedures described in Subsection A(3) shall be reviewed no less than annually by the Town Manager and each department head.

B. The town hereby establishes the following methodology for compliance with the requirements of 29 CFR Part 1910.1030:

(1) Universal precautions shall be observed to prevent contact with blood or other potentially infectious materials. Under circumstances in which differentiation between body fluid types is difficult or impossible, all employees shall consider all body fluids to be potentially infectious materials.

C. The town hereby implements engineering and work practice controls to eliminate or minimize employee exposure. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be used. These engineering and work practice controls are:

(1) The town shall provide handwashing facilities which are readily accessible to all employees, or, when it is not feasible to provide such facilities, the town shall provide either an appropriate antiseptic hand cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleanser or towelettes are used, employees shall wash their hands with soap and running water as soon as feasible.

(2) All employees must wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment.

(3) All employees must wash their hands and any other skin with soap and water or flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or other potentially infectious materials.

(4) Employees shall ensure that contaminated needles and other contaminated sharps shall not be bent, recapped or removed, except as otherwise noted in this section of the Town Code. Shearing or breaking of contaminated needles is prohibited.

(5) Employees shall not recap or remove contaminated needles and other contaminated sharps unless no alternative is feasible or such action is required by a specific medical procedure.

(6) Employees shall perform any recapping or needle removal through the use of a mechanical device or a one-handed technique.

(7) Immediately, or as soon as possible after use, employees shall place contaminated reusable sharps in appropriate containers until properly reprocessed. These containers shall be:

(a) Puncture-resistant.

(b) Labeled or color-coded in accordance with this section of the Town Code.

(c) Leakproof on the sides and bottom.

(d) In accordance with the requirements set forth in this section of the Town Code for reusable sharps.

(8) Eating, drinking, smoking, applying cosmetics or lip balm and handling contact lenses are prohibited in

work areas where there is a reasonable likelihood of occupational exposure.

(9) Food and drink shall not be kept in refrigerators, freezers, shelves, cabinets or on countertops or benchtops where blood or other potentially infectious materials are present.

(10) Employees shall perform all procedures involving blood or other potentially infectious materials in such a manner as to minimize splashing, spraying, spattering and generation of droplets of these substances.

(11) Mouth pipetting/suctioning of blood or other potentially infectious materials is absolutely prohibited.

(12) Specimens of blood or other potentially infectious materials shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport or shipping.

(a) The container for storage, transport or shipping shall be labeled or color-coded according to the provisions of this Chapter A130 of the Millinocket Code and closed prior to being stored, transported or shipped. If universal precautions are utilized in the handling of the specimen(s), the labeling/color-coding of specimens is not necessary, provided that containers are recognizable as containing specimens. This exemption only applies while such specimens/containers remain within the facility. Labeling or color-coding in accordance with the provisions of § A130-5 of the Millinocket Code is required when such specimens or containers leave the facility.

(b) If outside contamination of the primary container occurs, employees shall place the primary container within a second container

which prevents leakage during handling, processing, storage, transport or shipping and is labeled or color-coded according to the requirements of § A130-5 of the Millinocket Code.

(c) If the specimen could puncture the primary container, employees shall place the primary container within a secondary container which is puncture-resistant in addition to the above characteristics.

(13) Equipment which may become contaminated with blood or other potentially infectious materials shall be examined prior to servicing or shipping and shall be decontaminated as necessary, unless decontamination of such equipment or portions of such equipment is clearly not feasible.

(a) Employees shall attach a readily observable label in accordance with § A130-5 of the Millinocket Code to the equipment stating which portions remain contaminated.

(b) Employees shall ensure that this information is conveyed to all other affected employees, the servicing representative and/or the manufacturer and all other persons, as appropriate, prior to handling, servicing or shipping so that appropriate precautions will be taken.

(14) Personal protective equipment. Where there is occupational exposure, the town shall provide, at no cost to the employee, appropriate personal protective equipment, such as but not limited to gloves, gowns, laboratory coats, face shield or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks or other ventilation devices. This personal protective equipment will be considered appropriate only if it does not permit blood or other potentially infectious materials to pass through or to

reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used.

(a) All employees will use appropriate personal protective equipment unless it is the employee's professional judgment that in a specific instance its use would prevent the delivery of health care or public safety services or would pose an increased hazard to the safety of the worker or a coworker. In such instances, the employee may only temporarily and briefly decline to use personal protective equipment and then only in rare and extraordinary circumstances. When the employee makes this judgment, he shall report so in writing to his department head who, in turn, shall report the incident in writing to the Town Manager. The Town Manager, Town Health Officer and the employee's department head shall investigate and document the circumstances in order to determine whether changes can be instituted to prevent such occurrences in the future.

(b) The town shall ensure that appropriate personal protective equipment in the appropriate sizes is readily accessible at the work site or is issued to employees. Hypoallergenic gloves, glove liners, powderless gloves or other similar alternatives shall be readily accessibly to those employees who may be allergic to the gloves normally provided.

(c) The town shall clean, launder and dispose of personal protective equipment required by this Chapter A130 of the Millinocket Code at no cost to its employees.

(d) The town shall repair or replace personal protective equipment as needed to maintain its effectiveness at no cost to its employees.

(15) Removal of personal protective equipment shall be as follows:

(a) Employees shall remove, as soon as possible, any garment penetrated by blood or other potentially infections materials.

(b) Employees shall remove all personal protective equipment prior to leaving their work area.

(c) When personal protective equipment is removed, employees shall place it in an appropriately designated area or container for storage, washing, decontamination or disposal.

(d) The town will provide gloves whenever it can be reasonably anticipated that an employee may have hand contact with blood, other potentially infectious materials, mucous membranes and nonintact skin; when performing vascular access procedures except as specified in this Chapter A130 of the Millinocket Code; and when handling or touching contaminated items or surfaces.

