

CITY OF GARDINER

CODE



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CITY OF GARDINER CODE

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TITLE 1

GENERAL PROVISIONS

CHAPTER

- 1.1 Adopting Ordinance**
- 1.2 Ward Boundaries**
- 1.3 City Council**
- 1.4 Licenses**
- 1.5 Miscellaneous**
- 1.6 Fiscal Year**

CHAPTER 1.1

Adopting Ordinance

SECTION

- 1.1.1 City of Gardiner Code**
- 1.1.2 Repeal**
- 1.1.3 Matters not Repealed**
- 1.1.4 Amendments**
- 1.1.5 Public Information**
- 1.1.6 Separability**
- 1.1.7 Penalties**
- 1.1.8 Effective Date**
- 1.1.9 Publication**

An Ordinance to Revise and Codify the Ordinances of the City of Gardiner.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDINER
THAT:

Section 1.1.1 City of Gardiner Code

This ordinance, is hereby adopted and enacted as the "City of Gardiner Code," and shall be treated and considered as a new and comprehensive ordinance which shall supersede all other ordinances passed by any duly constituted legislative authority of the City of Gardiner prior to the effective date of this ordinance, except such as by reference thereto are expressly saved from repeal or continued in force and effect for any purpose.

Section 1.1.2 Repeal

All provisions of such Code shall be in full force and effect as provided in Section 1.1.8 hereof and all ordinances of the City of Gardiner not included in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided. No resolution of the City of Gardiner, not inconsistent with any of the provisions of such Code or not specifically mentioned, is hereby

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repealed.

Section 1.1.3 Matters not Repealed

The repeal provided for in Section marked 1.1.2 hereof shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money by the city; or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness; or any contract or obligation assumed by the city; nor shall such repeal affect the administrative ordinances or resolutions of the city council or any prior duly constituted legislative authority, not in conflict or inconsistent with the provisions of such Code; nor shall such repeal affect any right of franchise granted by any ordinance or resolution of any preceding governing body to any person, firm or corporation; nor shall such repeal affect any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, or vacating any street or public way in the City of Gardiner; nor shall such repeal affect ordinances prescribing traffic regulations for specific locations, prescribing through streets, parking prohibitions, parking limitations, one-way traffic, limitations on load of vehicles or loading zones, not inconsistent with such Code; nor shall such Code affect any amendment to the zoning map on file in the office of the city clerk; nor shall such repeal affect any ordinance establishing and prescribing the street grades of any street in the city; nor shall such repeal affect any ordinance providing for local improvements and assessing taxes therefor; nor shall such repeal affect any ordinance dedicating or accepting any plat or subdivision in the city; nor shall such repeal affect any ordinance authorizing any encroachment on any city or public property; nor shall such repeal affect any ordinance or Code or parts thereof adopted by reference by any section of this Code and not included herein; nor shall such repeal be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 1.1.4 Amendments

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

Section 1.1.5 Public Information

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

Section 1.1.6 Separability

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

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Section 1.1.7 Penalties

1.1.7.1 It shall be unlawful for any person, firm, partnership, association, organization or corporation to violate or fail to comply with any provision of the City of Gardiner Code and where no specific penalty is provided therein, the violation of any provision of this Code shall be punished by a fine of not more than **\$100**. Such fines shall be recovered on complaint to the use of the City of Gardiner. Each day any such violation shall continue shall constitute a separate offense and shall be punishable as such.

1.1.7.2 In all cases where a fine shall have been incurred by a minor, either parent, master or guardian shall be held liable therefore as provided in paragraph 1.1.7.1 of this section.

Cross references: **Penalties covering regulations generally, see 1954 R. S. ch. 90-A, 3, V.**
Plumbing Violations, see 1954 R.S. ch. 25, ss. 177.
Traffic Violations, ss. 1954 R.S. ch. 22, ss. 164.

Section 1.1.8 Effective Date

Such Code and any additions or amendments thereto shall be passed by the city council after being read on two separate days unless such reading is dispensed with by vote of **five-sixths** of the voting members of the council. The yeas and nays shall be taken and entered on the record of the proceedings of the council by **clerk**. The affirmative vote of a majority of the voting members shall be required for final passage. Before final passing, such Code or any additions or amendments thereto shall be posted marked "Proposed Ordinance," at the City Hall and shall take effect and be in full force and effect 30 days from and after it shall have received final passage by the city council.

Section 1.1.9 Publication

The Code shall be published in book or pamphlet form pursuant to the provisions of the **R.S. of 1954, as amended, Chapter 90-A, Section 5**. Additions or amendments, within 15 days after final passage, shall be published in one or more of the newspapers circulated in the City of Gardiner, and the Code shall be revised annually by the city clerk so as to incorporate such additions or amendments.

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CHAPTER 1.2

Ward Boundaries

SECTION

1.2.1 Ward Boundaries

Section 1.2.1 Ward Boundaries

The ward boundaries of the City of Gardiner are shown upon a map entitled, "Ward Boundaries of the City of Gardiner, Maine," dated 2012¹ and filed in the office of the city clerk. Said map is hereby incorporated in and made a part of this ordinance. Where uncertainty exists with respect to the boundaries of the various districts as shown on the said map, the following rules shall apply:

1.2.1.1 Unless otherwise indicated, ward boundary lines are the centerlines, platted at the time of adoption or amendment of said map of streets, alleys, waterways, or right-of-way of public utilities and road or such lines extended.

1.2.1.2 Other boundary lines, which are not listed in the preceding paragraph, shall be considered as lines paralleling a street and at a distance from centerlines, platted at the time of adoption or amendment of this map of the traveled portions of such streets as stated on said map; or, in certain instances, well established property lines.

Cross references: **Review of Ward Boundaries every ten years.
City Charter, Art. II, ss. I.**

¹ Amended April 4, 2012

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CHAPTER 1.3

City Council

SECTION

- 1.3.1 Monthly Meetings
- 1.3.2 Legal Holidays, Postponement of Meetings
- 1.3.3 Special Meetings

Section 1.3.1 Monthly meeting

The monthly meetings of the City Council shall be held on the first Wednesday of each month at **7:00** p.m.

Cross references: **Meetings, see City Charter, Art. II, ss. 4, 5;**
 quorum, see City Charter, Art. II, ss. 6.

Section 1.3.2 Legal Holiday, Postponement of Meetings

In the event that the first Monday of any month shall fall on a legal holiday, the meeting shall be held on the next succeeding day at the same time.

Section 1.3.3 Special Meetings

Nothing in this chapter shall be construed as regulating or limiting the holding of special meetings.

Cross reference: **Notice, see City Charter, Art. II, ss. 5.**

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CHAPTER 1.4

Licenses

SECTION

- 1.4.1 Issuance
- 1.4.2 Fees
- 1.4.3 Expiration
- 1.4.4 Special Events Permit

Collateral references: **For similar provisions, see Nimlo Model Ordinance Service, section 4-101 et seq.**

Section 1.4.1 Issuance

1.4.1.1 Unless otherwise specifically provided, all licenses required by the Revised Statutes of Maine or by the City of Gardiner Code shall be issued by the City Clerk.

1.4.1.2 Licensing standards and criteria.

In determining whether to grant or deny a license or permit required hereunder, the City Clerk shall determine whether the applicant complies with all standards and criteria for the issuance of said license or permit as may be established by ordinance or statute.

1.4.1.2.1 In addition, unless otherwise prohibited by law, there must be an affirmative showing by the applicant that he or she complies with the following:

- (a) The activity to be licensed or authorized is an authorized use in the zone in which it is to be located or conducted;
- (b) The applicant has obtained all necessary approvals and permits under Title 31, Land Use Ordinance of the Code of the City of Gardiner for the proposed activity; and
- (c) The applicant has paid all real estate and personal property taxes, sewer user fees and other debts owed to the City then currently due. This requirement shall apply only to those licenses and permits required under the authority of the City of Gardiner Code.

1.4.1.2.2 A license or permit application shall not be denied under Section 1.4.1.2.1.(c) above where the applicant is a business with respect to which collection actions have been stayed or the underlying debt has been discharged by order of the United States Bankruptcy Court or where the underlying debt is the subject of an authorized, current workout agreement executed by the applicant and the City Manager or City Treasurer/Tax Collector. Workout agreements for this purpose must provide for payment in full of the underlying debt and all interest and other charges accruing thereon within 9 months or less from the agreement date. On request, the City Manager shall certify the existence and current status of any such workout agreement to the applicant and to the City Clerk. Except in bankruptcy cases, any license or permit issued on the basis of a workout agreement shall be revoked by

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the City Clerk upon certification by the City Manager that the license or permit holder has failed to meet its obligations under the workout agreement concerned.

1.4.1.2.3 The City Council, upon request of the applicant, the City Manager, City Code Enforcement Officer or City Health Officer, shall have authority to waive the requirement of Section 1.4.1.2.1.(a) above whenever, in their judgment, waiver is necessary to address a public health or safety concern, or is otherwise in the best interests of the City of Gardiner.

1.4.1.2.4 Any application for a license, permit or renewal required under this chapter not granted within 30 days shall be deemed denied.

Section 1.4.2 Fees

The City Council shall annually adopt a schedule of fees for all licenses required by this chapter, said schedule to remain in effect for the ensuing fiscal year and until a new annual schedule of fees is adopted by the City Council. Copies of the approved schedule of fees shall be made available to the general public by the City Clerk's office.

The City Council may waive or reduce the scheduled fees for any nonprofit or civic organization that serves the interests of the City's residents, as determined by the City Council

Required Licenses: Doing Business As, Exhibitions/Shows, Hawkers & Peddlers/Street Sellers Junkyards, Liquor (seating: 1-50, 51-100, 101+), Outside consumption, Pawn, Sales Roving/On-Wheels, Shooting Galleries, Special Amusement, Street Sellers (discounted rate for Farmer's Market), Victualler, Tavern Keeper

Section 1.4.3 Expiration

All licenses and permits shall expire on December 31st next after date of issuance unless otherwise specifically provided, and no pro rata adjustments shall be made.

Section 1.4.4 Special Events Permit²

1.4.4.1 Purpose

The purpose of this Ordinance is to provide the City of Gardiner with a mechanism for regulating the dates, times, location and conditions under which permittees are authorized to make use of City Property in a manner which is consistent with public health, safety and welfare and which promotes the use of City Property for special recreational, entertainment, or charitable events and to minimize potential conflicts in the public's use of City property for private or organizational purposes.

1.4.4.2 Definitions

²Adopted: March 7, 2012; Effective: March 7, 2012; Amended: January 8, 2014

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For purposes of this Ordinance, the following definitions shall apply:

1.4.4.2.1 Special Event shall mean any event, sponsored by an individual, corporation, partnership or other entity or organization intended primarily for recreational, entertainment or charitable purposes, which requires the use of City Property of the City of Gardiner, Maine.

- (a) Minor Event shall mean an event not exceeding four hours in duration and fewer than 100 people affiliated with the event. (e.g. wedding ceremony; etc.)
- (b) Major Event shall mean an event exceeding four hours in duration and/or more than 100 people affiliated with the event. (e.g. community festival; carnival; street dance; charitable walk for a cause) Also, a major event clearly involves additional City services (e.g. police protection; more than one vendor needing electrical usage; etc.)

1.4.4.2.2 City Property shall mean any land and buildings owned by the City of Gardiner, Maine including but not limited to parks and streets.

1.4.4.3 Special events permit required

All special events shall require an application, which will be reviewed and interpreted as a Major or Minor event by the City Manager, City Clerk, Police Chief, Fire Chief, Public Works Director and other appropriate department managers. No person may conduct a Major or Minor Special Event on City Property without a Special Events Permit issued by the Gardiner City Council or City Manager pursuant to this Ordinance. The City Manager, or his designee, shall be authorized to issue permits for events deemed to be Minor Events. The City Council shall be authorized to issue permits for events deemed to be Major Events and may consider appeals for Minor Event applications which have been denied by the City Manager (or his designee). The City Council shall set a fee for this permit and may waive this fee for the Greater Gardiner River Festival Committee and any 501(c) non-profit organization if the Council deems the event to be in the best interest of the public. When granted, a Special Events Permit shall confer on the grantee the exclusive right to use the building(s) and/or area(s) described in the permit, during the time and for the purposes described in the permit. During the time of a permitted Special Event, the building(s) and/or area(s) where the event is conducted shall be deemed closed to other public uses, except for emergency uses. The grantee shall have authorization to issue its own licenses and fees for participation by other individuals and/or organizations in the event. The City Council may approve a blanket fee for the grantee to cover a specified amount of vendor licenses for the event. Any individual and/or organization operating as a vendor without the required license(s) shall be considered in violation of this ordinance and subject to the penalties herein.

1.4.4.4 Special events permit application

Each Special Events Permit Application shall be submitted to the City Clerk no earlier than twelve (12) months prior to the proposed special event and no later than thirty (30) days prior

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to the date of a minor event and two (2) months prior to the date of a major event, unless waived by the City Manager or City Council. The application shall be on a form provided by the City and shall include, at a minimum:

- (a) Dates and times of event.
- (b) Description of the event.
- (c) Designated areas of City Property to be affected.
- (d) Estimated number of people attending event.
- (e) Evidence of liability insurance and ability to add the City as an additional insured.
- (f) Plan for after function clean up.
- (g) Plan for dealing with traffic, parking, and crowd control.
- (h) Need for sanitary facilities for the event.
- (i) List of proposed vendors, if any at the event.
- (j) Need for city services, utilities, etc. for the event.
- (k) Whether amplified sound will be used.
- (l) Such additional information as the Gardiner City Council feels necessary for determination of compliance with this ordinance and efficient operation of City property.
- (m) Show proof of all State licensing and permits.
- (n) Whether overnight or similar accommodations will be necessary, including, but not necessarily limited to, camping in tents or similar arrangements. Notwithstanding City Ordinance Title 11, Chapter 2, Section 11.2.8, the City Council may approve camping as part of a special event so long as they find it is necessary and no reasonable alternative exists. Alternately, City Council may deny camping as part of the event but approve the rest of the event.

1.4.4.5 Criteria for issuance of special events permit

In considering whether to issue a Special Events permit, the City Manager and City Council shall consider:

1.4.4.5.1 Whether the proposed Special Event is consistent with the goal of promoting use of City Property for recreational, entertainment, or charitable events. This criterion shall not apply to parades, demonstrations, protests, or other First Amendment activities.

1.4.4.5.2 Whether the proposed Special Event can be conducted in the location proposed without endangering public health and order of the City property by:

- (a) Providing adequate traffic control for the event.
- (b) Providing adequate crowd control for the event.
- (c) Having adequate liability insurance and naming the City as an additional insured.
- (d) Having arrangements for clean-up of the property following the event.
- (e) Not posing a burden on municipal services or utilities.
- (f) Not having an undue adverse effect on neighboring properties due to noise, litter or other negative features.

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1.4.4.5.3 Past experience with the sponsoring organization/individuals.

1.4.4.5.4 The City reserves the right to establish blackout dates where City Property will not be available for permitted events and may use this as a basis to deny a Special Events permit.

1.4.4.6 Impact on City services

Some events may necessitate the need for City services, including staff time, materials, and other resources. The City shall provide a good faith estimate to each applicant for the cost of these services and the applicant shall be responsible for these costs as a condition of the issuance of the permit. The City Council may elect to waive this charge for the Greater Gardiner River Festival Committee and any 501(c) non-profit organization where the expected cost to the City will be \$500 or less and the Council deems the event is in the best interest of the community. The Council may also waive up to half of this charge for the Greater Gardiner River Festival Committee and any 501(c) non-profit organization where the expected cost to the City will be over \$500 and the Council deems the event is in the best interest of the community. For events at which the sponsoring individual or organization expects to make a profit (*i.e.* fundraisers), the City shall require that any waived charges be reimbursed to the City before the entity takes a profit. "Profit" shall be defined as the difference between all related event revenue less all related event expenses. "Event revenue" shall be defined as any money raised related to the event, including but not limited to admission fees, food and goods sales or commissions, vendor participation fees, and cash sponsorships/donations. "Event expenses" shall be defined as actual cash costs incurred by an organization specific and exclusive to the event. Event expenses shall not include in-kind donations of goods or services nor shall it include staff/volunteer time devoted to the event. Event organizers shall be solely responsible for any damage to City property resulting from their event and, as a condition of their permit, agree that the City may take whatever action is necessary to recoup all costs associated with repairing the damage and returning the property to its normal state.

1.4.4.7 Penalties

Pursuant to 30-A MRSA sec. 3001(3), any person who violates any provision of this Ordinance or who fails to comply with terms of a Special Events Permit commits a civil violation and shall be subject to a penalty not to exceed \$500.00, plus an amount equal to any City costs incurred for police services, trash removal or property damage of public property. Each day such violation continues or is repeated by the same person shall constitute a separate violation. Violations of this policy shall be enforceable by the Gardiner Police Department. All penalties collected hereunder shall inure to the City of Gardiner. Event organizers are also expected to independently secure all other necessary permits and licenses associated with their event. This includes copyright fees for any music that may be played during the event. If music is performed during the event without proper licensing from an agency such as BMI or ASCAP and the City is fined as a result, the sponsoring organization(s)/individual(s) shall be responsible for repayment of this fine to the City along with any associated legal costs.

1.4.4.8 General

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1.4.4.8.1 No rights created

This ordinance grants no rights to and creates no property or other legal interest in any person. The City Council retains full control over City Property and may at its sole and exclusive discretion issue, issue with conditions or deny Special Events Permits. Decision of the City Council under this Ordinance shall be final, and this Ordinance provides no right of appeal.

1.4.4.8.2 City not liable

The holder of a Special Events Permit shall be solely responsible for conducting the Special Event in compliance with the conditions of the Permit and for maintaining public safety and order during the Special Event. The City of Gardiner assumes no liability or responsibility by issuing the Permit.

1.4.4.8.3 Conflict with Other Ordinances

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other statute, rule, ordinance, regulation, by-law, permit or other legal requirements. Where this Ordinance imposes a greater restriction upon the use of City Property, the provisions of this Ordinance shall prevail.

1.4.4.8.4 Validity and Severability

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

1.4.4.8.5 Exemptions

This Ordinance shall not apply to any event sponsored, organized or conducted by any department or agency of the City of Gardiner. Scheduling of such municipal events shall be subject to the control of the City Council or their designee for events held on City Property.

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CHAPTER 1.5

Miscellaneous

SECTION

- 1.5.1 City Seal
- 1.5.2 Definitions
- 1.5.3 Rules of Construction
- 1.5.4 Property Assessed Clean Energy (PACE)
- 1.5.5 Military Excise

Section 1.5.1 City Seal

The design of the city seal shall contain the words "City Charter Granted 1849" and "Gardiner Founded 1754" and shall be set out as below:

Cross references: **Power to adopt seal, see 1954 R.S. ch. 90-A, section 2.**

Section 1.5.2 Definitions

The term "person" as used in this Code shall include the following: male and female, singular and plural, firm, partnership, association, organization, and corporation.

Section 1.5.3 Rules of Construction

The rules of construction relating to statutes of the State of Maine shall apply to local ordinances as far as applicable.

Cross references: **Construction of state statutes, see 1954, R.S. ch. 10, section 22.**

Section 1.5.4 Property Assessed Clean Energy (PACE)

1.5.4.1 Purpose and Enabling Legislation

1.5.4.1.1 Purpose

By and through this Chapter, the City of Gardiner declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town. The City/Town declares its purpose and the provisions of this Chapter/Ordinance to be in conformity with federal and State laws.

1.5.4.1.2 Enabling Legislation

The City/Town enacts this Chapter/Ordinance pursuant to Public Law 2009, Chapter 591 of

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the 124th Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, et seq.).

1.5.4.2 Title and Definitions

1.5.4.2.1 Title

This Chapter/Ordinance shall be known and may be cited as “the City of Gardiner Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).

1.5.4.2.2 Definitions

Except as specifically defined below, words and phrases used in this Chapter/Ordinance shall have their customary dictionary meanings; as used in this Chapter/Ordinance, the following words and phrases shall have the meanings indicated:

Energy saving improvement: “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

- (a) Will result in increased energy efficiency and substantially reduced energy use and:
 - (i) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy, Energy Star program or similar energy efficiency standards established or approved by the Trust; or
 - (ii) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust;

OR

- (b) Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.

Municipality: “Municipality” shall mean the City of Gardiner and is alternatively referred to herein as “City” or “Municipality.”

PACE agreement: “PACE agreement” means an agreement that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

PACE assessment: “PACE assessment” means an assessment made against qualifying property to repay a PACE mortgage.

PACE district: “PACE district” means all that area within the City’s boundaries.

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PACE loan: “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

PACE mortgage: “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

PACE program: “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

Qualifying property: “Qualifying property” means real property located in the PACE district of the Municipality.

Renewable energy installation: “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

Trust: “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

1.5.4.3 Pace Program

1.5.4.3.1 Establishment; funding

The City hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.

1.5.4.3.2 Amendment to PACE program

In addition, the City may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

1.5.4.4 Conformity with the Requirements of the Trust

1.5.4.4.1 Standards adopted; Rules promulgated; model documents

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If standards are adopted by any state or federal agency subsequent to a municipality's adoption of a PACE ordinance or participation in a PACE program and those standards substantially conflict with the municipality's manner of participation in the PACE program, the municipality shall take necessary steps to conform its participation to those standards.

1.5.4.5 Program Administration; Municipal Liability

1.5.4.5.1 Program Administration

- (a) **PACE Administration Contract.** Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:
 - (i) the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
 - (ii) the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
 - (iii) the Trust, or its agent, will disburse the PACE loan to the property owner;
 - (iv) the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
 - (v) the Trust, or its agent, will be responsible for collection of the PACE assessments;
 - (vi) the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
 - (vii) the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.
- (b) **Adoption of Education and Outreach Program.** In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.
- (c) **Assistance and Cooperation.** The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.
- (d) **Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

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1.5.4.5.2 Liability of Municipal Officials; Liability of Municipality

- (a) Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.
- (b) Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Section 1.4.5.5.1.(a) above, the City of Gardiner has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

Section 1.5.5 Military Excise Exemption

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

To apply for this exemption, the resident must present to the municipal excise tax collector certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base or is deployed for military service for a period of more than 180 days.

For purposes of this section, "United States Armed Forces" includes the National Guard and the Reserves of the United States Armed Forces.

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

For purposes of this section, "vehicle" has the same meaning as in 36 M.R.S.A. § 1481(5) and does not include any snowmobiles as defined in 12 M.R.S.A. § 13001.

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CHAPTER 1.6

Fiscal Year

SECTION

- 1.6.1 Fiscal Year
- 1.6.2 Change of Year

Section 1.6.1 Fiscal Year

The fiscal year for the city shall be established as the period beginning July 1, of each calendar year and ending June 30th of the subsequent calendar year.

Section 1.6.2 Change of Year

In order to change from the present fiscal year which begins January 1 and ends December 31 of each calendar year, there shall be a six month fiscal year beginning January 1, 1980 and ending June 30, 1980, after which fiscal years will be in accordance with Section 1.6.1 of this Code.

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TITLE 2

CITY-OWNED PROPERTY

CHAPTER

2.1 City Gravel Pit

CHAPTER 2.1

City Gravel Pit

SECTION

- 2.1.1 Designation of Area as City Gravel Pit
- 2.1.2 Permission
- 2.1.3 Fees
- 2.1.4 Prohibited Practices

Section 2.1.1 Designation of Area as City Gravel Pit

The city council may, by order, designate specific areas as City Gravel Pits.

Section 2.1.2 Permission

No person shall take, remove or use the gravel from the City Gravel Pit without permission to do so by **Order of the City Council**.

Section 2.1.3 Fees

The city council may by order establish a schedule of fees for all other use of said gravel pit.

Section 2.1.4 Prohibited Practices

2.1.4.1 It shall be unlawful for any person to operate or permit to be operated any all-terrain vehicle within the boundaries of the area designated as the city gravel pit.

2.1.4.2 It shall be unlawful for any person to discharge any firearm within the boundaries of the area designated as the city gravel pit. This ordinance shall not prohibit the discharge of any firearm:

- (a) By a police officer in the performance of his duty, or
- (b) For the destruction of a dangerous animal.

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TITLE 3

BUILDINGS

CHAPTER

- 3.1 Building Inspector**
- 3.2 Building Permits**
- 3.3 Housing Committee**

CHAPTER 3.1

Building Inspector

SECTION

- 3.1.1 Appointment**
- 3.1.2 Compensation and Term of Office**
- 3.1.3 Jurisdiction**
- 3.1.4 Duties**
- 3.1.5 Right of Entry**
- 3.1.6 Certificate of Occupancy**
- 3.1.7 Violations**
- 3.1.8 Appeals**

Section 3.1.1 Appointment

The building inspector shall be appointed by the city manager with the advice and consent of the council.

Cross references: **Appointment, see City Charter, Art. VI, ss. 1.**

Section 3.1.2 Compensation and Term of Office

The compensation of the building inspector shall be established from year to year by the city manager subject to the approval of the council. If the office shall become vacant for any reason, the city manager, with the advice and consent of the council, shall as soon as practicable, appoint someone to fill the vacancy.

Cross references: **Appointment, see City Charter, Art. VI, ss. 1.**

Section 3.1.3 Jurisdiction

The building inspector shall have jurisdiction throughout the entire corporate area of the City of Gardiner.

Cross references: **Duties, see City Charter, Art. VI, ss. 8; 1954 R.S. ch. 90-A, ss. 3, IV; Construction Permits, Inspectors, see section 3301 et seq.; Gasoline Stations, see section 3701; Junk, see section**

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3801 et seq.; Mobile Homes, see section 3901, et. seq.;
Residential Building Standards, see section 3501, et seq.;
Subdivision, see section 3601 et seq.;
Zoning, see section 3401 et seq.

Section 3.1.4 Duties

The building inspector shall inspect all buildings being newly constructed, altered or repaired so far as may be necessary to see that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe, that proper cut-offs are placed between the timbers in the walls and floorings where fire would be likely to spread, and he may give directions in writing to the owner or contractor as he deems necessary regarding such construction, alteration or repairs. He may give directions in writing as he may deem necessary to the owner of any building to make changes in the construction or location of any chimney, flue, funnel, furnace, stove, boiler, boiler connection or heating apparatus.

Section 3.1.5 Right of Entry

The building inspector, or his assistant, in the performance of his official duty, may enter any building for the purpose of making the inspection required by this chapter.

Cross references: **Entry, see 1954 R.S. ch. 90-A, section 3, IV, C., 3.**

Section 3.1.6 Certificate of Occupancy

No new building shall be occupied until the building inspector has issued a certificate that the same has been built in accordance with the provisions of this chapter and so as to be safe from fire.

Cross references: **Licensing Authority, see 1954 R.S. ch. 90-A, section 3, IV, C., 2; Zoning, see section 3401 et seq.**

Section 3.1.7 Violations

3.1.7.1 An owner or occupant who occupies or permits any building to be occupied without a certificate of occupancy where the same is required shall be guilty of a violation.

3.1.7.2 An owner or occupant of any building who refuses access to the building inspector or his assistant on official business or in any way attempts to obstruct him or his assistant shall be guilty of a violation.

3.1.7.3 Any person who neglects or refuses to comply with any direction or order of the building inspector or with the order of the city council shall be guilty of a violation unless such direction or order shall have been stayed by judicial decree or legal process.

Cross references: **Penalties Generally, see 1954 R.S. ch. 90-A, section 3, V.**

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Section 3.1.8 Appeals

An appeal in writing may be taken from any order or direction of the building inspector to the Board of appeals. Decisions of this board may be appealed to the Superior Court as may be provided by state statute.

Cross references: **Board of Appeals, see section 3201 et seq.**
 Procedure, see 1954 R.S. ch. 90-A, section 3, IV, C., 5.

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CHAPTER 3.2

Building Permits

SECTION

3.2.1 Permits Required.

Section 3.2.1 Permits Required

No person, firm or corporation shall erect or alter or otherwise change any building or structure including mobile homes (normal maintenance excepted) without first obtaining a permit from the building inspector or code enforcement officer. The fee for such permit shall be as follows:

See updated fee table set by City Council.

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CHAPTER 3.3

Housing Committee

SECTION

- 3.3.1 Establishment and Organization
- 3.3.2 Powers and Duties

Section 3.3.1 Establishment and Organization

3.3.1.1 A Housing Committee shall be established consisting of 11 members who shall be residents of Gardiner. Members of the Committee shall demonstrate an interest in housing issues and housing development in the City and shall be appointed with due regard to the proper representation of various interests and groups including the following, to the extent that such individuals are available in the community:

- (a) Tenants,
- (b) Rental-unit property owners,
- (c) Real estate professionals,
- (d) Single-family homeowners,
- (e) Elderly housing administrators,
- (f) Housing program administrators,
- (g) Homeless shelter advocates,
- (h) Bankers,
- (i) Business owners
- (j) Building construction contractors, and
- (k) Gardiner City Councilors (up to two)

Additionally, the City Manager or his/her designee, the Director of Economic and Community Development or his/her designee, and the Code Enforcement Officer shall serve as “Ex-Officio” members.

3.3.1.2 Members shall be appointed by the Mayor, with the advice and consent of the City Council, for a term of 3 years, except that the initial appointments shall be staggered so that subsequent appointments shall not recur at the same time.

3.3.1.3 The members shall annually choose a chairperson who shall preside at all meetings.

3.3.1.4 All meetings of the committee shall be open to the public and the Committee shall keep a record of its proceedings and actions.

3.3.1.5 A quorum shall consist of a majority of the members.

3.3.1.6 A legal vote shall consist of a majority of the members.

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- 3.3.1.7** The Mayor shall act within 60 days to fill a vacancy, including expired terms.
- 3.3.1.8** A municipal employee may not be a voting member of the Committee.
- 3.3.1.9** A member may be removed by the Mayor for the following reasons:
- (a) Unable to continue being an active member due to physical or mental incapacity.
 - (b) The violation of state or federal criminal statutes.
- 3.3.1.10** A vacancy shall be created when any one of the following occurs:
- (a) Member moves from his/her residence in the City
 - (b) Member resigns.
 - (c) Member is removed for cause by the City Council.
 - (d) Death of a member.

Section 3.3.2 Powers and Duties

The Committee shall be authorized to:

- 3.3.2.1** Advise Economic and Community Development staff and/or consultant(s) on the preparation of a housing assessment plan and other projects intended to increase the availability in Gardiner of safe, accessible, and affordable housing units for a diverse population of individuals.
- 3.3.2.2** Recommend methods and procedures to the City Council necessary to preserve, restore, maintain and operate properties under the ownership or control of the City in the furtherance of meeting goals of providing expanded housing opportunities in the City.
- 3.3.2.3** Recommend ordinances, policies or actions to the City Council and otherwise provide information for the purposes of housing development in the City.
- 3.3.2.4** Act in an advisory role to other officials and departments of local government regarding the preservation and expansion of Gardiner's housing stock.
- 3.3.2.5** Act as a liaison on behalf of the local government to individuals and organizations concerned with housing rehabilitation, housing development, and community development.
- 3.3.2.6** Cooperate with federal, state and local governments in the pursuance of the objectives of housing rehabilitation, housing development, and community development.
- 3.3.2.7** Participate in the conduct of land use and other planning processes undertaken by the City, the State, or the Federal government and the agencies of these entities.

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TITLE 5

BUSINESS AND OCCUPATIONS

CHAPTER

- 5.1 Charitable Solicitations**
- 5.2 Special Amusement Permits**
- 5.3 Dance Halls**
- 5.4 Nudity Control**
- 5.5 Junk Dealers**
- 5.6 Cable TV**
- 5.7 Street Sales**
- 5.8 Solid Waste Collection**
- 5.9 Adult Business Establishments**
- 5.10 Cannabis Establishment Licensing**
- 5.11 Mobile Food Vending Units**

Collateral references: **For similar provisions, see Nimlo Model Ordinance Service, chapters 4 & 6.**

CHAPTER 5.1

Charitable Solicitations

SECTION

- 5.1.1 Permit Required**
- 5.1.2 Application for Permit**
- 5.1.3 Standards for Granting or Denying Permit**
- 5.1.4 Permit Form**
- 5.1.5 Appeal from the Denial of a Permit**

Section 5.1.1 Permit Required

No person shall solicit contributions for any charitable purpose within the City of Gardiner without a permit from the city clerk authorizing such solicitation; provided, however, that the provisions of this section shall not apply to charitable solicitations conducted by established organizations of the community within their own membership.

Cross references: **Solicitation of charitable funds, see 1954 R.S. ch. 25, ss. 274-A to 274-D.**

Section 5.1.2 Applications for Permit

An application for permit to solicit shall be made to the city clerk on forms to be provided by him, at least 15 days prior to the date on which the requested permit would become effective;

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provided, however, that the city clerk may for good cause allow the filing of an application less than 15 days prior to the effective date of the requested permit.

Section 5.1.3 Standards for Granting or Denying Permit

5.1.3.1 The city clerk may issue the permit provided for in Section 5.1.1 whenever he shall find the following facts to exist:

- 5.1.3.1.1** That all statements made on the application are true;
- 5.1.3.1.2** That the applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member or agent of the applying organization has a good character and reputation for honesty and integrity;
- 5.1.3.1.3** That the control and supervision of the solicitation will be under responsible and reliable persons;
- 5.1.3.1.4** That the solicitation is prompted solely by the desire to finance the charitable cause described in the application, and will not be conducted primarily for private profit;
- 5.1.3.1.5** That no other authorized solicitation will be taking place during the same time period.

5.1.3.2 No fee shall be required for the permit.

Section 5.1.4 Permit Form

Permits issued under this chapter shall bear the name and address of the organization in whose name the solicitation is to be made, the name of the person responsible for the solicitation, the number of the permit, the date issued, the dates within which the permit holder may solicit, and a statement that the permit does not constitute an endorsement by the City of Gardiner, its departments, officers, or employees, for the purpose for which the solicitation is being made.

Section 5.1.5 Appeal from the Denial of a Permit

Within 5 days after receiving notification from the city clerk that the permit has been denied, the applicant may request a hearing before the city council. Upon receipt of such a request, the city clerk shall schedule the matter on the agenda of the next regular monthly city council meeting or on the agenda of a preceding special city council meeting with the consent of the mayor.

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CHAPTER 5.2

Special Amusement Permits

SECTION

- 5.2.1 Purpose
- 5.2.2 Definitions
- 5.2.3 Permit Required
- 5.2.4 Inspections
- 5.2.5 Suspension or Revocation of a Permit
- 5.2.6 Rules and Regulations
- 5.2.7 Permit and Appeal Procedure
- 5.2.8 Admission
- 5.2.9 Penalty
- 5.2.10 Separability

Section 5.2.1 Purpose

The purpose of this ordinance is to control the issuance of special permits for music, dancing or entertainment facilities licensed by the State of Maine to sell liquor as required by 28 A. subsection 702.

Section 5.2.2 Definitions

Entertainment: For the purposes of this ordinance, "entertainment" shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

Licensee: For purposes of this section, "Licensee" shall include 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 such licensee.

Section 5.2.3 Permit Required

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

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; his residential address; the name of the business to be conducted; his business address; the nature of his business; the location to be used; whether the applicant has ever had a license to conduct the business therein described

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either denied or revoked; and if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony, and if so, the applicant shall describe specifically those circumstances and any additional information as may be needed by the municipal officers in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.

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

The fee for a special amusement permit shall be **\$25.00**.

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within 15 days of the date that the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

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

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

Section 5.2.4 Inspections

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

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

In addition to any other penalty which may be provided, the municipal officers may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection or take sufficient samples for analysis, or who interferes with such officer, official, or employee while in the performance of his duty, provided that no license or special amusement permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises at the time it is sought to make the inspection.

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Section 5.2.5 Suspension or Revocation of a Permit

The municipal officers may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permits which have been issued under this ordinance on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinances, articles, bylaws, or rules and regulations.

Section 5.2.6 Rules and Regulations

The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted.

Such rules and regulations shall be additional to and consistent with all sections of this ordinance.

Section 5.2.7 Permit and Appeal Procedures

5.2.7.1 Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days after the public hearing. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within 30 days after an application for a permit which had been denied.

5.2.7.2 Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within 30 days of the denial, suspension or revocation, appeal the decision to the municipal Board of Appeals as defined in 30 M.R.S.A. subsection 2411. The municipal Board of Appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety, or welfare, or that the denial, revocation or suspension was arbitrary or capricious, or that the denial, revocation, or suspension was not based by a preponderance of the evidence on a violation of any ordinance, article, bylaw, or rule or regulation of the municipality.

Section 5.2.8 Admission

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.

Section 5.2.9 Penalty

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Whoever violates any of the provisions of this ordinance shall be punished by a fine of not more than **One Hundred Dollars (\$100.00)**, to be recovered on complaint, to the use of the City of Gardiner.

Section 5.2.10 Separability

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

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CHAPTER 5.3

Dance Halls

SECTION

5.3.1 Attendance of Police Officers Required.

Section 5.3.1 Attendance of Police Officers Required

5.3.1.1 No person or organization shall sponsor a public dance without notifying the chief of police at least forty-eight hours in advance and making arrangements to have a police officer or officers in attendance.

5.3.1.2 The chief of police will determine and assign the number of officers required to supervise such a gathering.

5.3.1.3 The person or organization sponsoring such a public dance shall be responsible for payment in advance of all costs for police supervision.

Cross reference: **See Title 8, Section 161, M.R.S.A.**

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CHAPTER 5.4

Nudity Control

SECTION

- 5.4.1 Purpose
- 5.4.2 Definitions
- 5.4.3 Prohibition
- 5.4.4 Penalty

Section 5.4.1 Purpose

To regulate nudity as a form of commercial exploitation and to regulate dress as a form of conduct and not to impede the free exchange and expression of ideas.

Section 5.4.2 Definitions

5.4.2.1 Exposure to public view. Means the viewing, glimpsing, sighting, or reconnoitering by the use of one's ordinary visual means, that which is revealed, opened to plain view, exposed, discovered, distinguished, recognized, observed, demonstrated, exhibited or perceived, discerned, displayed or capable of any or all such, from any vantage point where the public or any patron is allowed, authorized, invited or normally or commonly frequents.

5.4.2.2 Sales person, waiter, waitress or entertainer. A person shall be deemed a "sales person," "waiter," "waitress," "entertainer," or "employee" if such person acts in that capacity without regard to whether or not such person is paid any compensation by the management of the establishment in which the activity is performed.

Section 5.4.3 Prohibition

No person shall permit live entertainment on premises to which the public is invited whether provided by professional entertainers, employees, or any other person, any entertainment which involves exposure to public view of, or permit any sales person, waiter, waitress, entertainer or employee to work while exposing to public view, at any establishment at which alcoholic beverages are served or allowed to be consumed:

5.4.3.1 The person's or any of his other agents' or employees' genitals, pubic hair, buttocks, perineum or anus;

5.4.3.2 Any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum or anus;

5.4.3.3 Any portion of the female breasts at or below the areola thereof.

Section 5.4.4 Penalty

Any person violating any provision of this chapter shall be punished by a fine not exceeding **five hundred dollars (\$500.00)** for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.

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CHAPTER 5.5

Junk Dealers

SECTION

- 5.5.1 License
- 5.5.2 Display of license
- 5.5.3 Supervision.

Section 5.5.1 License

All persons engaged in the business of buying, selling or gathering old junk, rags, bottles, etc., shall annually obtain a license therefore, from the city council.

Cross references: **Automobile junkyards, see 1954 R.S. ch. 100, section 137, et. seq.**
 License fees, see section 152.
 Regulations generally, see 1954 R.S. ch. 90-A section 3, V. B.
 Records, see 1954 R.S. ch. 100, ss. 133.

Section 5.5.2 Display of license

All licenses issued under this chapter shall be numbered in the order in which application is made, and each person granted a license shall display conspicuously the number of the same on the carts or other vehicles used by him in said business, together with the year in which the same was granted.

Section 5.5.3 Supervision

All persons having licenses under this chapter shall be under the direct supervision of the chief of police, who shall see that they conduct their business and themselves in a **proper manner** at all times, while engaged in said business.

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CHAPTER 5.6

Cable TV

SECTION

- 5.6.1 General Provisions
- 5.6.2 Franchise Contract

Section 5.6.1 General Provisions

This ordinance shall be known and cited as the Cable Franchise Ordinance of the City of Gardiner, Maine, and will be referred to herein as this "ordinance."

This ordinance is enacted pursuant to the authority granted in Title 30-A, Section 3008 of the Maine Revised Statutes Annotated.

This ordinance provides the authority for governing the franchising and regulation of cable television systems using the public ways of the city.

Section 5.6.2 Franchise Contract

The municipal officers may contract on such terms of conditions, and impose such fees as are in the best interests of the city, including the granting of franchises for a period not to exceed fifteen (15) years, for the placing and maintenance of cable television systems within the territorial limits of the city.

5.6.2.1 Information in the application for operating a cable television system, shall include, but not be limited to descriptions of the applicant, the applicant's corporate structure and individual interests in excess of any entity holding of 10%, audited financial statements, proforma operating statements, cable operating experience, proposed charges, maintenance and service programs, ability to introduce technical improvements, public access channels and such other information as may be reasonable and applicable to the city's consideration of a proposed franchise agreement.

5.6.2.2 The city may charge a reasonable, non-refundable filing fee to defray the cost of public notices, advertising, legal and other expenses incurred in acting upon an application.