(e) Disposable (single-use) gloves, such as surgical or examination gloves, shall be replaced by employees as soon as practical when contaminated or as soon as feasible if they are torn or punctured or when their ability to function as a barrier is compromised. The town shall furnish the replacement gloves.

(f) Disposable (single-use) gloves shall not be washed or decontaminated for reuse.

(g) Utility gloves may be decontaminated for reuse if the integrity of the glove is not compromised. However, employees must discard any glove(s)

which are cracked, peeling, torn, punctured or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

(16) Phlebotomies and intravenous procedures.

(a) The town shall make gloves available to all employees who wish to use them for phlebotomy and intravenous procedures and shall not discourage the use of gloves for phlebotomy and intravenous procedures.

(b) The town requires that gloves be used for phlebotomy and intravenous procedures in the following circumstances:

[1] When the employee has cuts, scratches or other breaks in his or her skin.

[2] When the employee judges that any contamination with blood may occur, for example, when performing phlebotomy or intravenous procedures on an uncooperative source individual.

[3] When the employee is receiving training in phlebotomy or intravenous procedures.

(17) Protective equipment.

(a) Employees shall wear masks in combination with eye protection devices, such as goggles or glasses with solid side shields or chin length face shields, whenever splashes, spray, spatter or droplets of blood or other potentially infectious materials may be generated and eye, nose or mouth contamination can be reasonably anticipated.

(b) Appropriate protective clothing, such as but not limited to gowns, aprons, lab coats, clinic jackets or similar outer garments shall be worn by employees in occupational exposure

situations. The type and characteristics will depend upon the task and degree of exposure anticipated. The Town Health Officer shall determine the level of appropriate protective clothing for the task and degree of exposure anticipated.

(c) Surgical caps or hoods and/or shoe covers or boots shall be worn in instances when gross contamination can reasonably be anticipated (e.g., autopsies, orthopedic surgery, removal of victims from accident wreckage or buildings).

(18) The town shall ensure all of its work sites are maintained in a clean and sanitary condition. Each department head shall determine and implement an appropriate written schedule for cleaning and method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present and tasks or procedures being performed in the area. That schedule shall be approved by the town's Health Officer and Town Manager and shall become part of the Exposure Control Plan for that affected department and shall be reviewed as needed or on no less than on a yearly basis. At a minimum, such a schedule shall state that:

(a) All equipment and environmental and working surfaces, including those in vehicles, shall be cleaned and decontaminated immediately or as soon as feasible after contact with blood or other potentially infectious materials.

(b) Contaminated work surfaces, including those in vehicles, shall be decontaminated with an appropriate disinfectant after completion of procedures; immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials; and at each end of the work shift if

the surface might have become decontaminated since the last cleaning.

(c) Protective coverings, such as plastic wrap, aluminum foil or imperviously backed absorbent paper used to cover equipment and environmental surfaces, shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of each work shift if they might have become contaminated during the shift.

(d) All bins, pails, cans and similar receptacles intended for reuse which have a reasonable likelihood of becoming contaminated with blood or other potentially infectious materials shall be inspected and decontaminated on a daily basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.

(e) Broken glassware which may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dustpan, tongs, adhesives or forceps. A vacuum cleaner shall not be used due to the risk of gross microbial airborne contamination.

(f) Reusable sharps that are contaminated with blood or other potentially infectious materials shall not be stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.

(19) Procedures for disposing of containing contaminated sharps.

(a) Contaminated sharps shall be discarded immediately or as soon as feasible in containers that are closable puncture resistant, leakproof

on sides and bottom and labeled or color-coded in accordance with § A130-5 of the Millinocket Code.

(b) During use, containers for contaminated sharps shall be easily accessible to personnel and located as close as is feasible to the immediate area where sharps are used or can be reasonably anticipated to be found (e.g., laundries); maintained upright throughout use; and replaced routinely and not be allowed to overfill.

(c) When moving containers of contaminated sharps from the area of use, the containers shall be closed immediately prior to removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport or shipping or placed in a secondary container if leakage is possible. The second container shall be closable; constructed to contain all contents and prevent leakage during handling, storage, transport or shipping; and labeled or color-coded according to § A130-5 of the Millinocket Code.

(d) Reusable containers shall not be opened, emptied or cleaned manually or in any other manner which would expose employees to the risk of percutaneous injury.

(20) Other regulated waste shall be placed in containers which are closable and constructed to contain all contents and prevent leakage of fluids during, handling, storage, transport or shipping; labeled or color-coded in accordance with § A130-5 of the Millinocket Code; and closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport or shipping.

(a) If outside contamination of the regulated waste container occurs, it shall be placed in a second

container. The container shall be closable; constructed to contained all contents and prevent leakage of fluids during handling, storage, transport or shipping; labeled or color-coded in accordance with Chapter A130-5 of the Millinocket Code; and closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport or shipping.

(b) Disposal of all regulated waste shall be in accordance with applicable regulations of the United States, states and territories and political subdivisions of states and territories.

(21) Laundry.

(a) Contaminated laundry shall be handled as little as possible with a minimum of agitation.

(b) Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use.

(c) Contaminated laundry shall be placed and transported in bags or containers labeled or color-coded in accordance with § A130-5 of the Millinocket Code.

(d) Whenever contaminated laundry is wet and presents a reasonable likelihood of soak-through of or leakage from the bag or container, the laundry shall be placed and transported in bags or containers which prevent soak-through and/or leakage of fluids to the exterior.

(e) Employees who have contact with contaminated laundry must wear protective gloves and other appropriate personal protective equipment.