5.6.2.3 In granting any cable television franchise, the agreement or contract shall provide:

5.6.2.3.1 That the filing of a franchise application(s) and related documents are public records, with notice to the public by legal advertisement that such records are open to inspection during normal business hours; and

5.6.2.3.2 That a proposed franchise agreement receive two (2) readings at regular city council meetings to allow for public comment on special local needs or interests and to allow

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for general public input before granting a franchise; and

5.6.2.3.3 That reasonable fees may be assessed the cable franchise to defray the costs of legal, contractual advice and other expenses incurred in granting a franchise agreement; and

5.6.2.3.4 That all applicable regulations of the Federal Communication Commission regarding cable television systems be referenced or included in the proposed franchise agreement; and

5.6.2.3.5 That a provision for removal shall not exceed fifteen (15) years; and

5.6.2.3.6 That the city may impose such reasonable franchise fees as are allowed by law and deemed in the best interests of the city; and

5.6.2.3.7 That the area or areas to be served shall be identified; and

5.6.2.3.8 That a policy governing line extensions shall be specified; and

5.6.2.3.9 That procedures exist for investigating and resolving complaints against the cable television company; and

5.6.2.3.10 That any other terms and conditions which are in the best interests of the city shall be adopted.

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CHAPTER 5.7

Street Sales

SECTION

- 5.7.1 Permit required
- 5.7.2 Penalties

Section 5.7.1 Permit required

No person shall sell, expose for sale or exhibit merchandise of any kind from any vehicle, table, tent, booth, stall or otherwise, on any public street or any public place within the City of Gardiner without first obtaining a permit from the city council.

Cross references: **Commercial regulations, see 1954 R.S. ch. 90-A, section 3, V.**
 License fees, see section 152.
 Sales tax, see 1954 R.S. ch. 17, section 5.

Section 5.7.2 Penalties

Any violation of Section 5.7.1 of this chapter shall be punishable by a fine of **\$25** for each offense.

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CHAPTER 5.8

Solid Waste Collection

SECTION

- 5.8.1 Purpose
- 5.8.2 Definitions
- 5.8.3 Licenses; Application
- 5.8.4 Recycling Collection

Section 5.8.1 Purpose

The intent of this chapter is to protect the health, safety, and general well-being of the residents of the City of Gardiner; to require the licensing of commercial haulers of solid waste and recyclable materials; to provide residential clients of said haulers with curbside rubbish and recycling collection; to preserve and enhance the quality of our common environment; and to comply with State waste management and recycling laws and the city's contract with **Hatch Hill Solid Waste Facility**.

Section 5.8.2 Definitions

Commercial Waste Hauler: "Commercial waste hauler" means any person engaged in the collection and transportation of solid waste for a fee or other compensation.

Dispose; Disposal: "Dispose" means to discharge, dispose, deposit, dump, incinerate, spill or place any solid waste into or on any land, air or water or facility. "Disposal" means the discharge, disposal, deposit, dumping, incineration, spilling or placing of any solid waste.

Person: "Person" means any individual, firm, corporation, partnership, association or any other legal entity or agents of any of the above, and the term shall include the singular and plural as appropriate.

Recycling: "Recycling" means the collection, separation, recovery, reprocessing, and sale or reuse of manufactured materials or residues that would otherwise be disposed of or processed as waste for reuse in the same form or as part of a different product, other than through combustion or use as fuel for the generation of electricity.

Recyclable Materials: For the purpose of this ordinance, "recyclable materials" means those materials, products or categories of solid waste designated by the city manager as requiring separation from the waste stream for recycling or for health and safety reasons. Recyclable materials covered under this ordinance include but are not limited to steel and other metal cans, clear glass bottle and jars, and newspapers. The city manager shall enlarge or otherwise modify this initial list of materials from time to time.

Resident: "Resident" is any person who owns or rents a dwelling or other property improved for occupation within the City of Gardiner.

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Rubbish: For the purpose of this ordinance, "rubbish" means solid waste generated by residents in particular.

Solid Waste: "Solid Waste" means useless, unwanted or discarded solid materials with insufficient liquid content to be free-flowing, including, but not limited to rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse, but does not include septic tank sludge or agricultural wastes. The fact that a solid waste or constituent of the waste may have a value or another use or may be sold or exchanged does not exclude it from this definition.

Section 5.8.3 Licenses; Application

5.8.3.1 No person shall be engaged in the business of collecting or transporting rubbish or recyclable materials as a going business for pay or compensation within the city unless they are licensed in accordance with this law.

5.8.3.2 Any person, corporation or other concern wanting to collect rubbish and recyclables in the City of Gardiner shall make a written application for a license to the city manager, including the following:

5.8.3.2.1 Proof of valid registration issued by the secretary of state of the State of Maine for all collection vehicles which are to operate in Gardiner;

5.8.3.2.2 Proof of valid inspection stickers for all vehicles;

5.8.3.2.3 Proof of a liability insurance policy, issued by an insurance company authorized to do business in the State of Maine, for all collection vehicles in accordance with State laws regulating commercial and solid waste transporters, which shall be in full effect for the duration of the licensing period; and

5.8.3.2.4 Such further information as the city council or city manager might reasonably require. Any changes to the application form will be reported to the city council.

5.8.3.3 The fee for this application is **\$25.00** per year for one vehicle and an additional **\$5.00** for each additional collection vehicle to be operated in Gardiner by the same applicant.

5.8.3.4 Recipients of a license shall receive a permit sticker for each vehicle which is to be prominently displayed on each vehicle at all times within the City of Gardiner.

5.8.3.5 Each licensed rubbish hauler shall be responsible for the disposal of all rubbish that s/he collects within the City of Gardiner.

5.8.3.6 Rubbish and recyclable materials collected in Gardiner are to be disposed of or recycled at the **Hatch Hill Solid Waste Disposal Facility located adjacent to Route 105 in Augusta.**

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Section 5.8.4 Recycling Collection

5.8.4.1 Licensed rubbish haulers must provide curbside collection of materials designated as recyclable by the city manager or city council at least once per month to all of their clients and tenants of serviced properties who live in buildings of five dwelling units or less.

5.8.4.2 The trigger date for this recycling requirement is March 1, 1992, or the date that the city recycling truck is initially delivered and operable, whichever comes first.

5.8.4.3 Haulers shall make their initial curbside recycling collection no later than 30 days after the trigger date.

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CHAPTER 5.9

Adult Business Establishments

SECTION

- 5.9.1 Purpose
- 5.9.2 Definition
- 5.9.3 Prohibition
- 5.9.4 Penalty

Section 5.9.1 Purpose

The city council finds that, because of their unique and potentially offensive nature, Adult Business Establishments can have a blighting influence on the surrounding neighborhood if permitted at all in certain zones, or if allowed to concentrate in certain other zones within the city. Moreover, such establishments are incompatible with uses characterized by family and youth-related activities. The purpose of this chapter is, therefore, to prevent such deleterious effects and thus, protect the public health, safety and general welfare by regulating the location and certain other aspects of Adult Business Establishments.

Section 5.9.2 Definition

"Adult Business Establishment" means and includes any retail business, including but not limited to, any book store, newsstand, novelty store, nightclub, bar, cabaret, amusement arcade or theater which:

- (a) Customarily exhibits motion pictures or displays any other visual representation described or advertised as being "X-Rated" or "For Adults Only" or which customarily excludes persons from any portion of the premises by reason of immaturity of age by use of such or similar phrases; or
- (b) Is adjudged to be a violation of 17 M.R.S.A. ss. 2911, 2912; or
- (c) Keeps for public patronage or permits or allows the operation of any adult amusement device such as sexual aids, toys, and devices; or
- (d) Keeps for public patronage, any sexually explicate material such as books, films, video tapes, audio tapes which display or depicts sex organs during actual or simulated sexual intercourse or sexual acts.

"Customarily" means more often than an average of one (1) calendar week during any thirty (30) day period.

"Residential Zone" is the following Zoning Districts, High Density Residential and Moderate Density Residential as defined in Title 31, Chapter 7 ss. 3202 of M.R.S.A.

"Church" is a place or structure whose primary use is for public religious services or assembly

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by a person or organization with Tax Exempt Status.

Section 5.9.3 Prohibition

Adult Business Establishments shall be permitted only in Planned Industrial and Commercial Districts provided that such establishments, but for this chapter, would otherwise be permitted therein, and subject to the following special requirements:

5.9.3.1 Such establishment shall be at least one thousand (1,000) feet from any other Adult Business Establishment, and at least one thousand (1,000) feet from a Residential Zone, at least one thousand (1,000) feet from a church, all schools, child care facilities and playground or recreation areas, as measured in a straight line, without regard to intervening structures or objects.

5.9.3.2 No sexually explicit materials, entertainment or activity shall be visible from the exterior of the premises.

5.9.3.3 No person, firm or corporation shall operate an adult business establishment without first obtaining a license. Applications for license will be made to the municipal officers on the forms provided by them. Applications must be accompanied by a fee of **\$250.00**. Licenses shall be renewed annually and at least 30 days prior to the anniversary date of the license. The city council may, after hearing preceded by notice to interested parties, suspend or revoke any adult business establishment license which has been issued under this ordinance on the ground that the entertainment so permitted constitutes a detriment to the public health, safety, or welfare or violates any municipal ordinances or regulations. Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may within thirty (30) days of the denial, suspension or revocation, appeal the decision to the Superior Court.

Section 5.9.4 Penalty

Any person violating any provision of this chapter shall be punished by a fine not exceeding **five hundred dollars (\$500.00)** for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.

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CHAPTER 5.10

Cannabis Establishment Licensing Ordinance³

SECTION

- 5.10.1 Authority
- 5.10.2 License Required
- 5.10.3 Term of License
- 5.10.4 Licensing Procedures
- 5.10.5 First-Time License Application
- 5.10.6 Renewal License Applications
- 5.10.7 Renewal License Application Involving an Expansion or Relocation of the Facility
- 5.10.8 Fees
- 5.10.9 Definitions
- 5.10.10 Amendments
- 5.10.11 Severability and Validity

Section 5.10.1 Authority

This ordinance is adopted by the City under its home rule authority, Title 30-A M.R.S. Section 3001 and in accordance with the provisions of Title 28-B M.R.S. Chapter 1 Subchapter 4 which authorizes municipal regulation of adult use cannabis establishments and Title 22 M.R.S. Chapter 558-C Section 2429-D which authorizes municipal regulation of medical cannabis establishments.

Section 5.10.2 License Required

No cannabis establishment as defined in this ordinance shall operate within the City of Gardiner unless the establishment is currently licensed by the City in accordance with the provisions of this ordinance.

Section 5.10.3 Term of License

A license for a cannabis establishment shall be valid for one year from the date that the license is approved by the City Council unless otherwise specifically limited by vote of the City Council. The City Council may approve a license for less than one year to coordinate state and City licensing timeframes or as a conditional license to allow an applicant to address conditions of approval on the license.

Section 5.10.4 Licensing Procedures

³Adopted 03.25.2020, Amended 9/2/2020

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Applications for a cannabis establishment license shall be processed and reviewed according to the following procedures.

5.10.4.1 Application Submission

An application for a cannabis establishment license shall be submitted to the City Clerk. Applications for renewal of a license or for the renewal of a license involving the expansion or relocation of the establishment must be submitted at least forty-five (45) days prior to the expiration of the current license. The application must include all of the materials set forth in the submission requirements of Section 5.10.5, 5.10.6 or 5.10.7 depending on the type of application.

5.10.4.2 Review of Application for Completeness

The City Manager or her/his designee shall review the application for completeness in accordance with the submission requirements of Section 5.10.5, 5.10.6 or 5.10.7. If the City Manager or her/his designee finds the application to be complete, he/she shall notify the City Clerk that the application should be advertised for public hearing and placed on the City Council's agenda. If the City Manager or his/her designee finds that the application is not complete, he/she shall notify the applicant of the additional materials required. Upon receipt of additional information the City Manager or her/his designee shall repeat the process until the application is deemed to be complete. An application shall not be advertised for public hearing or scheduled for City Council consideration until the application is found to be complete.

5.10.4.3 Public Hearing

The City Council shall hold a public hearing on a completed application for a cannabis establishment license. The notice of the public hearing shall be posted in accordance with City procedures and shall be advertised in a newspaper that is widely circulated in the City at least seven (7) days prior to the public hearing. The notice shall include the date, time and location of the hearing together with the name of the applicant, the type of cannabis establishment for which the license is sought and the location of the establishment identified by both street address and Tax Map and Lot number.

5.10.4.4 Council Action

Within thirty (30) days of the public hearing, the City Council shall review the application for conformance with the applicable standards set forth in Section 5.10.5, 5.10.6 or 5.10.7 depending on the type of licensing. The City Council shall make findings of fact as to the application's conformance with the standards of approval. The Council shall act to approve the granting of the license, to deny the granting of the license, or to approve the granting of the license with conditions. The Council may grant conditional approval of a license for a period of less than one year. When an application involves the renewal and relocation of an existing license, the City Council may allow for an overlap of up to ninety (90) days between the existing license and the renewal license to allow for the preparation of the new facility. When the City

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Council allows overlapping licenses, no retail sales shall occur at the new location until retail sales at the prior location have ceased.

Section 5.10.5 First-Time License Application

An application for a new cannabis establishment license shall be processed and reviewed in accordance with the following:

5.10.5.1 Submission Requirements

An application for a cannabis establishment license for an establishment that is not currently licensed by the City of Gardiner shall include all of the following information:

5.10.5.1.1 A completed and signed application form (provided by the City)

5.10.5.1.2 The appropriate annual license fee for the type of facility in accordance with the schedule of fees set forth in Section 5.10.8.

5.10.5.1.3 If the application is for an adult use cannabis establishment, written evidence that the applicant has received a state conditional license for the type of facility proposed.

5.10.5.1.4 If the application is for a medical cannabis establishment, written evidence that applicant has obtained all state approvals for the type of facility proposed.

5.10.5.1.5 A copy of the Planning Board's notice of decision approving the facility in accordance with the Land Use Code. If the Planning Board's approval included any conditions of approval, written documentation setting forth how those conditions have been or will be met.

5.10.5.1.6 A written report prepared by the Code Enforcement Officer documenting the proposals compliance with all applicable land use, building, plumbing and electrical codes. If the report of the Code Enforcement Officer identifies any areas of noncompliance, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

5.10.5.1.7 A written report prepared by the Fire Chief documenting the proposals compliance with all applicable fire and life safety codes. If the report of the Fire Chief identifies any areas of noncompliance, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

5.10.5.1.8 A written report prepared by the Police Chief addressing the adequacy of provisions to provide for the security of the establishment and to avoid any potential for nuisances from the use of the establishment. If the report of the Police Chief identifies any areas of concern, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

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5.10.5.1.9 If the proposed establishment will discharge to the public sewer system, a written report prepared by the Superintendent of the Wastewater Treatment System addressing the potential implications of discharging wastewater to the sewer system and providing treatment for this material including the need for any pre-treatment of discharges. If the report of the Superintendent identifies any areas of concern, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

5.10.5.2 Approval Standards

The City Council shall approve an application for a new cannabis establishment license only if it finds that all of the following standards are met or will be met as a result of conditions of approval applied to the license:

5.10.5.2.1 The applicant has obtained a conditional license for the proposed adult-use cannabis establishment or approval for the proposed medical cannabis establishment from the State of Maine.

5.10.5.2.2 The proposed establishment conforms or will conform to the approval of the Planning Board including any conditions of approval prior to receiving City authorization to open.

5.10.5.2.3 The proposed establishment conforms or will conform to the all applicable land use, building, plumbing and electrical codes prior receiving City authorization to open.

5.10.5.2.4 The proposed establishment conforms or will conform to the all applicable fire and life safety codes prior receiving City authorization to open.

5.10.5.2.5 The applicant has made or will make adequate provisions to provide for the security of the establishment and to avoid any potential for nuisances from the use of the establishment prior receiving City authorization to open.

5.10.5.2.6 The proposed establishment will not discharge effluent or process water to the public sewer system that will exceed the capacity of the system to transport and treat the material and that any requirements for pre-treatment or limits on the quantity of quality of discharges will be met.

Section 5.10.6 Renewal License Applications

An application for the renewal of a cannabis establishment license shall be processed and reviewed in accordance with the following:

5.10.6.1 Submission Requirements

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An application for the renewal of a cannabis establishment license that is currently licensed by the City of Gardiner and that will occupy the same space as existing operation shall include all of the following information:

5.10.6.1.1 A completed and signed application form (provided by the City)

5.10.6.1.2 The appropriate annual license fee for the type of facility in accordance with the schedule of fees set forth in Section 5.10.8.

5.10.6.1.3 If the application is for an adult use cannabis establishment, written documentation that the applicant has applied for a renewal of its state license.

5.10.6.1.4 If the application is for a medical cannabis establishment, written evidence that applicant has obtained all state approvals for the type of facility proposed.

5.10.6.1.5 A written report prepared by the Code Enforcement Officer documenting the establishment's ongoing compliance with all applicable land use, building, plumbing and electrical codes. The report shall identify any enforcement actions or other concerns during the prior year. If the report of the Code Enforcement Officer identifies any areas of noncompliance or concern, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

5.10.6.1.6 A written report prepared by the Fire Chief documenting the establishment's on-going compliance with all applicable fire and life safety codes. The report shall include the results of any inspections performed by the department and records of all calls for service during the prior year and the reason for each call. If the report of the Fire Chief identifies any areas of noncompliance or concern about use of the fire service, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

5.10.6.1.7 A written report prepared by the Police Chief documenting the ongoing adequacy of provisions to provide for the security of the establishment and to avoid any potential for nuisances from the use of the establishment. The report of the Police Chief shall document the number of calls for service and the reason for the calls during the prior year. If the report of the Police Chief identifies any areas of concern, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

5.10.6.1.8 If the establishment discharges to the public sewer system, a written report prepared by the Superintendent of the Wastewater Treatment System addressing the impacts of the wastewater on the sewer system and sewage treatment plant including compliance with any pre-treatment requirements or limitations on the volume of discharges. If the report of the Superintendent identifies any areas of concern, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

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5.10.6.2 Approval Standards

The City Council shall approve an application for the renewal of a cannabis establishment license only if it finds that all of the following standards are met or will be met as a result of conditions of approval applied to the license:

5.10.6.2.1 The applicant has applied to the State of Maine for the renewal of its adult-use cannabis establishment license or approval as a medical cannabis establishment.

5.10.6.2.2 The applicant has addressed any complaints or violations with respect to all applicable land use, building, plumbing and electrical codes during the prior year in a timely manner to the satisfaction of the Code Enforcement Officer and the establishment is or will be in conformance with all applicable code requirements.

5.10.6.2.3 The applicant has addressed any complaints or violations with respect to all applicable fire protection and life safety codes during the prior year in a timely manner to the satisfaction of the Fire Chief and the establishment is or will be in conformance with all applicable code requirements.

5.10.6.2.4 The applicant has addressed any complaints or violations with respect to provisions for the security of the establishment and to avoid nuisances from the use of the establishment during the prior year in a timely manner to the satisfaction of the Police Chief and has made adequate provisions to prevent the recurrence of any problems.

5.10.6.2.5 If the establishment discharges to the public sewer system, the applicant has addressed any discharges of effluent or process water to the public sewer system that has exceeded the capacity of the system to transport and treat the material including any requirements for pre-treatment during the prior year to the satisfaction of the Superintendent of the Wastewater Treatment System and has made adequate provisions to prevent the recurrence of any problems.

Section 5.10.7 Renewal License Application Involving an Expansion or Relocation of the Facility

An application for the renewal of a cannabis establishment license that involves either the relocation of the establishment to a new location or the expansion of the facility shall be processed and reviewed in accordance with the following:

5.10.7.1 Submission Requirements

An application for the renewal of cannabis establishment license that is currently licensed by the City of Gardiner in which the location of the establishment is proposed to be changed or the size of the establishment increased shall include all of the following information:

5.10.7.1.1 A completed and signed application form (provided by the City)

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5.10.7.1.2 The appropriate annual license fee for the type of facility in accordance with the schedule of fees set forth in Section 5.10.8.

5.10.7.1.3 If the application is for an adult use cannabis establishment, written documentation that the applicant has applied for renewal of its state license.

5.10.7.1.4 If the application is for a medical cannabis establishment, written evidence that applicant has applied for or obtained all state approvals for the type of facility proposed.

5.10.7.1.5 A copy of the Planning Board's notice of decision approving the relocated or expanded facility in accordance with the Land Use Code. If the Planning Board's approval included any conditions of approval, written documentation setting forth how those conditions have been or will be met.

5.10.7.1.6 A written report prepared by the Code Enforcement Officer documenting the existing facility's ongoing compliance with all applicable land use, building, plumbing and electrical codes. The report shall identify any enforcement actions or other concerns during the prior year.

5.10.7.1.7 A second written report prepared by the Code Enforcement Officer documenting the compliance of the proposal for a relocated or expanded facility with all applicable land use, building, plumbing and electrical codes. If the report of the Code Enforcement Officer identifies any areas of noncompliance, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

5.10.7.1.8 A written report prepared by the Fire Chief documenting the existing establishment's on-going compliance with all applicable fire and life safety codes. The report shall include the results of any inspections performed by the department and records of all calls for service during the prior year and the reason for each call. The report of the Fire Chief shall identify any areas of noncompliance or concern about the use of the fire service. The report shall also document the compliance of the proposal for a relocated or expanded facility with all applicable fire and life safety codes. If the report of the Fire Chief identifies any areas of noncompliance with the new or expanded establishment, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

5.10.7.1.9 A written report prepared by the Police Chief documenting the ongoing adequacy of provisions at the existing facility to provide for the security of the establishment and to avoid any potential for nuisances from the use of the establishment. The report of the Police Chief shall document the number of calls for service and the reason for the calls during the prior year. The report shall also review the proposal for a relocated or expanded facility. If the report of the Police Chief identifies any areas of concern, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

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5.10.7.1.10 If the existing establishment discharges to the public sewer system, a written report prepared by the Superintendent of the Wastewater Treatment System addressing the impacts of the wastewater on the sewer system and sewage treatment plant including compliance with any pre-treatment requirements or limitations on the volume of discharges. The report shall evaluate the potential implications of discharging wastewater to the sewer system and providing treatment for this material including the need for any pre-treatment of discharges from the relocated or expanded facility. If the report of the Superintendent identifies any areas of concern, the applicant shall provide a written response setting forth how the identified issues have been or will be addressed.

5.10.7.2 Approval Standards

The City Council shall approve an application for the renewal of a cannabis establishment license only if it finds that all of the following standards are met or will be met as a result of conditions of approval applied to the license:

5.10.7.2.1 The applicant has applied to the State of Maine for the renewal of its adult-use cannabis establishment license or approval as a medical cannabis establishment.

5.10.7.2.2 The proposed relocated or expanded establishment conforms or will conform to the approval of the Planning Board including any conditions of approval prior to receiving City authorization to open.

5.10.7.2.3 The applicant has addressed any complaints or violations with respect to all applicable land use, building, plumbing and electrical codes during the prior year in a timely manner to the satisfaction of the Code Enforcement Officer and the relocated or expanded establishment is or will be in conformance with all applicable code requirements.

5.10.7.2.4 The applicant has addressed any complaints or violations with respect to all applicable fire protection and life safety codes during the prior year in a timely manner to the satisfaction of the Fire Chief and the relocated or expanded establishment is or will be in conformance with all applicable code requirements.

5.10.7.2.5 The applicant has addressed any complaints or violations with respect to provisions for the security of the establishment and to avoid nuisances from the use of the establishment during the prior year in a timely manner to the satisfaction of the Police Chief and has made adequate provisions to prevent the recurrence of any such problems at the relocated or expanded establishment.

5.10.7.2.6 If the existing establishment discharges to the public sewer system, the applicant has addressed any discharges of effluent or process water to the public sewer system that has exceeded the capacity of the system to transport and treat the material including any requirements for pre-treatment during the prior year to the satisfaction of the Superintendent of the Wastewater Treatment System and has made adequate provisions to prevent the recurrence of any such problems at the relocated or expanded location.

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Section 5.10.8 Fees

An application for a license or renewal of a license for a cannabis establishment shall include an application fee in the amount set forth in the schedule of fees adopted by the City Council.

This fee is nonrefundable and will be used to offset the City's costs in the review of the application and in the oversight with respect to conformance of the establishment with respect to the license and any conditions of approval.

Section 5.10.9 Definitions

Cannabis Establishment: Any use or facility that is a Medical Cannabis Cultivation Facility – Tier 1 or Tier 2, a Cannabis Cultivation Facility – Tier 3, a Cannabis Cultivation Facility – Tier 4, a Cannabis Products Manufacturing Facility, a Cannabis Testing Facility, a Cannabis Retail Store, a Medical Cannabis Registered Caregiver Retail Store, a Medical Cannabis Registered Dispensary, or a Cannabis Nursery Cultivation Facility as defined by this ordinance.

Medical Cannabis Cultivation Facility – Tier 1: An establishment registered with the State of Maine for the cultivation of medical cannabis by a Registered Caregiver in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing of not more than thirty (30) mature cannabis plants, not more than sixty (60) immature cannabis plants and any number of cannabis seedlings.

Medical Cannabis Cultivation Facility – Tier 2: An establishment registered with the State of Maine for the cultivation of medical cannabis in accordance with the rules established under Title 22 M.R.S. Chapter 558-C that involves the growing of mature cannabis plants with a plant canopy of not more than two thousand (2,000) square feet.

Cannabis Cultivation Facility – Tier 3: An establishment licensed by the State of Maine for the cultivation of medical cannabis in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine for the cultivation of adult use cannabis in accordance with the rules established under Title 28-B M.R.S. Chapter 1 that involves the growing of mature cannabis plants with a plant canopy of more than two thousand (2,000) but not more than seven thousand (7,000) square feet.

Cannabis Cultivation Facility – Tier 4: An establishment licensed by the State of Maine for the cultivation of medical cannabis in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine for the cultivation of adult use cannabis in accordance with the rules established under Title 28-B M.R.S. Chapter 1 that involves the growing of mature cannabis plants with a plant canopy of more than seven thousand (7,000) square feet.

Cannabis Products Manufacturing Facility: An establishment licensed by the State of Maine as a Tier 1 or Tier 2 medical cannabis products manufacturing facility in accordance

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with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine as an adult use cannabis products manufacturing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

Cannabis Testing Facility: An establishment licensed by the State of Maine as a medical cannabis testing facility in accordance with the rules established under Title 22 M.R.S. Chapter 558-C and/or licensed by the State of Maine as an adult use cannabis testing facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

Cannabis Retail Store: An establishment licensed by the State of Maine as an adult use cannabis store in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

Medical Cannabis Registered Caregiver Retail Store: An establishment licensed by the State of Maine as an Medical Cannabis Registered Caregiver Retail Store in accordance with the rules established under Title 22 M.R.S. Chapter 558-C.

Medical Cannabis Registered Dispensary: An establishment licensed by the State of Maine as an Registered Medical Cannabis Dispensary in accordance with the rules established under Title 22 M.R.S. Chapter 558-C.

Cannabis Nursery Cultivation Facility: An establishment licensed by the State of Maine as an adult use nursery cultivation facility in accordance with the rules established under Title 28-B M.R.S. Chapter 1.

Cannabis Plant – Immature: A cannabis plant that is not a mature cannabis plant or a cannabis seedling.

Cannabis Plant – Mature: A cannabis plant that is flowering.

Cannabis Seedling: A cannabis plant that is not flowering, is less than six (6) inches high and less than six (6) inches in width.

Section 5.10.10 Amendments

The City Council may amend this ordinance at any time in accordance with the City's procedures for the adoption and amendment of an ordinance.

Section 5.10.11 Severability and Validity

If a court of law in the State of Maine finds a portion of this ordinance to be invalid for any reason or purpose, the balance of the ordinance shall remain in effect and shall continue to apply to cannabis establishments. If a court of law finds the entire ordinance invalid, that action shall automatically void the municipal opt-in provisions of Title 28-B M.R.S Chapter 1 Subchapter 4 which authorizes municipal regulation of adult use cannabis establishments and Title 22 M.R.S Chapter 558-C Section 2429-D which authorizes municipal regulation of medical cannabis establishments. In such case no new or expanded cannabis establishments shall be

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permitted in the City of Gardiner but cannabis establishments with a valid City license as of the date of any such legal action shall be allowed to continue to operate in accordance with that license and the City shall, if requested, certify to the State that an application for renewal of a state license or approval is in conformance with local requirements.

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CHAPTER 5.11

Mobile Food Vending Units

SECTION

- 5.11.1 Authority and Purpose
- 5.11.2 Definitions
- 5.11.3 License and Inspections
- 5.11.4 General Requirements
- 5.11.5 Additional Requirements for Units Located on Public Streets
- 5.11.6 Additional Requirements for Units Located on Public Property
- 5.11.7 Additional Requirements for Units Located on Private Property
- 5.11.8 Enforcement; Violations
- 5.11.9 Severability

Section 5.11.1 Authority and Purpose

This ordinance entitled “Mobile Food Vending Units” is enacted pursuant to the City’s home rule authority, as provided in 30-A M.R.S. § 3001, the Maine Constitution, Article VIII, Part Second, and 7 M.R.S. § 284, all as may be amended from time to time.

These provisions relating to mobile food vending units or food trucks are intended to provide opportunities for the operation of mobile food vending units in the city while assuring that these units locate and operate in a manner that protects the public safety and does not create unreasonable burdens on the community.

Section 5.11.2 Definitions

As used in this chapter, the following words have the meanings stated below:

Mobile Food Vending Unit (Food Truck): A motor vehicle or trailer that is licensed to operate on public roads and that is designed and used to sell or otherwise dispense prepared food or beverages directly to consumers.

Section 5.11.3 License and Inspections

The owner or operator of a mobile food vending unit shall obtain a license from the Code Enforcement Officer prior to locating and/or operating the unit within the City of Gardiner. The Code Enforcement Officer shall issue a license only if she/he finds that the location and operation of the unit will be in conformance with the requirements of this Chapter and the Land Use Code if applicable and that the owner/operator has obtained all required state approvals or permits and a victualler’s license from the City of Gardiner. The owner or operator of a unit may apply for a license for one of the following time periods upon payment of the appropriate fee:

5.11.3.1 A three day license (see Section 5.11.6.1) - \$20 fee

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5.11.3.2 An annual calendar year license - \$100 fee

The Code Enforcement Officer in conjunction with the Police Department shall periodically inspect the location and operation of a licensed unit to assure that the requirements of this Chapter are being met.

Section 5.11.4 General Requirements

A mobile food vending unit that locates and/or operates in the City of Gardiner shall conform to the following requirements:

5.11.4.1 The owner/operator of the unit shall provide the Code Enforcement Officer with evidence of liability insurance coverage in an amount of at least \$1,000,000

5.11.4.2 If the unit will be located or operated on a public street or other public property the owner/operator shall provide the Code Enforcement Officer with evidence that the City is named as an additional insured on the liability insurance policy.

5.11.4.3 The owner/operator shall provide covered receptacles for the collection of trash and other wastes.

5.11.4.4 The owner/operator shall remove and dispose of all trash, garbage and other wastes on a daily basis. No trash, garbage or other wastes shall be stored outside of the unit.

5.11.4.5 The owner/operator shall not broadcast amplified music or commercial messages from the unit while the unit is parked for an extended period on a public street or other public property or located on private property.

Section 5.11.5 Additional Requirements for Units Located or Operated on Public Streets.

A mobile food vending unit that is located and/or operated on a public street shall conform to the following additional requirements:

5.11.5.1 The unit that operates from a location for an extended period shall be located in a legal parking space or spaces on one of the following streets:

- (a) Water Street between Church Street and Chestnut Street
- (b) Arcade Street
- (c) Mechanic Street
- (d) Maine Avenue
- (e) Summer Street
- (f) The south side of Dresden Ave between Church Street and School Street
- (g) Enterprise Avenue
- (h) Prescott Street
- (i) Technology Drive
- (j) River Avenue

The City Council may permit a mobile unit to be located on other public streets in conjunction with public or community event or activity.

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5.11.5.2 The location of the unit shall comply with all applicable parking requirements unless otherwise approved by the Chief of Police.

5.11.5.3 The placement or stopping of a unit shall not obstruct normal traffic flow on the street nor require vehicles to deviate from normal traffic lanes.

5.11.5.4 A unit shall be parked or stopped so that customers can be served while standing on a sidewalk or otherwise outside of the travelway of the street.

5.11.5.5 A unit shall not be in place or operated between the hours of 11:00 PM and 6:00 AM and shall be removed from public streets in the City of Gardiner every night.

5.11.5.6 A unit or customers patronizing a unit shall not obstruct pedestrian movement on any sidewalk or pedestrian path.

5.11.5.7 The site shall be broom-cleaned when the unit is removed. All trash or debris shall be picked up and removed.

Section 5.11.6 Additional Requirements for Units Located on Public Property

A mobile food vending unit that is located and/or operated on public property other than a public street shall conform to the following additional requirements:

5.11.6.1 A mobile vending unit that is located or operated in conjunction with a festival or other community event that has received a permit from the City Council shall conform to the requirements of the organizers of the event including the payment of any fees. Units placed on City property in conjunction with a City approved festival or event may be installed up to three (3) days prior to the start of the event and shall be removed within two (2) days after the conclusion of the event under a three-day license if allowed by the organizers of the festival or event. Units shall be operated only during the duration of the festival or event and shall be parked in locations designated by the organizer.

5.11.6.2 A mobile vending unit that is not part of a City approved festival or other community event that is located on public property shall conform to the following requirements:

5.11.6.2.1 A unit at Waterfront Park shall be located in the row of passenger vehicle parking spaces furthest from the river unless an alternative location is approved by the Code Enforcement Officer.

5.11.6.2.2 A unit shall be placed on public property other than a street or Waterfront Park only with prior approval of the City Manager or City Council and shall be placed in the location designated by the City Manager.

5.11.6.2.3 A unit shall be parked so that customers can be served while standing outside of the travelway of the street, access road or parking lot aisle.

5.11.6.2.4 A unit shall not be in place between the hours of 11:00 PM and 6:00 AM and shall be removed from public property every night.

5.11.6.2.5 A unit or customers patronizing a unit shall not obstruct pedestrian movement on any sidewalk or pedestrian path.

5.11.6.2.6 The site shall be cleaned daily and when the unit is removed. All trash or debris shall be picked up and removed.

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Section 5.11.7 Additional Requirements for Units Located on Private Property

A mobile food vending unit that is located and/or operated on private property shall conform to the following additional requirements:

5.11.7.1 The property on which a unit will be placed is located in a zoning district that allows mobile food vending units. The City Council may permit a mobile unit to be located on private property in other zones in conjunction with public or community event or activity.

5.11.7.2 The owner or operator of the unit must have the written permission of the property owner.

5.11.7.3 A unit may be located in an off-street parking space(s) on the lot.

5.11.7.4 If a unit is not located in an off-street parking space or other part of a parking lot, the placement of the unit shall conform to the setback requirements of the district in which it is located.

5.11.7.5 A unit shall not be located on a lot for more than one hundred eighty (180) days in any calendar year.

5.11.7.6 The unit shall not be open for business between 11:00 PM and 6:00 AM.

Section 5.11.8 Enforcement; Violations

This ordinance shall be enforced by the Code Enforcement Officer. Violation of this ordinance shall be a civil violation subject to a fine of not less than \$100 dollars nor more than \$250 dollars for each offense. Each act of violation and every day that any such violation shall occur shall constitute a separate offense. In addition to the fines provided herein, the City may seek any other relief or remedy available, including but not limited to injunctive relief or abatement regarding any violation of this ordinance. The owner or operator of a mobile food vending unit that has been found to be in violation of the ordinance more than twice may be denied future licenses to locate or operate a mobile food vending unit in the City of Gardiner.

Section 5.11.9 Severability

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

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CHAPTER 5.12

Local Food Sovereignty

SECTION

- 5.12.1 Authority and Purpose
- 5.12.2 Definitions
- 5.12.3 License and Inspection Exemptions
- 5.12.4 Notice Requirements
- 5.12.5 Enforcement; Violations
- 5.12.6 Severability

Section 5.12.1 Authority and Purpose

This ordinance entitled “Local Food Sovereignty” is enacted pursuant to the City’s home rule authority, as provided in 20-A M.R.S. § 3001, the Maine Constitution, Article VIII, Part Second, and 7 M.R.S. § 284, all as may be amended from time to time.

These provisions relating to local food sovereignty are intended to provide residents with increased access to local food, to support the ability of residents to produce, sell, purchase and consume locally produced foods, and to reduce governmental regulation of local foods to the extent permitted by and pursuant to 7 M.R.S. § 281 - § 286.

Section 5.12.2 Definitions

As used in this chapter, the following words have the meanings stated below:

Direct Producer – Consumer Transaction: A face-to-face transaction involving food or food products at the site of production of those foods or food products or at a farmers market or other public or community activity or location in the City of Gardiner if the person who produced or oversaw the production of the foods or food products is present during the transaction at the location of the transaction.

Food or Food Products: Food or food products intended for human consumption, including, but not limited to, milk or milk products, meat or meat products, poultry or poultry products, fish or fish products, seafood or seafood products, fresh produce, cider or juice, acidified foods, or canned fruits or vegetables.

State Food Law: Any provision of Title 7 or Title 22 of the Maine Revised Statutes that regulates direct producer-to-consumer transactions.

Site of Production: Any site of production pursuant to 7 M.R.S. § 281 et. seq, including the premise where a food or food product is grown, raised, processed, or produced such as a farm, home kitchen, farm-based kitchen or similar location controlled by the producer, grower or processor.

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Section 5.12.3 License and Inspection Exemptions

5.12.3.1 Notwithstanding any other provisions of the ordinances of the City of Gardiner to the contrary, producers, growers, and processors of food or food products are exempt from State food law licensure and inspection requirements with respect to their direct producer-to-consumer transactions.

5.12.3.2 Pursuant to 7 M.R.S. § 285, the exemption provided in 5.12.3.1 does not apply to any producer-to-consumer transactions involving meat, meat products, poultry, or poultry products as those terms are defined in 22 M.R.S. § 2511. All such transactions remain subject to state inspections and licensing pursuant to Chapter 562-A of the Maine Revised Statutes and the rules adopted thereunder.

Section 5.12.4 Notice Required

Any producer, grower, or processor of food or food products exempted under 5.12.3.1 that offers those products for sale or by other transaction to the public at the site of production or at a farmers market or other public or community activity or location shall provide written notice to potential customers at the place of the transaction that the products so offered have been exempted from State food law licensure and inspection requirements. This notice may be provided by posters, handbills or product labeling.

Section 5.12.5 Enforcement; Violations

This ordinance shall be enforced by the Code Enforcement Officer. Violation of this ordinance shall be a civil violation subject to a fine of not less than \$100 dollars nor more than \$250 dollars for each offense. Each act of violation and every day that any such violation shall occur shall constitute a separate offense. In addition to the fines provided herein, the City may seek any other relief or remedy available, including but not limited to injunctive relief or abatement regarding any violation of this ordinance.

Section 5.12.6 Severability

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

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TITLE 7

EDUCATION

Cross references: **Gardiner School District, ch. 157 of Private and Special Laws 1949.**
 Gardiner School District, (Increased in dept.), ch. 63 of Private and Special Laws 1957, p. 683.
 Maine School Administrative District No. 11 - Gardiner, West Gardiner, Randolph, Pittston, organized effective July 31, 1959, ch. 195 of Private and Special Laws 1960 (sp. sess.) Organization of school Administrative Districts, 1954 R.S. ch. 41, ss. 111-F et seq.
 School Board, see City Charter, Art. IV, ss. 1 et seq.

CHAPTER

7.1 Library

7.2 Gardiner Public Library Board of Trustees

CHAPTER 7.1

Library

Preamble:

The Trustees of the Gardiner Public Library are requesting a more effective means of dealing with the problem of unreturned books which has resulted in an annual loss of several hundred dollars in books belonging to the library.

Section 7.1.1

Whoever detains any book, audio-visual material or other property of the Gardiner Public Library for seven (7) days after written notice to return same, delivered by certified mail or in hand by a police officer given after the expiration of the time which by the rules of the Gardiner Public Library such article or other property may be kept, shall be guilty of a misdemeanor.

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CHAPTER 7.2

Gardiner Public Library Board of Trustees

SECTION

- 7.2.1 Board of Trustees
- 7.2.2 Purpose
- 7.2.3 Appointments, Term Renewal, Vacancy
- 7.2.4 Meetings
- 7.2.5 Officers
- 7.2.6 Duties of Officers
- 7.2.7 Elections
- 7.2.8 Duties of Members
- 7.2.9 Amendments
- 7.2.10 Gifts and Donations
- 7.2.11 Duties and Responsibilities of the Gardiner Public Library Board of Trustees

Section 7.2.1 Board of Trustees

The City of Gardiner hereby establishes the Gardiner Public Library Board of Trustees.

Section 7.2.2 Purpose

The purpose of the Gardiner Public Library Board of Trustees is to represent the citizens of the city as an advisory body to the city council, city manager and librarian regarding the administration and policies of the Library. The function of the Library is to provide library services for adults and children and to serve the community as a center for reliable information.