(f) The town will provide employees with a laundry facility and supplies suitable for the cleaning of contaminated laundry. If it should become

necessary for a town department to ship contaminated laundry to another department for cleaning or off site to a facility which does not utilize universal precautions in the handling of all laundry, the department generating the contaminated laundry must place such laundry in bags or containers which are labeled or color-coded in accordance with § A130-5 of the Millinocket Code.

(22) Compliance.

(a) The work practice and engineering controls shall be examined and maintained or replaced as needed, but no less than annually, by the Town Manager and department heads to ensure their effectiveness. Department heads, other supervisory personnel and all other employees shall ensure that these engineering and work practice controls are followed. The Town Manager and department heads will review and update the town's entire Exposure Control Plan as needed, but no less than annually, to reflect new or modified tasks and procedures which affect occupational exposure and to reflect new or revised employee positions with occupational exposure.

(b) The town will provide copies of its Exposure Control Plan to its employees and also to any state or federal official or agency which requests it.

(c) Each department head is responsible for ensuring that his or her department maintains the necessary supplies and equipment to ensure compliance with the town's Exposure Control Plan at all times. Each department head is also responsible for ensuring that their department's personnel are adequately trained in the Exposure Control Plan at all times and

must ensure that current employees and new hires are given proper training in exposure control as soon as feasible. Such training will be in accord with § A130-6 of the Millinocket Code. Each department head shall review the facilities and training within his department as often as necessary, but no less than annually, to ensure compliance with the Exposure Control Plan.

(d) Every employee shall report every violation of the engineering and workplace controls to his department head, who shall document, in writing, every such violation of the engineering and workplace controls which he becomes aware of. This report shall be forwarded to the Town Manager at the earliest opportunity for determination of the appropriate remedy of and/or disciplinary action for the violation. In addition, every employee shall report every violation of any other aspect of the Exposure Control Plan to his department head, who shall document, in writing, such violation of the Exposure Control Plan which he becomes aware of. This report shall be forwarded to the Town Manager at the earliest opportunity for determination of the appropriate remedy and/or disciplinary action for the violation.

(e) Any employee found to be acting in violation of the engineering and workplace controls or any other part of this Exposure Control Plan after receiving notice of and training about the same shall face discipline which includes but is not limited to verbal warning, written warning, suspension with pay, suspension without pay and/or termination. Because a single violation can lead to serious or terminal illnesses infecting the employee or others, termination shall be available as a penalty for a first

violation. Any department head failing to fulfill his obligations under the engineering and workplace controls or any other part of this Exposure Control Plan after receiving notice of and training about the same shall also face these disciplines. Such disciplinary authority is in accord with § A128-5 [specifically § A128-5B(7)] of the Millinocket Code.

§ A130-3. Hepatitis B.

A. Hepatitis B vaccination and postexposure evaluation and follow-up.

(1) The town shall make available the hepatitis B vaccine and vaccination series to all employees who have occupational exposure and postexposure evaluation and follow-up to all employees who have had an exposure incident.

(2) The town shall ensure that all medical evaluations and procedures, including the hepatitis B vaccine and vaccination series and postexposure evaluation and follow-up, including prophylaxis, are:

(a) Made available at no cost to employees.

(b) Made available to employees at a reasonable time and place.

(c) Performed by or under the supervision of a licensed physician or by or under the supervision of another licensed health-care professional.

(d) Provided according to recommendations of the United States Public Health Service current at the time these evaluations and procedures take place, except as otherwise specified in Chapter A130 of the Millinocket Code.

(3) The town shall ensure that all laboratory tests are conducted by an accredited laboratory at no cost to employees.

B. The town shall make hepatitis B vaccination available after an employee has received the training required in § A130-6 of the Millinocket Code or not later than within ten (10) working days of initial assignment of any employees who have occupational exposure, unless the employee has previously received the complete hepatitis B vaccination series, or antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

(1) The town shall not make participation in a prescreening program a prerequisite for receiving hepatitis B vaccination.

(2) If an employee initially declines a hepatitis B vaccination but at a later date, while still covered under the standard, decides to accept the vaccination, the town shall make a hepatitis B vaccination available at that time.

(3) The town shall ensure that an employee who declines the hepatitis B vaccination offered by the town signs a statement in accordance with § A130-8 of the Millinocket Code.

(4) If a routine booster dose(s) of hepatitis B vaccine is recommended by the United States Public Health Service at a future date, such booster dose(s) shall be made available in accordance with this Chapter A130 of the Millinocket Code and applicable state and federal law.

(5) Compliance with this requirement is controlled by § A130-2C(22) of the Millinocket Code.

§ A130-4. Exposure incident protocol.

Postexposure evaluation and follow-up shall include the following:

A. Following a report of an exposure incident, the Town Manager, Town Health Officer and/or the employee's department head shall ensure that the town makes immediately available to the exposed employee a confidential medical evaluation and follow-up, including at least the following elements:

(1) Documentation of the route(s) of exposure and the circumstances under which the exposure incident occurred.

(2) Identification and documentation of the source individual, unless identification is clearly not feasible or is prohibited by law.

B. The source individual's blood shall be tested as soon as feasible and after consent is obtained in order to determine HIV or HBV infectivity. If consent is not obtained, the Town Manger or Town Health Officer will document that legally required consent cannot be obtained. When the source individual's consent is not required by law, the source individual's blood, if available, shall be tested and the results documented.

C. When the source individual is already known to be infected with HBV or HIV, testing for the source individual's known HBV or HIV status need not be repeated.

D. Collection and testing of blood for HBV and HIV serological status shall be performed as follows:

(1) The exposed employee's blood shall be collected as soon as feasible and tested after consent is obtained.

(2) If the employee consents to baseline blood collection but does not give consent at that time for HIV serologic testing, the sample shall be preserved for at least ninety (90) days. If within ninety (90) days

of the exposure incident, the employee elects to have the baseline sample tested, such testing shall be done as soon as feasible.

E. The town shall provide postexposure prophylaxis, when medically indicated, as recommended by the United States Public Health Service, by way of:

(1) Counseling; and

(2) Evaluation of reported illnesses.

F. The town shall ensure that the health care professional responsible for the employee's hepatitis B vaccination is provided a copy of 29 CFR Part 1910.1030. The town shall ensure that the health care professional evaluating an employee after an exposure incident is provided the following information:

(1) A copy of 29 CFR Part 1910.1030.

(2) A description of the exposed employee's duties as they relate to the exposure incident.

(3) Documentation of the route(s) of exposure and circumstances under which exposure occurred.

(4) Results of the source individual's blood testing, if available.

(5) All medical records relevant to the appropriate treatment of the employee, including vaccination status, which are the town's responsibility to maintain pursuant to § A130-7 of the Millinocket Code.

G. The town shall obtain and provide the employee with a copy of the evaluating health care professional's written opinion within fifteen (15) days of the completion of the evaluation.

(1) The health care professional's written opinion for hepatitis B vaccination shall be limited to whether hepatitis B vaccination is indicated for an employee and if the employee has received such vaccination.

H. Written evaluation.

(1) The town shall require that the health care professional's written opinion for postexposure evaluation and follow-up shall be limited to the following information:

(a) That the employee has been informed of the results of the evaluation.

(b) That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

(2) All other findings or diagnoses shall remain confidential and shall not be included in the written opinion for postexposure evaluation.

(3) Medical records required herein shall be maintained in accordance with § A130-7 of the Millinocket Code.

I. Compliance with these requirements is controlled by § A130-2C(22) of the Millinocket Code.

§ A130-5. Communication of biohazardous dangers.

A. Communication of hazards to employees; labels and signs.

(1) Labels. Warning labels shall be affixed to containers of regulated waste, refrigerators and freezers containing blood or other potentially infectious material and other containers used to store, transport or ship blood or other potentially infectious materials, except as provided in Chapter A130-5 of the Millinocket Code. The town shall ensure that these labels are available at all times.

(2) Labels required by this section of the Town Code shall include the following legend:

BIOHAZARD

(3) These labels shall be fluorescent orange or orange-red, or predominantly so, with lettering or symbols in a contrasting color.

(4) Labels required by this section of the Town Code shall be affixed to or as close as feasible to the container by string, wire, adhesive or other method that prevents their loss or unintentional removal.

(5) Red bags or red containers may be substituted for labels.

(6) Containers of blood, blood components or blood products that are labeled as to their contents and have been released for transfusion or other clinical use are exempted from the labeling requirements of § A130-5 of the Millinocket Code.

(7) Individual containers of blood or other potentially infectious materials that are placed in a labeled container during storage, transport, shipment or disposal are exempted from the labeling requirement.

(8) Labels required for contaminated equipment shall be in accordance with § A130-5 of the Millinocket Code and shall also state which parts of the equipment remain contaminated.

(9) Regulated waste that has been decontaminated need not be labeled or color-coded.

(10) The town shall ensure signs are posted at the entrance to work areas where exposure to bloodborne pathogens may be reasonably anticipated and in departments whose personnel may reasonably anticipate occupational exposure to bloodborne pathogens, which signs shall bear the following legend:

BIOHAZARD

(Name of the infectious agent)
(Special requirements for entering the area)
(Name, telephone number of the department head or other responsible person)

(11) These signs shall be fluorescent orange-red, or predominantly so, with lettering or symbols in a contrasting color.

(12) Compliance with these requirements is controlled by § A130-2C(22) of the Millinocket Code.

§ A130-6. Information and training.

The town shall ensure that all employees with occupational exposure participate in a training program which will be provided at no cost to the employee and during working hours.

A. Training shall be provided as follows:

(1) At the time of initial assignment to tasks where occupational exposure may take place.

(2) By October 6, 1992.

(3) At least annually thereafter.

(4) For employees who have received training on bloodborne pathogens prior to the adoption of this Chapter A130 of the Millinocket Code, only training with respect to the provisions of Chapter A130 of the Millinocket Code which was not included need be provided.

(5) Annual training for all employees shall be provided within one (1) year of their previous training.

(6) The town shall provide additional training when changes (such as modification of tasks or procedures or institution of new task or procedures) affects the employee's occupational exposure. The additional

training may be limited to addressing the new exposures created.

(7) Material appropriate in content and vocabulary to educational level, literacy and language of employees shall be used.

B. Training program.

(1) The town's training program shall contain at a minimum the following elements:

(a) An accessible copy of 29 CFR 1910.1030 and an explanation of its contents.

(b) A general explanation of the epidemiology and symptoms of bloodborne diseases.

(c) An explanation of the modes of transmission of bloodborne pathogens.

(d) A copy of and explanation of Chapter A130 of the Millinocket Code, including its exposure control component and the means by which the employee can obtain additional copies of Chapter A130 of the Millinocket Code.

(e) An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials.

(f) An explanation of the use and limitations of methods that will prevent or reduce exposure, including appropriate engineering controls, work practices and personal protective equipment.

(g) Information on the types, proper use, location, removal, handling, decontamination and disposal of personal protective equipment.

(h) An explanation of the basis for selection of personal protective equipment.

(i) Information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated and that the vaccine and vaccination will be offered free of charge.

(j) Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials.

(k) An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available.

(l) Information on the postexposure evaluation and follow-up that the town will provide for its employees following an exposure incident.

(m) An explanation of the signs and labels and/or color-coding required by Chapter A130-5 of the Millinocket Code.

(n) An opportunity for interactive questions and answers with the person conducting the training session.

(2) The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address.