Section 7.2.3 Appointments, Term Renewal, Vacancy

7.2.3.1 The Board shall consist of three members appointed by the mayor with the advice and consent of the city council. All members shall be residents of the city.

7.2.3.2 The term of office will be for three years on a staggered basis. The terms of the originally appointed members will be as follows: one member for a one-year term, one member for a two-year term, and one member for a three-year term. All terms shall start July 1st.

7.2.3.3 Each year thereafter, in the month of July, the mayor with the advice and consent of the city council shall meet and appoint a new member or re-appoint a current member for the term of three years, to succeed the outgoing member.

7.2.3.4 In the event of the resignation of any trustee, or his death, inability to serve, or absence with acceptable reasons from three regular consecutive meetings, his seat shall be declared vacant. The mayor with the advice and consent of the city council may appoint a member to finish any unexpired term that might remain.

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7.2.3.5 The mayor shall serve as ex-officio member with no vote.

7.2.3.6 Towns paying 100% of their fair share charge for use of the Library shall be entitled to one voting member of the Library Board of Trustees to be appointed by the Board of Selectpersons of each respective town for a one-year term.

Section 7.2.4 Meetings

7.2.4.1 Regular meetings shall be held on a quarterly basis unless otherwise ordered by the trustees.

7.2.4.2 Special meetings shall be called by the chairman or upon the written request of at least two members or the librarian.

7.2.4.3 All regular meetings are to be held at the Gardiner Public Library unless otherwise directed by the chairman.

7.2.4.4 The regular meeting held in July of each year may be known as the organization meeting. The purpose of this meeting shall be the election of officers, namely the chairman and secretary; the presentation of the annual report and other business that may need to come before such a meeting.

7.2.4.5 The meeting held in the fourth quarter of each year shall be to review the proposed budget for the coming fiscal year and other business that may need to come before such a meeting.

7.2.4.6 After review, copies of the budget must be submitted by the librarian to the city manager for submission to the city council.

7.2.4.7 Two members constitute a quorum at any regular or special meeting.

7.2.4.8 All meetings are open to the public. Executive sessions may be held in accordance with the Maine Revised Statutes Annotated, but all votes must be in public.

Section 7.2.5 Officers

The trustees shall consist of the following officers:

7.2.5.1 The officers shall be a chairman and a secretary who shall be elected at the organizational meeting in July to serve for one year or until a successor shall be elected and qualified.

Section 7.2.6 Duties of Officers

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The duties of the officers shall be as follows:

7.2.6.1 The chairman shall preside at all the meetings of the trustees, appoint all committees, represent the trustees at appropriate public affairs, and shall maintain the dignity and efficiency of the trustees in all possible ways.

7.2.6.2 The secretary shall keep a record of the proceedings of the trustees. He shall read all official communications to the trustees, write correspondence as directed, keep on file all important letters and replies thereto.

Section 7.2.7 Elections

All officers shall be elected by nominations made from the floor. A majority vote of those present shall constitute an election. No elections shall be held unless all three trustees are present.

Section 7.2.8 Duties of Members

7.2.8.1 It shall be the duty of each member of the board to take an active part in the direction of the library's program and to act in whatever capacity he may be called, to be loyal in thought and deed to the welfare of the library and to the community which it seeks to serve.

7.2.8.2 All members shall serve without remuneration.

7.2.8.3 Any member is privileged to make an inspection of the library and equipment at any time and to bring a report before the Board.

7.2.8.4 The librarian shall see that the budget is carefully kept and present a financial report at board meetings quarterly.

7.2.8.5 All members shall serve as trustees of any trust funds donated for library use, except in cases where other trustees are designated.

Section 7.2.9 Amendments

7.2.9.1 This constitution may be amended at any regular or special meeting of the city council by a majority vote of those present and voting, provided notice of the proposed amendment has been given in writing to all trustees at least two weeks prior to said meeting.

7.2.9.2 The library policy, adopted to supplement this constitution, may be amended at any regular or special meeting of the trustees by a majority vote of the members present and voting, provided the proposed amendment has been given in writing to all trustees at least seven days prior to said meeting.

Section 7.2.10 Gifts and Donations

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The trustees shall have the authority to accept gifts and donations to be deposited with the city treasurer.

Section 7.2.11 Duties and Responsibilities of the Gardiner Public Library Board of Trustees

7.2.11.1 To know why the library exists and review these reasons.

7.2.11.2 To be responsive to the needs of the community, to be progressive and practical.

7.2.11.3 To work with the professional staff as partners; expect the librarian to recommend plans of operation, financing, supervision and control.

7.2.11.4 To participate actively in the meetings of the Board of Trustees.

7.2.11.5 To make it a point to discuss the work of the library with citizens and community groups. Get reaction from the public and establish support and participation by a planned public relations program.

7.2.11.6 To be acquainted with the tax resources of the community and secure adequate funds for the library program.

7.2.11.7 To be familiar with the recommended standards for public libraries and their programs.

7.2.11.8 To determine the operating policies and programs of the library.

7.2.11.9 In accepting the appointment to the Library Board of Trustees, the only defensible motive a citizen may have is that of service to the community.

7.2.11.10 To recommend to the city manager a person or persons to be librarian when a vacancy occurs in that position. The board may recommend disciplinary action or termination of services of the librarian to the city manager.

7.2.11.11 Members shall familiarize themselves with Robert's Rules of Order and parliamentary law. Meetings shall be conducted and policies enacted within this framework.

7.2.11.12 To develop long-range goals and to advise the mayor and council of all possible avenues of Federal and State grant and aid programs pertaining to the library.

7.2.11.13 To report regularly to the governing officials and the general public.

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TITLE 9

FINANCE AND FISCAL MATTERS

CHAPTER

- 9.1 Reserve Fund for Insurance
- 9.2 Costs for Services

CHAPTER 9.1

Reserve Fund for Insurance

Preamble:

Now that the City of Gardiner is no longer protected by Municipal Immunity as of July 1, 1977, together with the fact that the present insurance policy on liability pertaining to Sewer, Sidewalks and Streets contains a **Five Thousand Dollar (\$5,000)** deductible clause, it is advisable for the city to establish a Reserve Fund for insurance claims.

A cumulative reserve fund is hereby authorized for the purpose of enabling the city to pay losses incurred under deductible insurance policies. Such fund shall be derived from contributions from other accounts within the general and other operating funds which shall be appropriated annually. The city council may appropriate additional sums to such fund and shall in the annual appropriation resolve include provision for payment of such cumulative reserve fund all losses which may occur during the next fiscal year. Such cumulative reserve fund shall be a permanent fund to be used for the purposes herein set forth and no other shall continue from year to year, its surplus not reverting to the general fund surplus at the end of any fiscal year. Said fund shall be kept, held and administered as provided by the Revised Statutes for other reserve funds of municipalities.

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CHAPTER 9.2

Costs for Services

SECTION

- 9.2.1 Purpose
- 9.2.2 Report to the City Manager
- 9.2.3 Report to the Council
- 9.2.4 Council to Set Cost
- 9.2.5 Termination of Services
- 9.2.6 Resumption of Services
- 9.2.7 Billing and Payment

Section 9.2.1 Purpose

The purpose of this ordinance is to allow other municipalities to be provided service or services by the City of Gardiner on the basis that all costs associated with the providing of such service or services shall be recovered by the City of Gardiner.

Section 9.2.2 Report to the City Manager

The department heads of the City of Gardiner will provide annually to the city manager an itemized report of all actual costs of providing services being rendered to other towns and a projection of the cost to provide such services during the following year.

Section 9.2.3 Report to the Council

The city manager shall annually, at the January regular council meeting, report to the council the cost of providing services being rendered to other towns and shall make a recommendation as to the amount which should be charged during the next year.

Section 9.2.4 Council to Set Cost

The city council shall annually, during January, set a fair and equitable cost for providing services to other towns.

Section 9.2.5 Termination of Services

Towns duly requesting services from the City of Gardiner will be charged the applicable amount or amounts established under Section 9.2.4 of this ordinance for such services. In the event of non-payment by a town of costs for services within thirty days of the date billed, the city manager shall report the same to the city council. The city council shall hold, after 7 days notice to the municipal officers of said town, a public hearing concerning the non-payment for services. The city council shall make a determination as to whether the amount billed was just and as to whether the amount was paid. Should the city council determine that the amount billed was just and was not paid, the city council may order that any or all services being provided to said towns

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be terminated forthwith.

Section 9.2.6 Resumption of Services

The city council may authorize resumption of services to delinquent towns after payment in full of all amounts due.

Section 9.2.7 Billing and Payment

Towns requesting services will be billed in advance of the rendering of services or as soon after initiation of service as practical. Charges for services shall be due 30 days from the date billed. Sums not paid after said 30 days shall be charged interest at the rate set by the municipal officers for unpaid taxes, at the time of said billing.

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TITLE 11

GENERAL WELFARE

CHAPTER

- 11.1 Curfew on Minors**
- 11.2 Parks and Cemeteries**
- 11.3 General Assistance Ordinance (Under Separate Cover)**

Cross references: **Adoption of Children**, see 1954 R.S. ch. 158, section 36 et seq.
 Aid to blind, see 1954 R.S. ch. 25, ss. 258 et seq.
 Aid to Dependent Children, see 1954 R.S. ch. 25, ss. 234 et seq.
 Crippled children, see 1954 R.S. ch. 25, ss. 259 et seq.
 Institutions, see 1954 R.S. ch. 25, ss. 4 et seq.
 Old age assistance, see 1954, R.S. ch. 25, ss. 276 et seq.
 Paupers, see 1954 R.S. ch. 25, ss. 20, 61; ch. 94, ss. 21, 23
 State Prison, see 1954 R.S. ch. 27, ss. 1 et seq.
 Welfare Service, see 1954 R.S. ch. 25, ss. 231 et seq.

CHAPTER 11.1

Curfew on Minors

SECTION

- 11.1.1 Title
- 11.1.2 Definitions
- 11.1.3 Offenses
- 11.1.4 Defenses
- 11.1.5 Enforcement
- 11.1.6 Penalties
- 11.1.7 Severability

Section 11.1.1 Title

This ordinance shall be known and may be cited as the Curfew Ordinance of the City of Gardiner, Maine.

Section 11.1.2 Definitions

Curfew Hours means the hours from 11:01 p.m. until 6:00 a.m. of the following day.

Emergency means unforeseen circumstances, or the resulting situation, calling for immediate action. This includes, but is not limited to, fire, natural disaster, or vehicular accident, as well

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as any situation requiring action to avert serious injury or the loss of life.

Guardian means a person or a public or private agency who either pursuant to court order or acceptance of testamentary appointment, is the legal guardian of the minor. This definition also includes a person to whom parental powers have been delegated under M.R.S.A. Title 18-A, ss 5-104.

Minor means any person who is seventeen years of age or younger.

Parent means a person who is the natural parent, adoptive parent, or step-parent of the minor.

Public place means a place located in the City of Gardiner to which the public, or a substantial group of the public, has access, including, but not limited to, streets, highways, sidewalks, parking lots, vacant lots, parks, and the common areas in and about apartment buildings, office buildings, hospitals, schools, shops and places of entertainment such as movie theaters.

Remain means to linger or stay, as well as to refuse to leave when requested to do so by a police officer, or the owner or other person in control of a public place. This term also encompasses activities which may be mobile, such as walking, driving, and riding about in a public place.

Section 11.1.3 Offenses

11.1.3.1 It shall be unlawful for a minor to remain in a public place during curfew hours.

11.1.3.2 It shall be unlawful for a parent or guardian of a minor to knowingly permit, or to allow by exercising insufficient control, the minor to remain in a public place during curfew hours.

Section 11.1.4 Defenses

It is a defense to prosecution under Section 11.1.3 of this ordinance that the minor was:

11.1.4.1 accompanied by the minor's parent or guardian;

11.1.4.2 involved in an emergency or on an errand necessitated by an emergency;

11.1.4.3 engaged in an employment activity, or on the way to or from an employment activity, without any detour or stop except as necessary to drop off or pick up a co-employee;

11.1.4.4 in a motor vehicle involved in interstate travel;

11.1.4.5 on an errand directed by a parent or guardian, without any detour or stop;

11.1.4.6 on the sidewalk abutting the minor's home;

11.1.4.7 attending a school, religious, or governmental activity, which is supervised by adults,

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or traveling to or from such a school, religious, or governmental activity without detour or stop;

11.1.4.8 attending a recreational activity sponsored by the City of Gardiner, a civic organization, or a similar entity, which is supervised by adults, or traveling to or from such an activity without detour or stop;

11.1.4.9 exercising rights protected by the First Amendment of the United States Constitution;

11.1.4.10 married, or otherwise legally emancipated.

Section 11.1.5 Enforcement

Before taking any action to enforce this ordinance, a police officer shall ask the apparent offender's age. The officer may ask for proof of the apparent offender's age, and shall be justified in taking action to ascertain the apparent offender's age in the absence of identification, such as taking the apparent offender into custody while contacting his or her parent or guardian, or accompanying the apparent offender to his or her residence for the purpose of obtaining identification.

If the apparent offender is a minor, or cannot produce identification proving otherwise immediately, the officer shall ask the reason for the apparent offender's being in a public place. The officer shall not take any action to enforce this section unless the officer reasonably believes that an offense has occurred and, based on any response as well as other circumstances, no defense provided in Section 11.1.4 is applicable. If the officer does have such a reasonable belief, the officer may take the minor into custody for the purposes of contacting the minor's parent or guardian to come to take control of the minor. The police officer shall summons the minor and the minor's parent to the District Court for violation of this ordinance. During this period, the officer may require the minor or the minor's parent or guardian or both to remain in the officer's presence for a period of up to two hours, so long as the officer complies with all requirements of law, including, without limitation, M.R.S.A. Title 17-A, ss 17.

Section 11.1.6 Penalties

11.1.6.1 The penalty for a minor who violates this ordinance shall be:

- (a) for the first offense, five hours of community service and a fine of up to \$50.00; and
- (b) for each subsequent offense, ten hours of community service and a fine of up to \$100.00.

11.1.6.2 The penalty for a parent or guardian who violates this ordinance shall be:

- (a) for the first offense, a fine of \$50.00; and
- (b) for each subsequent offense, a fine of \$100.00.

Section 11.1.7 Severability

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If any provision of this ordinance is determined to be invalid by a court of competent jurisdiction, such determination shall not render invalid the remaining provisions.

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CHAPTER 11.2

Parks and Cemeteries

SECTION

- 11.2.1 Designation of City Parks
- 11.2.2 Use of City Parks
- 11.2.3 Permits for Use of City Parks
- 11.2.4 Use of Vehicles in City Parks
- 11.2.5 Hours of Use of City Parks
- 11.2.6 City Cemeteries
- 11.2.7 Special Conditions Regarding Gardiner Landing
- 11.2.8 Unlawful Camping

Section 11.2.1 Designation of City Parks and Cemeteries

The following areas are hereby designated city parks: The Gardiner Common, Soldier's Field, Quimby Field, Dearborn Park, Brunswick Hill Park, MacMaster's Square, Waterfront Park/Gardiner Landing, McKay Park, Harrison Avenue Nature Trail, Gardiner Dog Park, and South Gardiner Park. City cemeteries: Libby Hill Cemetery, Plaisted Cemetery and River Avenue Cemetery.

Section 11.2.2 Use of City Parks

No person or organization shall sell any goods or services or conduct any public meeting, festival, event, or any such public activity or gathering in any City park without first obtaining a permit from the City Manager.

Section 11.2.3 Permits for Use of City Parks

The city manager shall issue permits to persons or organizations to conduct such activities in any of the city parks upon the applicant's meeting of the following requirements:

11.2.3.1 The applicant shall agree to indemnify and hold the city harmless from any and all claims or damages arising out of the applicant's proposed activity.

11.2.3.2 The applicant shall agree to turn the subject city park over to the city following the proposed activity in the same condition it was in on the date said permit was issued.

11.2.3.3 The applicant shall agree to such reasonable controls or limitations on hours of operation, noise, and types of activities, as the city manager may impose upon such permit.

11.2.3.4 The applicant shall provide such bonds with such sureties as the city manager may reasonably demand of applicant to assure applicant's compliance with the conditions and/or

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limitations of such permit.

Section 11.2.4 Use of Vehicles in City Parks

Except for the designated vehicle roadways, launching ramps, and designated parking areas, all city parks shall be closed to all motor vehicles except emergency, maintenance and law enforcement vehicles, except during events for which a permit has been granted as stated in Section 11.2.3 at which time vehicles used in connection with operating an event may also enter the parks.

Section 11.2.5 Hours of Use of City Parks

Except for the Gardiner Landing, city parks shall be closed to all persons except law enforcement officers and maintenance and emergency personnel between 10:00 p.m. and 5:00 a.m. Violation of this section shall be punishable by a fine of not more than **\$100** or imprisonment of up to ten days.

Section 11.2.6 City Cemeteries

11.2.6.1 Hours. All city maintained cemeteries shall be closed to all persons and all vehicles except law enforcement officers and maintenance and emergency personnel and vehicles between the hours of 9:00 p.m. and 5:00 a.m. Violation of this section shall be punishable by a fine of not more than \$100 or imprisonment up to ten days.

11.2.6.2 Rules.

11.2.6.2.1 Applicability – These rules apply to cemeteries owned and/or maintained by the City of Gardiner.

11.2.6.2.2 Purpose – These rules are adopted by the City Council to assure that City owned/maintained cemeteries are attractive places that can be efficiently maintained. The City shall install signs summarizing these rules at the primary entrance(s) to each cemetery.

11.2.6.2.3 Responsibility of the City – The City of Gardiner is responsible for the overall upkeep of the cemeteries including maintaining the infrastructure, periodic mowing and cleanup. The City is not responsible for any work involving the maintenance of individual grave sites or monuments or markers. The City reserves the right to remove dead or unsightly plants or flowers or other ornaments on individual graves and to move or relocate planters or flower boxes that do not conform to these rules or that interfere with the normal maintenance of the cemetery. The City shall not be responsible for any grave decorations or other items that may be lost, misplaced, broken or stolen.

11.2.6.2.4 Seasonal Cleanup – All flowers, potted plants and other ornamentation or decorations shall be removed from all graves in the spring not later than April 15th and in the fall no later than October 1st to facilitate the seasonal cleanup of the cemetery.

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11.2.6.2.5 Grave Decorations – The following limitations apply to grave sites. The City will remove any decorations that are not in compliance with these rules:

11.2.6.2.5.1 Only memorial insignias, living plants and flowers, or silk flowers are permitted as grave decorations. Plastic plants and flowers are not permitted. Eternal lights including solar lights are permitted for special occasions and may be used for a maximum of three (3) days.

11.2.6.2.5.2 Seasonal flowers may be planted on the grave but must be located close to the monument and maintained by the owner or family.

11.2.6.2.5.3 The planting of trees or shrubs is prohibited.

11.2.6.2.5.4 Urns or flower boxes not more than three (3) feet in length may be placed close to the monument but may not be placed on other parts of the lot.

11.2.6.2.5.5 Dead or damaged flowers or plants shall be removed from the grave by the owner or family in a timely manner.

11.2.6.2.5.6 The placing of boxes, shells, toys, metal designs, ornaments, chairs, settees, fences, edging materials, shepherd's hooks, trellises, or similar items is not permitted.

11.2.6.2.5.7 No concrete, plastic or wood edging is allowed around flower beds.

11.2.6.2.5.8 White marble chips, granite chips, or other rock materials are not allowed in flower beds or on cemetery lots.

11.2.6.2.6 Failure to Maintain a Grave Site – The City reserves the right to take steps to maintain a grave site if it is not adequately maintained including the following:

11.2.6.2.6.1 Any grave marker in poor or dangerous condition may be either removed by the City or set flush with the ground.

11.2.6.2.6.2 Any existing trees, shrubs, or bushes that become overgrown, unsightly or hazardous may be trimmed or removed by the City.

11.2.6.2.7 Interments – Prior to any interment in a City cemetery, the person responsible for the interment shall notify the City Clerk of the planned interment. This notice shall be given at least one business day prior to the planned time of the interment unless religious or health concerns make this impractical. In this case, notice should be provided as soon as reasonable. The notice may be provided in writing, by email, or by text message. The notice shall include the name of the deceased, the name of the responsible party, the name of the cemetery, the planned day and time of the interment, the exact location of the grave in the cemetery, and evidence of the right of the deceased to be interred at that location. The responsible party shall provide the City Clerk with an accurate description of the location of

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the grave by reference to a City map of the graves or by GPS coordinates within ten (10) business days following the burial.