C. Compliance with these requirements is controlled by § A130-2C(22) of the Millinocket Code.

§ A130-7. Medical recordkeeping.

The town shall establish and maintain an accurate record for each employee with occupational exposure, in accordance with 29 CFR 1910.20.

A. This record shall become an integral part of the employee's personnel record. This record shall include:

(1) The name and social security number of the employee.

(2) A copy of the employee's hepatitis B vaccination status, including the dates of all the hepatitis B vaccinations and any medical records relative to the employee's ability to receive vaccination as required by this § A130-7 of the Millinocket Code.

(3) A copy of all results of examinations, medical testing and follow-up procedures as required by § A130-7 of the Millinocket Code.

(4) The employer's copy of the health care professional's written opinion as required by § A130-7 of the Millinocket Code.

(5) A copy of the information provided to the health care professional as required by § A130-7 of the Millinocket Code.

B. The town shall ensure that employee medical records required by this § A130-7 of the Millinocket Code are kept confidential and are not disclosed or reported without the employee's express written consent to any person within or outside the workplace, except as required by § A130-7 of the Millinocket Code, 29 CFR Section 1910.1030 or as may be otherwise required by state or federal law.

C. The town shall maintain the records required above for at least the duration of employment, plus thirty (30) years, in accordance with 29 CFR 1910.20.

D. The town shall also keep training records in the employee's personnel file and in a separate master training records file. These training records shall include the following information:

(1) The dates of the training sessions.

(2) The contents or a summary of the training sessions.

(3) The names and qualifications of persons conducting the training.

(4) The names and job titles of all persons attending the training sessions.

(5) Training records shall be maintained for at least three (3) years from the date on which the training occurred.

E. The town shall ensure that all such records maintained shall be made available upon request to any state or federal agent or agency authorized by law to access such information.

F. Employee training records shall be provided upon request for examination and copying to employees, to employee representatives, to the Assistant Secretary of Labor for the Occupational Safety and Health Administration and/or the Director of the National Institute of Health for the Occupational Safety and Health Administration, United States Department of Labor, in accordance with 29 CFR 1910.20.

G. Employee medical records required by this section of the Town Code shall be provided upon request for examination and copying to the employee, to anyone having written consent of the employee or to the federal officials designated in the preceding subsection.

H. The town shall comply with the requirements involving transfer of records set forth in 29 CFR 1910.20(h) as follows:

(1) If the town ceases its present municipal organization, and there is no successor organization to receive and retain the records for the prescribed period, the town shall notify the Assistant Secretary of Labor for the Occupational Safety and Health Administration and/or the Director of the National Institute of Health for the Occupational Safety and

Health Administration, United States Department of Labor, at least three (3) months prior to any disposal of such records and transmit them to the Assistant Secretary of Labor for the Occupational Safety and Health Administration and/or the Director of the National Institute of Health for the Occupational Safety and Health Administration, United States Department of Labor, if required by law to do so, or to the Assistant Secretary of Labor for the Occupational Safety and Health Administration and/or the Director of the National Institute of Health for the Occupational Safety and Health Administration, United States Department of Labor, within that three-month period. This information will also be presented to, if requested by, the Maine Department of Human Services.

I. Compliance with the above requirements is controlled by § A130-2C(22) of the Millinocket Code.

§ A130-8. Hepatitis B vaccine declination (mandatory).

Employees who decline a hepatitis B vaccination must execute a properly notarized waiver which shall read as follows:

"I understand that, due to my occupational exposure to blood or other potentially infectious materials, I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious and potentially fatal disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me."

SIGNED: _____

Signature of Employee

STATE OF MAINE

PENOBSCOT, ss.

Now comes before me the above-signed _____, and states his/her signing of this document to be his/her free act and deed.

DATED: ___/___/___

_____
NOTARY PUBLIC

Chapter A131

FAMILY MEDICAL LEAVE POLICY

§ A131-1. Policy; intent.
§ A131-2. Definitions.
§ A131-3. Requirement of notice; entitlement to leave.
§ A131-4. Intermittent family and medical leave.
§ A131-5. Certification.
§ A131-6. Second opinion.
§ A131-7. Conflicting opinions of certification.
§ A131-8. Subsequent recertification.
§ A131-9. Restoration to employment position.
§ A131-10. Denial of restoration.
§ A131-11. Maintenance of health benefits.
§ A131-12. Failure to return to work; effect on health benefits paid.
§ A131-13. Maintenance of other benefits.
§ A131-14. Responsibilities concerning leave.
§ A131-15. Special considerations; administration.

[HISTORY: Adopted by the Town Council of the Town of Millinocket 6-11-1998 by Ord. No. 2-98. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policy — See Ch. A128.

§ A131-1. Policy; intent.

A. This policy is designed to comply with United States Public Law 103-3 (Sections 6381 through 6387 of Title 5, United States Code) and 26 M.R.S.A. § 843 et seq., which are the federal and state Family Leave Acts, and to balance the demands of the workplace with the needs of families. The town recognizes the occasional need for employees to take temporary leaves for the birth and care of a child, for the placement of a child with the employee for adoption or foster care, for a serious health condition of the employee or of a member of the employee's immediate family. This policy establishes eligibility guidelines which an employee must meet before a request is granted, as well as the guidelines which are to be observed throughout the process.

B. It is the policy of the town to grant eligible employees up to 12 work weeks of leave during any twelve-month period commencing on the day of approval of his or her family leave for one or more of the following reasons:

(1) The birth of a child of the employee and in order to care for the child.

(2) The placement of a child with the employee for adoption or foster care.

(3) A serious health condition which makes the employee unable to perform his or her job functions.

(4) To care for the spouse, child or parent of the employee if such individual has a serious health condition.

§ A131-2. Definitions.