Section 11.2.7 Special Conditions Regarding Gardiner Landing

11.2.7.1 Upon designation by the city council of a special activity, the city council may prohibit the parking of vehicles and boat trailers on the Gardiner Landing for a period not to exceed seventy-two hours. The city council shall set forth, in the designation, the hours that no parking is to be in effect. Notice of the designation of a special activity and the hours of no parking shall be posted at the entrances to the Gardiner Landing forty-eight hours in advance of the initiation of such hours of no parking. Vehicles and trailers found parked illegally after such designation and notice, may be removed and stored at the expense of the owner or person in charge or control thereof. The establishment of a period of no parking on the Gardiner Landing shall not apply to emergency, maintenance, law enforcement and vehicles used in connection with the operation of the special activity.

11.2.7.2 Boat Landing Facility and Wharf.

11.2.7.2.1 No person shall use the launching ramp for a period of time in excess of 30 minutes.

11.2.7.2.2 No person shall ground out, tie up or moor or permit to be ground out, tied up or moored, any watercraft on the launching ramp.

11.2.7.2.3 No person shall tie up or permit to be tied up to the launching ramp floats, any watercraft for a period longer than 30 minutes.

11.2.7.2.4 No person shall leave any property on the launch ramp or wharf floats for any period of time except during the actual period of loading and unloading passenger supplies or during the period of other related activities.

11.2.7.2.5 No person shall keep, clean or dispose of in any manner or permit to be kept, cleaned or disposed of in any manner, any fish or other marine live on the launch ramp or wharf floats.

11.2.7.2.6 No person shall engage in swimming from the launch ramp or wharf floats or from any water craft moored in any manner to the floats.

11.2.7.2.7 No person shall use or permit the launch ramp or wharf floats to be used for any other purpose or activity other than that which is permitted by Section 11.2.7.

11.2.7.3 Camping or otherwise staying overnight in any city park or on any city property is prohibited with the exception of a permit for an overnight wharf float.

11.2.7.4 No person shall leave any property on any city property for longer than forty-eight hours without the express permission of the city manager.

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11.2.7.5 Removal of watercraft from Boat Landing Facility and Wharf. The harbor master shall have the authority to remove or cause to be removed at the expense of the registered owner of said water craft, any water craft from the boat landing, wharf or wharf floats and to remove the same to a safe anchorage or storage on land in the following instances:

11.2.7.5.1 Where a watercraft has occupied a boat landing, wharf or wharf float for a period of time in excess of that stated under this section, without a permit from the harbor master.

11.2.7.5.2 Where a watercraft is occupying the boat landing, wharf or wharf floats at the time of arrival of a commercial public carrier which said carrier has permission to occupy the boat landing, wharf or wharf floats in advance, and in those instances where the owner of the water craft occupying the landing, wharf or wharf floats cannot be located or having been located and advised to remove his water craft, refuses to do so. The arrival time of any such commercial public carrier shall be posted at the boat landing, wharf or wharf floats at least six hours in advance of its arrival time.

11.2.7.5.3 In all instances where the safety of the water craft occupying the boat landing, wharf or wharf floats, adjacent water craft, the boat landing, wharf or wharf floats or any public property shall require such removal.

11.2.7.5.4 Any watercraft lying in tier (more than one water craft deep.)

11.2.7.5.5 Any watercraft which is anchored or moored in a fashion which obstructs the free passage of water craft going in or coming out of boat landing, wharf or wharf floats.

11.2.7.5.6 All costs associated with the removal of any water craft shall be borne by the owner and shall constitute a lien upon said watercraft which shall be required to be paid before said water craft shall be permitted to leave the harbor or other place of storage.

11.2.7.6 Use of Wharf Floats. The harbor master may issue permits to applicants for use of the wharf floats in accordance with the following:

11.2.7.6.1 The applicant shall agree to indemnify and hold the city harmless from any and all claims or damages arising out of the applicant's use of the wharf.

11.2.7.6.2 The applicant shall agree to abide by all rules and regulations as set forth by the City of Gardiner for use of the Gardiner Landing.

11.2.7.6.3 Permits may be issued to a single vessel for use of the wharf floats for overnight tie-up for a limit of one consecutive night. Cost for overnight permit is listed on the city fee schedule. There will be no requirement for permits for day use of the wharf float.

11.2.7.6.4 Permits are to be displayed on the inboard side of the vessel at all times while it is tied to the wharf.

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11.2.7.6.5 The mooring place adjacent to and parallel with the float ramp shall be limited to one two-hour tie-up in any eight-hour period.

11.2.7.7 Penalties.

11.2.7.7.1 Unless a greater penalty is specifically provided in this chapter or in an applicable provision of the Maine Revised Statute, any person violating any provision of this chapter shall be punished by a fine not less than \$25.00 nor more than \$100.00 for each violation. Any fine imposed under this section shall not preclude, and shall be in addition to, any other civil remedies that may be available to the city.

11.2.7.7.2 The harbor master or his authorized representative is authorized to accept a waiver of rights under section 11.2.7 and accept \$25.00.

11.2.7.7.3 It shall be prima facie evidence that the person in whose name the vessel is registered, unlawfully moored said vessel found in violation of section 11.2.7.

11.2.7.7.4 A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

11.2.7.8 Immobilization

11.2.7.8.1 Any vessel which has accumulated one (1) or more notices of violation of section 11.2.7 for which there has been neither payment of waiver fees nor issuance of court process and which is moored in violation of section 11.2.7 may, at the option of any person authorized to enforce the provisions of section 11.2.7, be immobilized in place until all waiver fees established pursuant to 30 M.R.S.A. Section 2151, for all such outstanding notices of violation have been paid or until the requirements of Section 11.2.7.7.2 or 11.2.7.7.3 have been met.

11.2.7.8.2 Any person having the means to release such immobilized vessel shall not release it until the individual requesting its release presents satisfactory evidence of his or her right to possession and signs a receipt therefor, and:

- (a) The harbor master or his duly authorized representative certifies that all waiver fees have been paid; or
- (b) Until the harbor master or his duly authorized representative shall certify the posting of a bond equal to the total of all previously accumulated waiver fees which should have been remitted for said overdue notices or violation; or
- (c) Upon certification of the harbor master or his or her authorized representative that such person has both:
 - (i) Demonstrated that he or she is unable to pay the accumulated waiver fees by reason of poverty, having provided satisfactory proof of such status; and
 - (ii) Accepted service of process initiating a court proceeding to determine his or her liability for the prescribed penalty for such alleged violations.

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11.2.7.8.3 Whenever any person requests the right to post bond pursuant to Section 11.2.7.8.2.b, such bond shall be given in cash and a receipt given therefor. Such bond money shall be refunded in the amount of the waiver fee for each alleged violation upon acceptance by such person of service of process initiating a court proceeding to determine his or her liability for the prescribed penalty for such alleged violation. Any bond shall be forfeited unless the person posting it requests and accepts service of such process from the harbor master or his or her designated representative within thirty (30) days of posting unless prevented from doing so by the actions or inaction of the City of Gardiner.

11.2.7.8.4 It shall be unlawful for any person to tamper with or to attempt to remove any immobilizing device attached to a vessel. Notwithstanding other penalty provisions contained in these regulations, the penalty for any such violation shall be not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

Section 11.2.8 Unlawful Camping

11.2.8.1 Purpose

It is the purpose of this ordinance to prevent harm to the health or safety of the public and to promote the public health, safety, and welfare by making public streets, parks, or any publicly-owned area readily accessible to the public for their intended purpose, and to prevent use of public property, parks, and streets for camping purposes which interferes with the rights of others to use the areas for which they were intended.

11.2.8.2 Definitions

"Camp" or "Camping" means to pitch, create, use or occupy camp facilities for the purpose of habitation, as evidenced by the use of camp paraphernalia.

"Camp facilities" include, but are not limited to, tents, huts, temporary shelters, or vehicles, if a vehicle is being used for habitation purposes.

"Camp paraphernalia" includes, but is not limited to tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, operational cooking facilities, and similar equipment.

"Habitation" means the intentional use of a space as temporary or permanent living quarters.

"Park" means those grounds and facilities generally covered by Chapter 3 of the Gardiner Municipal Code.

"Street" means any highway, street, public right-of-way, alley, or every place in the City that is publicly owned or maintained for public vehicular travel. The term also includes publicly maintained sidewalks.

11.2.8.3 Unlawful Camping

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It shall be unlawful for any person to camp in the following areas:

- (a) Any park
- (b) Any street
- (c) Any publicly owned or maintained parking lot or other publicly owned or maintained area, property or facility.
- (d) It shall be an affirmative defense under this chapter for any person, without the purpose of habitation, to temporarily occupy and use a vehicle for emergency reasons such as escape from or avoidance of an abusive person(s), avoidance of driving a vehicle while under the influence of alcohol or drugs and other similar purposes, even though the person may sleep during the period of that use.
- (e) The City Council may allow camping, on public property as part of a duly issued Special Events Permit. (See Special Events Ordinance 1.4.4 for more information.)

11.2.8.4 Recreational Vehicles

This chapter shall not apply to the use of motor homes for a continuous period up to 48 hours where such vehicle contains onboard, self-contained toilet and sanitation facilities, which are in working order.

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TITLE 13

HEALTH AND SAFETY

CHAPTER

- 13.1 Civil Defense and Public Safety**
- 13.2 Fire Department**
- 13.3 Disorderly Conduct**
- 13.4 Alarm Systems**
- 13.5 Dumps**
- 13.6 Fire Prevention**
- 13.7 Snow Removal**
- 13.8 Addressing Ordinance⁴**
- 13.9 Ambulance Service Advisory Board**
- 13.10 Sale, Use and Possession of Fireworks**
- 13.11 Blasting**

CHAPTER 13.1

Civil Defense and Public Safety

SECTION

- 13.1.1 Organization for Civil Defense and Public Safety**

Section 13.1.1 Organization for Civil Defense and Public Safety

13.1.1.1 There is hereby created an organization for civil defense and public safety, in accordance with the state civil defense and public safety plan and program. The mayor with the advice and consent of the city council shall appoint a director of civil defense, who shall have direct responsibility for the organization, administration and operation of such organization for civil defense and public safety, subject to the direction and control of the mayor.

13.1.1.2 The organization for civil defense and public safety shall function in compliance with chapter 12 of the 1954 Revised Statutes.

⁴Ordinance No. 95-13, adopted May 15, 1995. Revised December 19, 2018.

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CHAPTER 13.2

Fire Department

SECTION

- 13.2.1 Definitions
- 13.2.2 Organization
- 13.2.3 Membership

Section 13.2.1 Definitions

13.2.1.1 Full Time Firefighter. A person whose primary employment is that of a firefighter and provider of emergency medical care for the City of Gardiner.

13.2.1.2 Call Firefighter. A person who receives compensation from the city for aiding in the extinguishment of fires and/or aiding in the administration of emergency medical care, but whose primary employment is not that of a firefighter for the City of Gardiner.

13.2.1.3 Volunteer Firefighter. A person who receives no compensation other than injury and death benefits from the city for aiding in the extinguishment of fires and/or aiding in the administration of emergency medical care.

Section 13.2.2 Organization

There is hereby created an organization for the purpose of fire prevention and extinguishment, rescue and the administering of emergency medical care, which shall consist of the following:

13.2.2.1 Full Time Firefighters. There may be a number as determined for time to time by the city council of full time firefighters.

13.2.2.2 Call Firefighters. There may be a number as determined from time to time by the city council of call firefighters.

13.2.2.3 Volunteer Firefighters. There may be volunteer firefighters.

Section 13.2.3 Membership

Membership in the call and volunteer department shall be open to all residents and non-residents in an eight-mile radius of Central Fire Station; however, members shall not be members of any other volunteer or call departments except for full-time employees of the city who may be members of the Gardiner Fire Department as well as members of another fire department. All members must attend two out of every three training sessions and respond to one out of every two alarms in each calendar year to attain the minimum participation level. Vacancy in the rolls of the call department will be filled from the rolls of the volunteer membership whenever possible.

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At the end of each calendar year, the chief shall report to the city manager concerning the participation of the membership in training sessions and alarms. Members not attaining the minimum participation level may be removed from the department and will not be eligible for reappointment to the department for a one-year period.

Membership in the department will be open to all eligible persons without regard to race, color, sex, religion, or country of ancestral origin. Fair and adequate opportunity to apply and compete for membership will be provided for women.

Members of the department as of September 1, 1989 shall be grandfathered as members of the department regardless of current call or volunteer affiliation or residence.

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CHAPTER 13.3

Disorderly Conduct

Collateral references. **For similar provisions, see Nimlo Model Ordinance Service, section 7-501 et seq.**

SECTION

- 13.3.1 Noises
- 13.3.2 Unlawful Assemblage
- 13.3.3 Ball Playing Missiles
- 13.3.4 Defacement
- 13.3.5 Expectoration
- 13.3.6 Restricting the Discharge of Firearms
- 13.3.7 Enforcement

Section 13.3.1 Noises

The creation of any **avoidable and unreasonably loud, disturbing and unnecessary noise** within the City of Gardiner, by or from horns and warning devices, radios, videos, phonographs and musical instruments, vehicles, steam whistles, exhausts, building or construction, loading and unloading, peddlers, hawkers and vendors, drums and loud speakers or by or from any other source is hereby prohibited.

Cross references: **Disturbance of public meetings, see 1954R.S. ch. 136, ss. 15.**
Public conveyances, see 1954 R.S. ch. 136, ss. 4-A

Section 13.3.2 Unlawful assemblage

No person shall disturb the public peace by engaging in or promoting or encouraging, aiding or abetting any fight, riot or noisy or disorderly proceeding in any street or other public place within the City of Gardiner, or in any dwelling house or other private building, when such fight, riot or other noisy or disorderly proceedings therein committed shall tend to disturb any person residing or being in the vicinity of such private house or building.

Cross references: **Unlawful assembly, see 1954 R.S. ch. 136, ss. 6**

Section 13.3.3 Ball-Playing; Missiles

No person shall play ball, or throw a ball, stone, snowball or other missile, liable to injure a person or property, in or across any street or public place.

Section 13.3.4 Defacement

No person shall write, draw figures or mark upon, or willfully injure or deface any fence or building, on any street, wharf or public square, or any trees standing upon any street or public

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square.

Cross references: **Boundary markers, see 1954 R.S. ch. 131, ss. 21.**
 Cemetery monuments, see 1954 RS. ch. 134, ss. 31.
 Erection of monuments and memorials, see 1954 R.S.
 ch. 90-A, ss. 12, VI, E.

Section 13.3.5 Expectoration

Spitting upon any sidewalk or in any public building in the City of Gardiner is prohibited.

Cross references: **Spitting in public places, see 1954 R.S. ch. 137, ss. 17.**

Section 13.3.6 Restricting the Discharge of Firearms

13.3.6.1 Overview. This ordinance is enacted pursuant to 30-A, M.R.S.A. ss. 3001 and in compliance with 24 M.R.S.A. ss. 2011 and the home rule authority of the City of Gardiner in order to provide for the safety of the residents of the city, to eliminate a threat to the peaceful enjoyment and use of property, and to maintain an appropriate safety environment near public school property.

13.3.6.2 Definition. For the purpose of this ordinance the term "firearms" shall include; air rifles or air guns, any gas-charged weapon, sling shots, as well as any firearm discharged by gun powder. This is not intended to include construction equipment.

13.3.6.3 Discharge of Firearms Inside the Restricted Area. No person except a law enforcement officer in the performance of their duty shall discharge any firearm within the limits of the city described as the "restricted area" except as follows:

13.3.6.3.1 In the proper defense of person, family, or property as permitted by statute;

13.3.6.3.2 For the destruction of a dangerous animal;

13.3.6.3.3 At military exercises, funerals, reviews, or memorial events;

13.3.6.3.4 In connection with the discharge of blank cartridges for theatrical purposes or for signal purposes in athletic or sports events;

13.3.6.3.5 In the legal exercise of trapping by licensed trappers.

13.3.6.4 Restricted Area. Defined as the urban compact area as defined by Maine State Department of Transportation, also to include:

13.3.6.4.1 A corridor with a center line beginning at the intersection of the Capen Road and Route 24 following the center line of Route 24 south to the point of the intersection of Phillips Street and extending on either side of the center line 1,200 feet.

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13.3.6.4.2 Extending the line of the urban compact line on its southerly side 3,000 feet from the intersection of the Marston Road and Route 201 then southeasterly to a point one mile from the intersection of Cottage Street and Route 24.

13.3.6.5 Discharge of Firearms Outside the Restricted Area.

13.3.6.5.1 No person shall discharge a firearm on property of another without dated and signed written permission of owner on their person; this must be updated yearly and may be cancelled by the landowner at anytime with notice, with the exceptions in Section 13.3.6.3.

13.3.6.5.2 No person shall discharge a firearm within 400 feet of a dwelling, structure, or a place of business or assembly.

13.3.6.5.3 No person shall discharge a firearm which causes or permits a bullet or projectile to pass within 400 feet of any type of dwelling, or place of business or assembly.

13.3.6.5.4 No person shall discharge a loaded firearm or cause a bullet or projectile to pass within 500 feet of school property, except as used in a supervised educational program in a licensed rifle or piston range on school property.

13.3.6.5.5 No person shall discharge a firearm which causes or permits a bullet or projectile to cross a paved road or highway.

13.3.6.5.6 No person shall discharge a firearm to carelessly, negligently, or maliciously shoot at, kill, or wound a domestic animal, bird, or pet.

13.3.6.5.7 Any person on the property of another must identify himself or herself with proper ID upon the request of the property owner.

13.3.6.6 Target Ranges. This is intended for personal target ranges. Commercial target ranges must be approved by the Planning Board. Personal target ranges are allowed according to the following rules and regulations outside the restricted zone as approved by the chief of police. The 400 feet limit does not apply to approved target ranges.

13.3.6.6.1 Backstop constructed of logs or timbers at least 12" in diameter with an earth barrier behind, or an earth barrier of suitable materials with no less than a 45 degree slope, or suitable backstop or area approved by the chief of police.

13.3.6.6.2 There shall also be a natural obstruction of trees or terrain to the rear of the backstop.

13.3.6.6.3 The target area will be placed no less than 3 feet from the top and sides of the backstop, attached to the backstop.

13.3.6.6.4 The range widths to the target shall be no less than 15 feet for 50 yards, 25 feet

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for 100 yards, and 50 feet for 200 yards.

13.3.6.6.5 No range will be situated less than 100 feet from the nearest roadway and shall not be constructed so the projectile travels toward the roadway.

13.3.6.6.6 No shooting in target areas will be permitted except between the hours of sunrise and sunset, with the exceptions in Section 13.3.6.3.

13.3.6.7 Enforcement and Penalty.

13.3.6.7.1 This ordinance may be enforced by any law enforcement agency.

13.3.6.7.2 Any person violating any portion of this ordinance or removing restricted-area signs shall be subject to a fine up to \$100.00 plus cost for each offense.

Section 13.3.7 Enforcement.

The chief of police is hereby directed to enforce all sections of this chapter.

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CHAPTER 13.4

Alarm Systems

SECTION

- 13.4.1 General
- 13.4.2 Permits
- 13.4.3 Approval, Inspection, Maintenance, Operation and Revocation
- 13.4.4 Transmission of Non-emergency Alarms
- 13.4.5 Fines and Penalties
- 13.4.6 Savings Clause
- 13.4.7 Existing Systems

Section 13.4.1 General

13.4.1.1 Title. This ordinance shall be known and may be cited as the "Alarm Systems Ordinance of the City of Gardiner, Maine."

13.4.1.2 Purpose. The purpose of this ordinance is to establish appropriate guidelines for the installation of alarm systems for notification of the City of Gardiner's Communications Center.

13.4.1.3 Definitions. For the purposes of this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Alarm System: A system including any mechanism, equipment or device designed to automatically transmit or cause the transmission of a signal, message or warning from a private facility to any of the city's public alarm systems or to the communications center, or to cause the activation of an audible device whose purpose or result is to obtain emergency response by either Fire or Police Department.

Permanently Connected Alarm System: An alarm system which transmits a signal to the communications center or other location by means of a wire or cable connection or radio equipment which is used only or primarily for that purpose.

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 communications center or other location.

Audible Alarm System: An alarm system which causes an audible signal to sound at or near the alarm premises, for the purpose of obtaining emergency response by either/or Fire or Police Departments.

Non-emergency Alarms: Signals transmitted by an alarm system as a result of human error or equipment malfunction.

Section 13.4.2 Permits

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13.4.2.1 No person shall operate or maintain an alarm system as defined in Section 13.4.1 without first obtaining a permit.

13.4.2.2 The city manager shall be authorized to institute such guidelines as he deems desirable for determining the installation procedures for alarm systems.

13.4.2.3 Applications for permits to install, maintain or operate an alarm system shall be filed with the city manager, or his designee, on forms supplied by the city. Said application shall set forth the name, address, and telephone number of both the installer of the system and the person or business on whose premises the system will be installed, as well as a description of the system and the location where it is proposed to be installed. The application shall also set forth the name, address and telephone number of at least three individuals who have keys or access to the premises and/or alarm equipment. Permits shall be renewed annually, on the same form as is used for the original application and person applying for renewal shall indicate thereon any changes in the information already supplied.