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

ELIGIBLE EMPLOYEE — An employee who has been employed for at least 12 months by the town and has

performed at least 1,250 hours of service during that period.

FAMILY AND MEDICAL LEAVE:

A. A total of 12 workweeks of leave during any twelve-month period for reason(s) defined by this policy.

(1) During the first 60 days this policy is in effect, a "twelve-month period" shall be defined, at the employee's election, as one of the following:

(a) The calendar year;

(b) Any fixed twelve-month leave year, such as a fiscal year, a year required by state law or a year starting on an employee's anniversary date;

(c) The twelve-month period measured forward from the date any employee's first leave under this policy begins; or

(d) A rolling twelve-month period measured backward from the date an employee uses leave under this policy (except that such measure may not extend back before August 5, 1993).

(2) Commencing on the 61st day after this policy is in effect, a "twelve-month period" shall be defined as in Subsection A(1)(d) above. This definition shall be applicable to all employees governed by this policy. Should another definition of twelve-month period be adopted, employees will be given not less than 60 days' notice of the proposed redefinition. Any redefinition of twelve-month period shall allow employees to retain the full benefit of 12 weeks of leave under whichever definition at Subsection A(1)(a) through (d) above affords the greatest benefit to employees.

B. The employee who begins a family and medical leave has the option to draw down from accrued benefits/earned time prior to being on leave on an unpaid basis. If an employee opts to use accrued benefits, benefits are to be drawn down in the following order: sick time; vacation time; personal time. The total aggregate family and medical leave taken in any twelve-month period, as defined above, is limited to 12 weeks, whether or not any or all of that 12 weeks includes accumulated benefits/earned time and whether or not any or all of that 12 weeks is paid or unpaid.

HEALTH CARE PROVIDER:

A. Includes:

(1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices;

(2) Any other person determined by the Secretary of Labor to be capable of providing health care services, including but not limited to podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) licensed or authorized to practice in the state and performing within the scope of their practice as defined under state law;

(3) Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under state law and who are performing within the scope of their practice as defined under state law;

(4) Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts;

(5) Any healthcare provider from whom the town or its group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and

(6) A healthcare provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country and who is performing within the scope of his or her practice as defined under such law.

B. Where an employee or family member is receiving treatment under Subsection A(4), an employee may not object to any requirement from the town that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than that described in Subsection A(4).

SERIOUS HEALTH CONDITION:

A. An illness, injury, impairment or physical or mental condition that involves:

(1) Inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility, including any period of "incapacity" (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor or recovery therefrom) or any subsequent treatment in connection with such inpatient care; or

(2) Continuing treatment by a healthcare provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(a) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor or recovery therefrom) of more than three consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involve:

[1] Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider or by a provider of health care service (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

[2] Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(b) Any period of incapacity due to pregnancy or for prenatal care.

(c) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A "chronic serious health condition" is one which:

[1] Requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under direct supervision of a health care provider;

[2] Continues over an extended period of time (including recurring episodes of a single underlying condition); and

[3] May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.)

(d) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke or the terminal stages of a disease.

(e) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

B. Treatment for purposes of Subsection A of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations or dental examinations. Under Subsection A(2)(a)[2], a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the

taking of over-the-counter medications such as aspirin, antihistamines or salves or bed rest, drinking fluids, exercise and other similar activities that can be initiated without a visit to a health care provider is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of leave under this policy.

C. Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for leave in this policy. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions, provided that all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be a serious health condition, but only if all the conditions of this section are met.

D. Substance abuse may be a serious health condition if the conditions of this section are met. However, leave under this policy may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for leave under this policy.

E. Absences attributable to incapacity under Subsection A(2)(b) or (c) qualify for leave under this policy even though the employee or the immediate family member does not receive treatment from a

health care provider during the absence and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

SON or DAUGHTER — A biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis who is under 18 years of age or 18 years or older and incapable of self-care because of a mental or physical disability.

§ A131-3. Requirement of notice; entitlement to leave.

A. In any case in which the necessity for leave is foreseeable (birth, placement, planned medical treatment), the employee will provide written notice and certification to the Personnel Director and department head not less than 30 days before the date of the leave is to begin. This is with the exception that if the circumstances of the date of birth, placement or treatment requires leave to begin in less than 30 days, the employee will provide written notice and certification as soon thereafter as possible.

B. In any case in which the necessity for leave is foreseeable based on planned medical treatment, the employee will make a reasonable effort to schedule the treatment so as not to disrupt unduly the operation of the employer, subject to the approval of the employee's healthcare provider or of the immediate family member's healthcare provider.

C. In any case in which a husband and wife entitled to leave are employed by the town, the aggregate number of workweeks of leave to which both may be entitled will be

limited to 12 workweeks during any twelve-month period if such leave is for the birth of a child or to care for the new child, the placement of a child with the employee for adoption or foster care or to care for a member of the employee's immediate family who has a serious health condition. The entitlement to leave for a birth or placement of a child will expire at the end of the twelve-month period beginning on the date such birth or placement leave was commenced.

§ A131-4. Intermittent family and medical leave.

Leave may be taken intermittently or on a reduced leave schedule under certain circumstances. Where family and medical leave is taken to care for a sick family member or for an employee's own serious health condition, leave may be taken intermittently or on a reduced leave schedule when medically necessary.

A. There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule. However, the town limits leave increments to the shortest period of time (one hour or less) that its payroll system uses to account for absences or use of leave.

B. If an employee requests intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, including during a period of recovery from a serious health condition, the town may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position.

C. Transfer to an alternative position will comply with any applicable collective bargaining agreement, federal law (such as the Americans with Disabilities Act) and state law. Transfer to an alternative position may include

altering an existing job to better accommodate the employee's need for intermittent or reduced leave.