13.4.2.4 The application fee for a permanently connected alarm system shall be **one hundred dollars (\$100.00)**, and the renewal fee for such permit shall be **one hundred dollars (\$100.00)**.

13.4.2.5 The application fee for a telephonic alarm system permit shall be **twenty dollars (\$20.00)**, and renewal fee for such permit shall be **twenty dollars (\$20.00)**.

13.4.2.6 There shall be no application fee or renewal fee for a permit for an audible alarm system.

13.4.2.7 There shall be no rebate of the application or renewal fee for alarms disconnected during the permit period.

13.4.2.8 The application date shall be considered to be from the first of July of each year. A pro-rated application fee shall be charged for part of a year.

Section 13.4.3 Approval, Inspection, Maintenance, Operation and Revocation

13.4.3.1 The city manager shall approve such application, if **he** finds that said alarm system will not interfere with the orderly conduct of city business; and that the person installing the system maintains an adequate service organization to repair, maintain or otherwise service alarm systems sold, leased or installed by him.

13.4.3.2 The city manager may impose other reasonable conditions on the exercise of said permits and shall retain final authority to decide the reasonableness of any other conditions.

13.4.3.3 The city manager, or his designee, shall have the sole right to inspect, or cause to be inspected by the system installer, any alarm system on premises where it is intended to function prior to issuance of any permit for operation of such system, and he may inspect or cause an inspection, by the system installer or individual qualified in alarm systems installation, of such

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system at any time after the issuance of a permit to determine whether it is being used in conformity with the terms of the permit and the provisions of this ordinance.

13.4.3.4 No person shall install, operate or maintain a telephonic alarm system which automatically transmits or causes transmission of a signal, message or warning to the city's communications center telephone lines, except to such telephone number or numbers as designated by the permit issued under the provisions of this ordinance. The city manager may refuse to issue a permit for such a system if in his opinion the existing telephone capacity of the communications center is not sufficient to accommodate the new system. No more than ten such permits shall be issued for each available incoming telephone line at the communications center or other reception point. Furthermore, no such system shall be designed or adjusted to make more than two (2) calls per incident to the communications center.

13.4.3.5 The city manager may revoke any permit issued pursuant to the provisions of this ordinance, after giving written notice to the permit holder and an opportunity for the permit holder to be heard, if he determines that the alarm system installed pursuant to said permit has been installed, maintained, or operated in violation of the provisions of this ordinance, or of any term or condition of said permit, or for failure to pay any fee specified in Section 13.4.2.

Section 13.4.4 Transmission of Non-emergency Alarms

13.4.4.1 Any permit holder whose system causes the transmission of a non-emergency alarm more than two (2) times in any one calendar year shall pay a fine as described in Section 13.4.5 for each instance of a non-emergency alarm in excess of two (2) such alarms in any one calendar year.

13.4.4.2 Any permit holder whose system causes the transmission of two or more non-emergency alarms within a twenty-four hour period shall, upon request, immediately disconnect the system and shall not reconnect it until it has been inspected in accordance with Section 13.4.2 of this ordinance.

13.4.4.3 If after reasonable effort the city is unable to locate and notify the permit holder or installer of a system which has transmitted two or more non-emergency alarms within a twenty-four hour period, the city shall have the right to disconnect the system from the communications center without prior notice to the permit holder. The city shall make a reasonable effort to notify the permit holder by mail of any action taken under this section.

13.4.4.4 Upon receipt of an alarm message or signal from an alarm system for which a permit has been issued under this ordinance, and subject to the availability of manpower and equipment, the city will dispatch representatives of either Fire or Police Department to the alarm location to take appropriate action. If the premises in which the alarm system is installed appear to be secure and there is no evidence to indicate that there is an emergency situation requiring the presence or action of either the Fire or Police Department, the city's obligation to the permit holder shall have been discharged upon the completion of one call to the permit holder, the system installer, or any of the individuals named on the permit application as required in Section 13.4.2 of this ordinance.

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Section 13.4.5 Fines and Penalties

13.4.5.1 Burglary alarms: three to ten -- **\$10.00** each call; eleven and up -- **\$20.00** each call. Fire alarms: three to ten -- **\$50.00** each call; eleven and up -- **\$100.00** each call. If payment of fines is not received in full within thirty (30) days of billing date, interest will be charged on the unpaid balance at the maximum rate established by the State Treasurer for unpaid taxes.

13.4.5.2 Whoever violates any of the provisions of this ordinance shall upon conviction thereof, be punished by a fine of not more than **one hundred dollars (\$100.00)**.

Section 13.4.6 Savings Clause

The invalidity of any provision of this ordinance shall not affect the validity of any other provision.

Section 13.4.7 Existing Systems

13.4.7.1 The application fees required by Section 13.4.2 shall be waived for all permits issued prior to the effective date of this ordinance.

13.4.7.2 Permit applications for existing alarm systems must be filed within thirty (30) days after the effective date of this ordinance.

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CHAPTER 13.5

Fire Prevention

SECTION

- 13.5.1 Bonfires
- 13.5.2 Ashes, Coals, Substances Creating Spontaneous Ignition
- 13.5.3 Combustible Materials
- 13.5.4 Burning Automobiles for Salvage or Wrecking Purposes
- 13.5.5 Inflammable Roof Materials
- 13.5.6 Adoption by reference the fire codes (NFPA) adopted by the Office of the Maine State Fire Marshal⁵

Section 13.5.1 Bonfires

No person shall maintain or kindle any bonfire or shall knowingly furnish the materials for any such fire, or authorize any such fire to be kindled or maintained on or in any street, alley, road, lane or public place or grounds or upon any private lot, unless a written permit is first secured from the Fire Department.

Cross references: **Fire departments and fire prevention, see 1954 R.S. ch. 97.**

Section 13.5.2 Ashes, Coals, Substances Creating Spontaneous Ignition

No person shall deposit ashes, smoldering coals or embers, greasy or oily substances or other matters liable to create spontaneous ignitions within 10 feet of any wooden or plastered wall, partition, fence, floor, sidewalk, lumber, hay, shavings, rubbish or other combustible materials, except in metallic or other non-combustible receptacles, unless resting on a non-combustible floor, or on ground outside the building, must be placed on non-combustible stands, and in every case must be kept at least 10 feet away from any combustible materials, wall or partition.

Section 13.5.3 Combustible Materials

No person shall permit to remain upon any roof or in any courtyard, vacant lot or open space, any accumulation of waste paper, hay, grass, straw, weeds, litter or combustible or flammable waste or rubbish of any kind. All weeds, vines, grass or other growth, when same endangers property, or is liable to be fired, shall be cut down and removed by the owner or occupant of the property it is on.

Section 13.5.4 Burning Automobiles for Salvage or Wrecking Purposes

No automobile or any part thereof shall be burned for wrecking or salvage purposes, in, or, on any premises occupied as a wrecking or junk yard unless a permit is first secured from the fire department.

⁵ Revised Order 12-41, June 6, 2012

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Section 13.5.5 Inflammable Roof Materials

No person shall erect or cause to be erected on any building within the City of Gardiner a roof of inflammable materials.

Cross references: **For duties of fire inspector, see R.S. of 1954, as amended, chapter 97, ss. 22 et seq.**

Section 13.5.6 Adoption by reference the fire codes (NFPA) adopted by the Office of the Maine State Fire Marshal

- NFPA 1: Fire Prevention Code, 2006 Edition
- NFPA 10: Standard for Portable Fire Extinguishers, 2007 Edition
- NFPA 11: Standard for Low, Medium, and High Expansion Foam Systems, 2005 Edition
- NFPA 12: Standard on Carbon Dioxide Extinguishing Systems, 2008 Edition
- NFPA 13: Installation of Sprinkler Systems, 2007 Edition *[2010 Edition through Equivalency*]*
- NFPA 13D: Standard for the Installation of Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes, 2007 Edition *[2010 Edition through Equivalency*]*
- NFPA 13R: Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, 2007 Edition *[2010 Edition through Equivalency*]*
- NFPA 14: Standard for the Installation of Standpipe, Private Hydrants and Hose Systems, 2007 Edition *[2010 Edition through Equivalency*]*
- NFPA 15: Standard for Water Spray Fixed Systems for Fire Protection, 2007 Edition
- NFPA 16: Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems, 2007 Edition
- NFPA 17: Standard for Dry Chemical Extinguishing Systems, 2002 Edition
- NFPA 17A: Standard for Wet Chemical Extinguishing Systems, 2002 Edition
- NFPA 18: Standard on Wetting Agents, 2006 Edition
- NFPA 20: Standard for the Installation of Stationary Fire Pumps for Fire Protection, 2007 Edition *[2010 Edition through Equivalency*]*
- NFPA 22: Standard for Water Tanks for Private Fire Protection, 2008 Edition
- NFPA 24: Installation of Private Fire Service Mains and Their Appurtenances, 2007 Edition *[2010 Edition through Equivalency*]*
- NFPA 25: Inspection, Testing and Maintenance of Water-Based Fire Protection Systems, 2008 Edition *[2011 Edition through Equivalency*]*
- NFPA 30: Standards for Flammable and Combustible Liquids, 2008 Edition
- NFPA 30A: Code for Motor Fuel Dispensing Facilities and Repair Garages, 2008 Edition
- NFPA 30B: Code for the Manufacture and Storage of Aerosol Products, 2007 Edition
- NFPA 32: Standard for Dry Cleaning Plants, 2007 Edition
- NFPA 33: Standard for Spray Application Using Flammable or Combustible Materials, 2007 Edition

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- NFPA 34: Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids, 2007 Edition
- NFPA 37: Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, 2006 Edition
- NFPA 51: Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting and Allied Processes, 2007 Edition
- NFPA 51A: Standard for Acetylene Cylinder Charging Plants, 2006 Edition
- NFPA 51B: Standard for Fire Prevention During Welding, Cutting and Other Hotwork, 2003 Edition
- NFPA 54: National Fuel Gas Code, 2006 Edition
- NFPA 55: Standard for the Storage, Use, and Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks, 2005 Edition
- NFPA 58: Liquefied Petroleum Gas Code, 2008 Edition
- NFPA 59: Utility LP-Gas Plant Code, 2008 Edition
- NFPA 72: National Fire Alarm Code, 2007 Edition
- NFPA 80: Standard for Fire Doors and Windows, 2010 Edition
- NFPA 96: Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2008 Edition
- NFPA 99: Standard for Health Care Facilities, 2005 Edition
- NFPA 99B: Standard for Hypobaric Facilities, 2005 Edition
- NFPA 101: Life Safety Code, 2009 Edition
- NFPA 102: Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures, 2006 Edition
- NFPA 110: Standard for Emergency and Standby Power Systems, 2005 Edition
- NFPA 160: Standard for the Flame Effects Before an Audience, 2006 Edition
- NFPA 211: Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances, 2006 Edition
- NFPA 214: Standard on Water-Cooling Towers, 2005 Edition
- NFPA 220: Standard on Types of Building Construction, 2006 Edition
- NFPA 318: Standard for the Protection of Semiconductor Fabrication Facilities, 2006 Edition *[2009 Edition through Equivalency*]*
- NFPA 385: Standard for Tank Vehicles for Flammable and Combustible Liquids, 2007 Edition
- NFPA 409: Standard on Aircraft Hangers, 2004 Edition *[2011 Edition through Equivalency*]*
- NFPA 418: Standard for Heliports, 2006 Edition *[2011 Edition through Equivalency*]*
- NFPA 495: Explosive Materials Code, 2006 Edition
- NFPA 496: Standard for Purged and Pressurized Enclosures for Electrical Equipment, 2008 Edition
- NFPA 750: Standard on Water Mist Fire Protection Systems, 2006 Edition *[2010 Edition through Equivalency*]*
- NFPA 1122: Code for Model Rocketry, 2008 Edition
- NFPA 1123: Code for Fireworks Display, 2006 Edition

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- NFPA 1124: Code for the Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles, 2006 Edition
- NFPA 1126: Standard for the Use of Pyrotechnics Before a Proximate Audience, 2006 Edition
- NFPA 2001: Standard on Clean Agent Fire Extinguishing Systems, 2008 Edition

These codes may be purchased from the National Fire Protection Association out of Quincy, Massachusetts by calling 1-800-344-3555.

*[Last updated 12-28-11 *Added comments in brackets [] that codes/standards were updated by "equivalency". This is allowed by NFPA 101, 2009 edition, Section 1.4, and then also see comment #3 in the hardcover handbook, part of which reads, "...future editions of the Code are considered refinements of earlier editions because they clarify intent with respect to the revised topics. Use of another edition in its entirety should be considered as equivalent to use of an earlier edition." The formal legislative approval of the rulemaking process is not scheduled before 2013, but in the meantime through equivalency we can use the newer codes/standards. Previously updated 4-21-11. Change was to add the word "Codes" in the title. Previous to that the latest change was July 2009]*

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CHAPTER 13.6

Snow Removal

SECTION

- 13.6.1 Sidewalks to be Cleared of Snow
- 13.6.2 Ice
- 13.6.3 Snow or Ice Threatening Use of Public Streets, Sidewalks or Parking Lots
- 13.6.4 Deposits of snow in city streets

Section 13.6.1 Sidewalks to be cleared of snow

The owners or tenants of property abutting on the following streets or portions thereof shall, after snow has ceased to fall, if in the daytime within six hours, and if in the nighttime before one o'clock in the afternoon next, cause the same to be removed from the abutting public sidewalks on both sides of: Water Street from Winter Hill to Steamboat Street, Church Street from Water Street to Mechanic Street, Brunswick Hill from Water Street to Mechanic Street, Maine Avenue from Water Street to Cobbossee Stream, Bridge Street from Water Street to Cobbossee Stream.

Section 13.6.2 Ice

The owners or tenants of property abutting the public sidewalks in those areas listed in Section 13.6.1, whenever any ice shall have formed upon the sidewalk bordering upon the store or shop, shall cause the same to be removed, or to be covered or strewed with sand, ashes or other substances, in such manner as to render the said sidewalks safe and easy for foot passengers.

Section 13.6.3 Snow or Ice Threatening Use of Public Streets, Sidewalks or Parking Lots

13.6.3.1 Applicability: The following provisions shall apply to all property owners with buildings or structures that abut the public sidewalks and/or streets or municipal parking lots, or are in proximity to public sidewalks and/or streets or municipal parking lots such that ice or snow falling from the building or structure would fall on the public sidewalks and/or streets or municipal parking lots.

13.6.3.2 Enforcement: The provisions of this section shall be enforced by the Code Enforcement Officer and/or her/his designee.

13.6.3.3 Duty to Remove: When an accumulation of snow or ice on a building or structure poses the threat of falling onto public sidewalks and/or streets or municipal parking lots, it shall be the duty of the property owner to remove such accumulations in order to make passage along sidewalks and/or streets or within municipal parking lots safe and convenient and to eliminate any danger from falling ice or snow to pedestrians, vehicles, and/or property.

13.6.3.4 Removal of the Hazard: Removal of any accumulation of ice or snow with a potential for falling onto public sidewalks and/or streets or municipal parking lots shall take place either:

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(1) whenever a threatening condition occurs; or (2) within twenty-four (24) hours after the Code Enforcement Officer or his/her designee has verbally or in writing given notice as provided below of the condition and ordered the removal of such accumulations, whichever occurs first. Whenever snow or ice accumulates in such a manner as to hang over a street, sidewalk or municipal parking lot, such condition shall constitute prima facie evidence that the condition is a threatening condition. A determination by the Code Enforcement Officer or his/her designee that an accumulation of snow or ice is a threatening condition shall be conclusive and not subject to challenge or appeal until after the building owner has removed the snow or ice. Notice shall be given to the owner or to an owner's agent who has maintenance responsibility for such building. The record owner of each such building shall be the owner as appears in the tax assessment records of the City of Gardiner.

13.6.3.5 Notice of Threat and Barricading of Sidewalks and Parking Lots: If the Code Enforcement Officer determines that there is an imminent threat to public safety from falling ice or snow, she/he shall notify the property owner verbally or in writing on such threat. The property owner, within four (4) hours of receiving such notice, shall erect or cause to be erected signs warning users of the sidewalk or municipal parking lot of the potential danger of falling ice and/or snow and shall work with the Public Works Department to provide appropriate barricades to discourage the use of the sidewalks or municipal parking lot in the immediate vicinity of the threat. The notices and barricades shall be removed only after the potential threat has been removed or otherwise addressed.

13.6.3.6 Failure to Remove the Threat: In instances where the owner has not caused the removal of the accumulated ice and snow within twenty-four (24) hours of receiving notice of the threat, the Code Enforcement Officer or his/her designee may arrange for the removal of snow and ice accumulations which exists in violation of 13.6.3.3. and 13.6.3.4. above in order to eliminate any danger to pedestrians, vehicles and/or property.

13.6.3.7 Enforcement Delay: The City Manager may delay enforcement of the provisions of this section. Such a delay shall be for the purpose of giving property owners additional time to clear ice or snow from buildings upon which ice or snow has accumulated, or for such other good cause shown. Any such declaration shall be reduced to writing as soon as practicable thereafter, stating the reasons therefore.

13.6.3.8 Correction of Conditions Creating the Threat: Pursuant to 30-A M.R.S.A. § 3007, after a building owner has been given one (1) notice and order under 13.6.3.4. above and failed to comply and the City has removed the snow or ice, or when a building has been the subject of three (3) or more notices within an eighteen-month period, the Code Enforcement Officer or his/her designee may initiate action to require the owner of a building to install roof guards, or take other measures at the owner's expense to prevent the fall of snow or ice. The Code Enforcement Office shall provide the property owner with written notice of the requirement to take corrective action. If the property owner fails to take the required action within thirty (30) days or such other longer period provided for by the Code Enforcement Officer, the City Council shall send a written notice to the owner. If the property owner does not install roof guards or take other corrective action approved by the Code Enforcement Officer within (14) fourteen days after the notice is sent, the municipal officers may have proper roof guards

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installed or other corrective action taken at the municipality's expense with the costs plus a ten percent (10%) administrative charge recovered from the owner by direct billing or by a special assessment as provided in 25 M.R.S.A. § 2393 if such billing is not paid within thirty (30) days.

13.6.3.9 Penalties: The penalty for an offense shall be two hundred fifty dollars (\$250.00) plus attorney's fees and costs. For this purpose, each day on which a violation shall occur or continue shall constitute a separate offense. When the City removes or arranges for the removal of snow or ice accumulations, the owner shall also be charged the costs of removal, plus a ten (10%) percent charge for administration. A separate bill for each such removal shall be submitted to the record owner of the building as soon as practicable after the charges have been incurred.

13.6.3.10 Liens: In addition to other collection methods authorized by law, and the penalties provided herein, charges assessed pursuant to this Section shall be enforceable by lien for the benefit of the City. If the penalties, assessments, and costs are not paid within thirty (30) days of notice to the owner of the amount due, then the non-payment shall be provided to the Tax Collector who shall collect the amount as part of the next year's ad valorem property taxes for the property. In addition, a notice of lien may be filed in the Kennebec County Registry of Deeds.

13.6.3.11 Liability: Where there is a failure of the owner after notice to remove the accumulated ice or snow from a building or structure pursuant to this section, and the City must perform the removal, then the City shall be held harmless from any form of liability with regard to the removal.

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

Section 13.6.4 Deposits of snow in city streets

Except for snow and ice removed from sidewalks on those streets listed in Section 13.6.1, no person shall throw or deposit any body of ice or snow in any public way of the city, or cause the same to be done, without forthwith causing the same to be removed from said public way.

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CHAPTER 13.7

Addressing Ordinance

SECTION

- 13.7.1 Purpose
- 13.7.2 Authority
- 13.7.3 Administration
- 13.7.4 Naming System
- 13.7.5 Numbering System
- 13.7.6 Compliance
- 13.7.7 New Developments and Subdivisions
- 13.7.8 Notice
- 13.7.9 Appeal
- 13.7.10 Effective Date

Section 13.7.1 Purpose

The purpose of this ordinance is to enhance the easy and rapid location of properties for the delivery of public safety and emergency services, postal delivery, and business delivery.

Section 13.7.2 Authority

The ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section I of the Constitution of the State of Maine and Title 30-A, M.R.S.A., Section 3001.

Section 13.7.3 Administration

This ordinance shall be administered by the E911 Addressing Officer who shall assign road names and numbers to all properties, both on existing and proposed roads. The E911 Addressing Officer shall be responsible for maintaining the following official records of this ordinance:

13.7.3.1 A City of Gardiner map for official use showing road names and numbers.

13.7.3.2 An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.

13.7.3.3 An alphabetical list of all roads with property owners listed in order of their assigned numbers.

Section 13.7.4 Naming System

All roads in the City of Gardiner that serve two or more addresses shall be named regardless of whether the ownership is public or private. A road name assigned by the city shall not constitute

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or imply acceptance of the road as a public way. The following criteria shall govern the naming system:

13.7.4.1 Similar names -- no two roads shall be given the same or similar-sounding (e.g. Beech and Peach, Pine Road and Pine Lane) names.