D. The alternative position will have equivalent pay and benefits. An alternative position for these purposes does not have to have equivalent duties. The town may increase the pay and benefits of the returning employee performing an existing alternative position so as to make them equivalent to the employee's regular job. The town may also transfer the employee to a part-time job with the same hourly rate of pay and benefits, provided that the employee is not required to take more leave than is medically necessary. The town will not eliminate benefits which otherwise would not be provided to a full-time employee who because of FML has temporarily become a part-time employee; however, the town may proportionately reduce earned time benefits, such as vacation leave, where such a reduction is normally made by the town as applies to part-time employees.

E. Intermittent leave or leave on a reduced leave schedule is not available because of birth or placement of a child for adoption or foster care unless the child has a serious health condition as defined in this policy.

§ A131-5. Certification.

The town requires that a request for a family or medical leave be supported by a certification issued by the healthcare provider of the employee or of the employee's immediate family member, as appropriate. The employee will provide the town, in a timely manner, a copy of such certification. Certification will be considered sufficient if it states:

A. The date on which the serious health condition commenced.

B. The probable duration of the condition.

C. The appropriate medical facts within the knowledge of the healthcare provider regarding the condition.

D. For purposes of leave, a statement that the eligible employee is needed to care for the member of the immediate family member and an estimate of the amount of time that such employee is needed to care for the member of the immediate family.

E. For purposes of leave, a statement that the employee is unable to perform the functions of the position of the employee.

F. In the case of certification for intermittent leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

G. In the case of certification for intermittent leave for medical necessity as it pertains to the employee, a statement of the medical necessity for the intermittent or reduced leave schedule and the expected duration of the intermittent or reduced schedule.

H. In the case of certification for intermittent leave for the purpose of caring for an immediate family member, a statement that it is necessary for the employee to care and to assist in the recovery of the immediate family member and the expected duration and schedule of intermittent leave.

§ A131-6. Second opinion.

The town may require, at its expense, that the eligible employee obtain the opinion of a second healthcare provider designated or approved by the employer concerning any information certified for such leave. A healthcare provider designated shall not be employed on a regular basis by the employer.

§ A131-7. Conflicting opinions of certification.

In any case in which the second opinion differs from the opinion in the original certification, the town may require, at its expense, that the employee obtain the opinion of a third healthcare provider designated or approved jointly by the town and the employee concerning the information certified. The opinion of the third healthcare provider will be considered to be final and binding on the town and the employee.

§ A131-8. Subsequent recertification.

A. The town may request recertification at its expense at any reasonable interval, but not more often than every 30 days, unless:

(1) The employee requests an extension of leave.

(2) Circumstances described by the original certification have changed significantly (e.g., the duration of the illness, the nature of the illness, complications); or

(3) The town receives information that casts doubt upon the continuing validity of the certification.

B. When an employee is unable to return to work after family and medical leave because of the continuation, recurrence or onset of a serious health condition, thereby preventing the town from recovering its share of health benefit premium payments made on the employee's behalf during a period of unpaid FML leave, the town may require medical certification of the employee's or the family member's serious health condition.

§ A131-9. Restoration to employment position.

A. Any eligible employee who takes a family or medical leave is entitled, upon return from such leave, to be restored by the town to the position of employment held by the employee when the leave commenced or to be restored to an equivalent position with equivalent

employment benefits, pay and other terms and conditions of employment.

B. As a condition of job restoration for an employee who was out for the birth of a child or because of a serious health condition that made the employee unable to do the functions of his/her job, the town requires that the employee receive certification from his/her healthcare provider that the employee is able to resume work and to what capacity.

C. The town may require the employee on leave to report periodically to the Personnel Director on his/her status and intention to return to work.

D. If an employee is unable to return to work because of the continuation, recurrence or onset of a serious health condition (previously defined), the town requires the employee to provide certification, from the employee's healthcare provider or the healthcare provider of the employee's immediate family member, such as the case may be. The certification will be considered sufficient if it follows the guidelines already cited in this policy, as well as stating that a serious health condition prevented the employee from being able to perform the functions of the job position on the date that the leave expired, or that the employee is needed to care for the immediate family member who has a serious health condition on the date that the leave of the employee expired.

E. No employee will have a greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the family and medical leave period. If the town determines an employee would not otherwise have been employed at the time reinstatement is requested, that employee may not expect to be restored to employment. For example, if the town determines an employee would have been laid off during the family and medical leave period, that employee would not be entitled to reinstatement.

F. If an employee was hired for a specific term or only to perform work on a discrete project, the town has no obligation to restore the employee if the employment term or project is over and the town would not otherwise have continued to employ the employee.

§ A131-10. Denial of restoration.

The town may deny restoration to certain highly compensated employees if such denial is necessary to prevent substantial and grievous economic injury to the operations of the town. The town will notify the employee of the intent to deny restoration on such basis at the time the town determines that such injury will occur. In any case in which the leave has occurred and the employee receives such notice, the employee may elect not to return to employment. A highly compensated employee is a salaried employee who is among the highest paid 10% of the employees employed by the town within 75 miles of the facility.

§ A131-11. Maintenance of health benefits.

During any period that an eligible employee takes family or medical leave, the town will maintain coverage for the employee under the town's group health plan for the duration of such leave at the level and under the conditions coverage would have been provided to the employee had the leave not taken place. If an employee does not have accrued payroll benefits to pay his/her portion of the health plan premium or if she/he uses up his/her accrued benefits during the timeframe of his/her leave, then she/he can arrange with the Personnel Director to pay his/her premium portion directly to the town. The first time the employee does not pay his/her premium portion when due, loss of coverage for nonpayment will occur, and, at such time, the Personnel Director will offer COBRA benefits to the employee.

§ A131-12. Failure to return to work; effect on health benefits paid.

If the employee fails to return from leave after the period of leave to which the employee is entitled has expired or for a reason other than the continuation, recurrence or onset of a serious health condition that entitles the employee to leave, then the employee is to reimburse the town for the town's portion of the group health premiums paid for the benefit of that employee during the time she/he was out on unpaid leave.

§ A131-13. Maintenance of other benefits.

For employees on leave under this policy, the town will maintain other benefits for the duration of such leave at the level and under the conditions coverage would have been provided to the employee had the leave not taken place. If applicable, this includes employee dental, life insurance and long-term disability. If an employee does not have accrued payroll benefits to pay his/her portion of a benefit plan premium or if she/he uses up his/her accrued benefits during the timeframe of his/her leave, then she/he can arrange with the Personnel Director to pay his/her premium portion directly to the town. Failure of the employee to pay his/her premium portion when due will result in loss of coverage.

§ A131-14. Responsibilities concerning leave.

A. Except in emergency situations, an employee requesting a leave must do so in writing to his/her department head with a copy to the Personnel Director. As explained earlier in this policy, certification by a healthcare provider attesting to the seriousness of the healthcare condition is necessary. The requirements of notice and certification are listed in §§ A131-3 and A131-5. Before actual leave is to begin, the employee is required to make an appointment with the Personnel Director to review the status of his/her benefits. It is essential that department heads inform the Personnel Director of any

requests for family or medical leave as soon as they become aware of the request.

B. This particular policy is very specific in its focus and demands a high degree of communication among the employee and the employer.

§ A131-15. Special considerations; administration.

A. The Federal Family and Medical Leave Act became effective on August 5, 1993. For employees covered by collective bargaining agreements, the Act and this policy became effective when the collective bargaining agreement/s terminates or by February 5, 1994, whichever date is earlier. Nothing in the federal Act or this policy is meant to diminish the obligation of the town to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family or medical leave right to employees.

B. Nothing in the federal Act or this policy shall be construed to modify or affect any federal or state law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age or disability.

C. The town will post and keep posted, in conspicuous places on the premises where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary of Labor, setting forth excerpts from or summaries of the pertinent provisions of the federal law.

D. An eligible employee may sue the town in Federal Court for any lost wages, salary, employment benefits and/or other compensation denied or lost by reason of a violation of the federal law, up to a sum equal to 12 weeks of wages or salary of the employee; this sum shall include interest, and, if the Court determines that the employer was not acting in good faith, the employee may receive an amount equal to twice 12 weeks' wages or

salary plus interest, and liquidated damages. The employee can also recover reasonable attorney's fees, witness fees and other costs of the action, and also has as a remedy any equitable relief that the Court may deem appropriate.

E. The Secretary of Labor may also enforce the federal Act on behalf of employees.

F. The town must preserve records of family and medical leaves, consistent with state and federal law, which may be inspected by the Secretary of Labor.

G. The town will administer its Family and Medical Leave Policy so as to accommodate applicable collective bargaining provisions until February 5, 1994, and so as to comply with the Americans With Disabilities Act.

H. This policy is designed to comply with United States Public Law 103-3 (5 U.S.C. §§ 6381 through 6387) and 26 M.R.S.A. § 843 et seq., which are the federal and state Family and Medical Leave Acts, and if or where inconsistent with the provisions of those statutes and their amendments, the statutes, as amended, shall control.

DISPOSITION LIST

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Town of Millinocket adopted since January 1, 2002, indicating its inclusion 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).] Consult municipal records for disposition of prior legislation.

Ordinance No.	Adoption Date	Subject	Disposition
	1-1-2002	Personnel policies amendment	Ch. A128
1-2002	8-22-2002	Zoning amendment	Ch. 125
2-2002	8-22-2002	Building Code amendment	Ch. 48
3-2002	8-22-2002	Life Safety Code amendment	Ch. 49
4-2002	8-22-2002	Dogs amendment	Ch. 61
5-2002	10-24-2002	General assistance amendment	See Ch. 75
7-2002	1-9-2003	Capital budget	Ch. 7, Art. I
1-2003	1-23-2003	Sewers amendment	Ch. 104
2-2003	7-10-2003	Solid waste amendment	Ch. 73
4-2003	12-11-2003	Snow removal amendment	Ch. 108, Art. I

Ordinance No.	Adoption Date	Subject	Disposition
5-2003	12-11-2003	Warrant review and approval	Ch. 29A
1-2004	3-11-2004	Zoning amendment	Ch. 125
2-2004	12-9-2004	Zoning amendment	Ch. 125
1-2005	6-9-2005	Floodplain management amendment	Ch. 68
2-2005	9-8-2005	Petitions	Ch. 4
3-2005	9-22-2005	Warrant review and approval amendment	Ch. 29A
4-2005		General assistance amendment	See Ch. 75
5-2005	12-8-2005	Zoning Map amendment	Ch. 125, table only
1-2006	3-9-2006	Zoning Map amendment	Ch. 125, table only
2-2006			Failed
3-2006			Failed
4-2006	10-26-2006	Outdoor wood boilers	Ch. 86
5-2006	10-26-2006	General assistance amendment	See Ch. 75
6-2006	12-14-2006	Zoning Map amendment	Ch. 125, table only
1-2007	5-24-2007	Salaries and compensation: Town Council amendment	Ch. 27, Art. I
2-2007		General assistance amendment	See Ch. 75
3-2007		General assistance amendment	See Ch. 75

Ordinance No.	Adoption Date	Subject	Disposition
1-2008		General assistance amendment	See Ch. 75
1-2009		General assistance amendment	See Ch. 75
2-2009	9-24-2009	Solid waste amendment	Ch. 73
1-2010	6-24-2010	Wind turbines	Ch. 123

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