13.7.4.2 Each road shall have the same name throughout its entire length.

13.7.4.3 Other factors, such as historical information regarding certain areas, may be taken into consideration in naming or renaming roads but these other factors shall be subject to and not interfere with the stated purposes of this Chapter as stated in Section 13.7.1 above.

13.7.4.4 In the process of evaluating existing street names in accordance with the above criteria, renaming shall cause the least disruption possible but shall nevertheless be subject to the purposes of this Chapter as stated in Section 13.7.1 above.

Section 13.7.5 Numbering System

Numbers shall be assigned every twenty-five (25) feet in the downtown area, fifty (50) feet in all other areas, 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, determined by the number origin. The following criteria shall govern the numbering system:

13.7.5.1 All number origins shall begin with the designated center of Gardiner (City Hall) or that end of the road closest to the designated center. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.

13.7.5.2 The number assigned to each structure shall be that of the numbered interval falling closest to the front door or driveway of said structure.

13.7.5.3 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 Street, Apt. 2.)

Section 13.7.6 Compliance

All owners of structures shall, on or before the effective date of this ordinance, display and maintain in a conspicuous place on said structure, the assigned numbers in the following manner:

13.7.6.1 Number on the Structure or Residence. Where the residence or structure is within 40 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry.

13.7.6.2 Number at the Street Line. Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall,

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mail box, or on some structure at the property line adjacent to the walk or access drive to the residence or structure.

13.7.6.3 Size and Color of Number. Numbers shall be displayed in a color and size approved for use by the council and shall be located as to be visible from the road.

13.7.6.4 Every person whose duty is to display the assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance.

13.7.6.5 Interior Location. All residents and other occupants are requested to post the assigned number and road name adjacent to their telephone for emergency reference.

Section 13.7.7 New Developments and Subdivisions

All new developments and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

13.7.7.1 New Developments. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to procure an assigned number from the Code Enforcement Officer. This shall be done at the time of the issuance of the building permit.

13.7.7.2 New Subdivisions. Any prospective subdivide shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 (fifty) feet so as to aid in assignment of numbers to structures subsequently constructed.

Section 13.7.8 Notice

Where an existing address or designation has been changed, the E911 Addressing Officer shall notify by mail each owner and the United States Post Office of the new address at least sixty (60) days prior to the date the change becomes effective.

Section 13.7.9 Appeal

Any property owner aggrieved by a decision of the E911 Addressing Officer to assign a road name or location number, may appeal that determination to the Addressing Ordinance Appeals Board by filing a notice in letter form to that effect in the Clerk's Office within ten (10) days of receipt of notice of the determination by the E911 Addressing Officer. The Addressing Ordinance Appeals Board shall consist of a City Councilor appointed by the Mayor and two (2) citizens appointed by the Mayor. The Board may request assistance from the Police and Fire Chiefs or their designees. The appeal shall be on the sole issue of whether or not the designation of the road name and/or location number by the E911 Addressing Officer meets the purpose and expressed conditions of this Chapter. The Board shall have the right, in making this

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determination, to affirm the designation by the E911 Addressing Officer, to modify that designation in any manner consistent with this Chapter, or to adopt a new designation also in conformity with this Chapter. Since the property owner has not inherent rights with respect to street naming and numerical designation of locations, the decision of this Board shall be final and binding.

Section 13.7.10 Effective Date

This ordinance shall become effective as of June 14, 1995. It shall be the duty of the city to notify by mail each owner and the Post Office of the new address within thirty days. It shall be the duty of each property owner to comply with this ordinance within 30 (thirty) days of notification. On new structures, numbering will be installed prior to certificate of occupancy being issued, or when the structure is first used or occupied, whichever comes first.

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CHAPTER 13.8

Ambulance Service Advisory Board

SECTION

- 13.8.1 Advisory Board
- 13.8.2 Purpose
- 13.8.3 Appointments, Term Renewal, Vacancy
- 13.8.4 Meetings
- 13.8.5 Officers
- 13.8.6 Duties of Officers
- 13.8.7 Elections
- 13.8.8 Duties of Members
- 13.8.9 Amendments
- 13.8.10 Gifts and Donations
- 13.8.11 Duties and Responsibilities of the Gardiner Ambulance Service Advisory Board
- 13.8.12 Conflicts of Interest

Section 13.8.1 Advisory Board

The City of Gardiner hereby establishes the Gardiner Ambulance Service Advisory Board.

Section 13.8.2 Purpose

The purpose of the Gardiner Ambulance Service Advisory Board is to represent the citizens served by the ambulance as an advisory board to the Gardiner city council, city manager, and ambulance director regarding the administration and policies of the ambulance service. The function of the ambulance service is to provide the highest quality emergency medical services for sick or injured persons in a timely and efficient manner.

Section 13.8.3 Appointments, Term Renewal, Vacancy

13.8.3.1 The Gardiner representatives to the board shall be three members appointed by the mayor, with the advice and consent of the city council. These members shall be residents of the city. Towns paying their 100% fair share for use of the ambulance service shall be entitled to one voting member to the Ambulance Service Advisory Board. Such person shall be appointed by the select persons of the respective towns and serve for a one-year term.

13.8.3.2 The following shall apply to representatives from the City of Gardiner:

13.8.3.2.1 The term of office will be for three years on a staggered basis. The terms of the originally appointed members will be as follows: one member for a one-year term, one member for a two-year term, and one member for a three-year term. All terms shall start July 1st.

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13.8.3.2.2 Each year thereafter, in the month of June, the mayor, with the advice and consent of the city council, shall meet and appoint a new member or re-appoint a current member for the term of three years, to succeed the outgoing member.

13.8.3.3 In the event of the resignation of any member, death of a member, inability to serve, or absence without acceptable reason from three or more regular meetings, the seat shall be declared vacant. The mayor, with the advice and consent of the city council, may appoint a member to finish any unexpired term that might remain.

13.8.3.4 The mayor shall serve as an ex-officio member with no voting rights.

Section 13.8.4 Meetings

13.8.4.1 Regular meetings shall be held on a quarterly basis unless otherwise ordered by the board.

13.8.4.2 Special meetings shall be called by the chairperson or upon the written request of at least two members or the ambulance director.

13.8.4.3 All regular meetings are to be held at Gardiner City Hall unless otherwise directed by the chairperson.

13.8.4.4 The regular meeting held in July of each year may be known as the organizational meeting. The purpose of this meeting shall be the election of officers, namely the chairperson and secretary; and other business that may need to come before the board.

13.8.4.5 The meeting held in the fourth quarter of each year shall be to review the proposed budget for the coming fiscal year and other business that may need to come before the board.

13.8.4.6 After review, copies of the budget must be submitted by the ambulance director to the city manager for submission to the Gardiner city council.

13.8.4.7 Four members of the board constitutes a quorum at any regular or special meeting.

13.8.4.8 All meetings are open to the public. Executive sessions may be held in accordance with Maine Revised Statutes Annotated, but all votes must be in public.

Section 13.8.5 Officers

The Advisory Board shall consist of the following officers. The officers shall be a chairperson and a secretary who shall be elected at the organizational meeting in July to serve for a one-year term or until a successor shall be elected and qualified.

Section 13.8.6 Duties of Officers

The duties of the officers shall be as follows:

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13.8.6.1 The chairperson shall preside at all meetings of the board, appoint all committees, represent the board at appropriate public affairs, and shall maintain the dignity and efficiency of the board in all possible ways.

13.8.6.2 The secretary shall keep a record of the proceedings of the board, and distribute copies to the participating municipalities. The secretary shall read all official communications to the board, write correspondence as directed, keep on file all records and important correspondence.

Section 13.8.7 Elections

All officers shall be elected by nominations made from the floor. A majority vote of those present shall constitute an election. No elections shall be held unless four board members are present.

Section 13.8.8 Duties of Members

13.8.8.1 It shall be the duty of each member of the board to take an active part in the direction of the ambulance services program and to act in whatever capacity they may be called, to be loyal in thought and deed to the welfare of the ambulance service and to the communities which it serves.

13.8.8.2 All members shall serve without remuneration.

13.8.8.3 Any member is privileged to make an inspection of the ambulance service and equipment at any time and bring a report to the board.

13.8.8.4 The ambulance director shall see that the budget is carefully kept and present a financial report at the quarterly meetings.

Section 13.8.9 Amendments

This constitution may be amended at any regular or special meeting of the city council by a majority vote of those present and voting, provided notice of the proposed amendment has been given in writing to all board members at least two weeks prior to said meeting.

Section 13.8.10 Gifts and Donations

The board shall have authority to accept gifts and donations to the ambulance service provided the same is deposited with the Gardiner city treasurer.

Section 13.8.11 Duties and Responsibilities of the Gardiner Ambulance Service Advisory Board

13.8.11.1 To know and understand why the service exists and review these reasons.

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13.8.11.2 To be responsive to the needs of the community and be progressive and practical in meeting those needs.

13.8.11.3 To understand and support the State and regional emergency medical services laws and rules that govern operation of the ambulance service.

13.8.11.4 To work with the professional staff as partners; expect the director to recommend plans of operation, financing, supervision and control.

13.8.11.5 To participate actively in the meetings of the board.

13.8.11.6 To make it a point to discuss the work of the ambulance service with citizens and community groups. Get reaction from the public about the service and establish support from the community for the program.

13.8.11.7 To be acquainted with the tax resources of the community and secure adequate funding for the ambulance service.

13.8.11.8 In accepting the appointment to this board, the only defensible motive a citizen may have is that of service to the community.

13.8.11.9 To recommend to the city manager a person or persons to be director when a vacancy occurs.

13.8.11.10 Members shall familiarize themselves with Robert's Rules of Order and parliamentary law. Meetings shall be conducted and policies enacted within this framework.

13.8.11.11 To develop long-range goals and to advise the mayor and council of all possible avenues of Federal and State grants and aid programs available to emergency medical services units.

13.8.11.12 To report regularly to the governing officials and the general public.

Section 13.8.12 Conflicts of Interest

13.8.12.1 Any person with direct financial or other benefit from the ambulance service shall not be allowed to serve on the board until one full year following the cessation of such benefit.

13.8.12.2 Any member of the board with indirect benefit from the ambulance service shall declare such benefit prior to any vote on a matter and shall abstain from voting. A positive vote from the majority of members present and voting may allow that member to vote on said matter if the members believe such a vote would not be suspect to conflict of interest claims.

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CHAPTER 13.9

Sale, Use, and Possession of Fireworks

SECTION

- 13.9.1 Definitions
- 13.9.2 Use of Certain Fireworks Prohibited
- 13.9.3 Retail Sale of Certain Consumer and/or Commercial Fireworks Prohibited
- 13.9.4 Possession of Consumer and/or Commercial Fireworks Permitted
- 13.9.5 Fireworks Displays
- 13.9.6 Violations
- 13.9.7 Seizure and Disposal of Fireworks

Section 13.9.1 Definitions

The following definitions shall apply in this chapter:

“Commercial fireworks” shall have the same meaning as “Display Fireworks” in 27 Code of Federal Regulations, Section 555.11 or subsequent provisions.

“Consumer fireworks” shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provisions.

“Display” shall mean an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks.

“Distribution” shall mean the processing and storage of fireworks. It excludes the manufacturing of and retail sales of fireworks within the City of Gardiner but allows for the shipping of fireworks to other parts of the state, country, and world.

“Fireworks” shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provisions.

“Person” shall mean any individual, corporation, company, association, firm, partnership, society, or joint stock company.

Section 13.9.2 Use of Certain Fireworks Prohibited

With the exception of those consumer fireworks that were legal in the State of Maine on December 31, 2011, the use of all consumer and commercial fireworks within the City of Gardiner shall be prohibited, except as provided for in Section 13.9.5. of this ordinance.

Section 13.9.3 Retail Sale of Certain Consumer and/or Commercial Fireworks Prohibited

With the exception of those consumer fireworks that were legal in the State of Maine on December 31, 2011, the retail sale of all consumer and/or commercial fireworks within the City

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of Gardiner shall be prohibited. Nothing in this chapter shall prohibit the distribution of consumer and/or commercial fireworks, so long as such distribution is in compliance with all applicable State and Federal laws and with all applicable City zoning ordinances.

Section 13.9.4 Possession of Consumer and/or Commercial Fireworks Permitted

The possession of consumer and/or commercial fireworks shall be permitted within the City of Gardiner by any person age 21 or older so long as such possession is in compliance with all applicable State and Federal laws.

Section 13.9.5 Fireworks Displays

The display of consumer and/or commercial fireworks shall only be permitted within the City of Gardiner by a person who has been duly issued a fireworks display permit by the State of Maine pursuant to 8 M.R.S.A. section 227-A. Such displays shall not be permitted prior to 10 a.m. or after 10 p.m., except for on July 4th and December 31st, when displays may occur until midnight, and on January 1st, when displays may occur until 1 a.m.

Section 13.9.6 Violations

Any person who uses consumer and/or commercial fireworks or possesses such fireworks with the intent to use in the City of Gardiner in violation of this ordinance shall receive a citation. The following civil penalties shall be imposed for violations of this ordinance:

First Citation \$110.00
Second Citation \$215.00
Third Citation \$425.00
Fourth and Subsequent Citation(s) \$850.00

Section 13.9.7 Seizure and Disposal of Fireworks

The City may seize consumer and commercial fireworks that the City has probable cause to believe are used, possessed, or sold in violation of this ordinance. Upon conviction of the person from whom the fireworks were seized of violating Section 13.9.6 of this Ordinance with respect to those fireworks, the fireworks shall be forfeited to the City. Upon forfeiture, seized consumer and commercial fireworks shall be forwarded to the State for disposal.

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CHAPTER 10 Blasting

SECTION

- 13.10.1 Purpose
- 13.10.2 Applicability
- 13.10.3 Permit
- 13.10.4 Application Requirements
- 13.10.5 Standards and Requirements
- 13.10.6 Definitions

Section 13.10.1 Purpose

The purpose of this chapter is to protect the public's health, safety, and general welfare by assuring that City staff and officials, property owners in the vicinity of the blast site and the general public are aware of blasting operations within the City, without causing undue financial and administrative hardship to blasting operators.

Section 13.10.2 Applicability

This chapter shall apply to all blasting operations related to demolition, excavation, construction and development within the City.

Section 13.10.3 Permit

A blasting permit shall be obtained from the Code Enforcement Officer (CEO) prior to the commencement of any blasting activity. The CEO shall issue a permit only if he/she determines that the applicant will comply with the notice requirements and standards of this chapter. The application for a permit may be approved, approved with conditions or denied by the CEO.

Section 13.10.4 Application Requirements

An application for a blasting permit shall be submitted to the CEO not less than five (5) business days prior to the planned initiation of blasting activities. The application shall be made on a form provided by the City. The application shall include the following:

- (a) Name of applicant;
- (b) Name of property owner;
- (c) Name of the general contractor with overall responsibility for the project;
- (d) Name and qualifications of the person or company to perform the blasting;
- (e) Documentation of State of Maine certification;
- (f) Documentation of insurance;
- (g) Location of blasting operations, including a map of the subject property, and the blast area for which the permit is requested;
- (h) Estimate of the number of cubic yards of material to be removed by blasting;
- (i) Estimated number of blasts required to complete the blasting operation;
- (j) Description of the project for which the blasting is being undertaken;

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- (k) Projected dates work is to be undertaken;
- (l) Evidence that notification has been published in a newspaper of general circulation at least ten (10) calendar days prior to the intended date of the commencement of the blasting operations;
- (m) Evidence that notification of property owners has been sent by United States Postal Service (USPS) certified mail at least ten (10) calendar days prior to the intended date of the commencement of the blasting operations;
- (n) Evidence that preblast surveys were offered to property owners;
- (o) Evidence that drinking water well tests were offered to property owners; and
- (p) The permit fee in accordance with the fee schedule adopted by the City Council.

Section 13.10.5 Standards and requirements.

All blasting shall be conducted in accordance with the following standards and requirements:

13.10.5.1 Hours of operation. Blasting operations, other than the actual blasting, shall be limited to between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 7:00 a.m. to 2:00 p.m. on Saturday. The actual blasting shall not occur prior to 8:00 a.m., Monday through Saturday.

13.10.5.2 Property owner notification requirements. The applicant shall notify all landowners and the owners of any utilities including public water and sewer services within two hundred fifty (250) feet of the proposed blasting operation. Notice shall be sent by United States Postal Service (USPS) certified mail at least ten (10) calendar days prior to the intended date of the commencement of the blasting operations. The notice shall include the blasting schedule, a description of the blasting signals to be used during the operation, an address and telephone number where property owners may request further information and additional notification, information about the no-cost pre-blast survey, and an offer to provide further information, upon written request.

13.10.5.3 Newspaper notice publication requirements. The applicant shall publish a notice of the proposed blasting in a newspaper of general circulation at least ten (10) calendar days prior to the intended date of the commencement of the blasting operations. The newspaper notice shall include the blasting schedule, a description of the blasting signals to be used during the operation, and a mailing address and telephone number where anyone may request further information and additional notification about the time of blasts.

13.10.5.4 City notification requirements. After receiving a blasting permit, the blasting contractor or other responsible party shall notify the CEO when a blasting operation is planned. Such notification shall be received at least twenty-four (24) hours prior to the planned detonation and shall give the time of the planned detonation and the location where the blasting is to be done. The notification may be given orally over the telephone; however, the burden of proof as to whether the notification was in fact received rests with the person responsible for the blasting operation.

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13.10.5.5 Additional property owner notification requirements. Prior to any blast, the person responsible for the blasting operation shall inform any property owner who has requested in writing to be so informed of the impending blast. Such notification shall be given by telephone twenty-four (24) hours prior to the blasting operation. The burden of proof as to whether the notification was in fact received rests with the person responsible for the blasting operation.

13.10.5.6 Preblast survey requirements. The applicant shall offer to hire an independent firm to perform preblast surveys on all buildings within two hundred fifty (250) feet of the blasting area. The survey shall include a written description and either a video or photographic documentation of any preexisting conditions on the inside and outside of each building. At least three (3) documented attempts must be made to physically offer the survey before the landowner may be deemed a non-respondent. All preblast survey documentation shall be held by the independent firm.

13.10.5.7 Well testing requirements. The applicant shall offer to hire an independent water testing company to perform water tests of all drinking water wells within two hundred fifty (250) feet of the blasting area. The test shall document the turbidity of the well water prior to blasting, as well as the levels of coliform bacteria, e-coli, nitrate, nitrite and ph. At least three (3) documented attempts must be made to physically offer the water test before the abutter may be deemed a non-respondent. The water test results shall be held by the independent water testing company, and upon request, shall be made available to the landowner within fourteen (14) days of such a request.

13.10.5.8 Seismic monitoring requirements. Either an independent firm, retained at the sole cost and expense of the applicant, or the applicant themselves, shall monitor airblast and vibration for the blasting operations. Instrument(s) shall be installed at the closest point of the building in greatest proximity to the shot to be recorded.

13.10.5.9 Records maintenance requirements. The person or firm responsible for a blasting operation shall maintain a record of each blast. All records shall be retained for at least five (5) years following the cessation of blasting operations, copies of which shall be provided to the code enforcement office within ten (10) days of request. Such written records shall contain the following:

- (a) Name of person responsible for the blasting operation.
- (b) Location, date(s), and time of blast.
- (c) Name of blaster.
- (d) Type of material blasted.
- (e) Number of holes, burden and spacing.
- (f) Diameter and depth of holes.
- (g) Types of explosives used.
- (h) Amount of explosives used.
- (i) Whether mats or other protections were used.
- (j) Seismograph and airblast readings: when and where measured.

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Section 13.10.6 Definitions

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

Airblast: An airborne shock wave resulting from the detonation of explosives. The movement of overburden or the release of expanding gas into the air resulting from the detonation of explosives may also cause airblast. Airblast may or may not be audible.

Blasting: Any activity entailing the use of explosives for the purpose of producing an explosion to demolish structures or to fragment rock for mining, quarrying, excavation, or construction. Related terms are as defined in the BOCA National Fire Prevention Code and NFPA 495 Explosive Materials Code.

Blasting Operation: Includes all blasting anticipated to be undertaken during the completion of a contract or series of contracts, for demolition, excavation, construction, and development. A blasting operation includes all work involving the preparation, drilling, loading and detonation as well as the excavation and clean-up of the blasted area.

Explosives: Any substance, chemical compound, or mechanical mixture that is commonly used for the purpose of producing an explosion for blasting, as defined by this chapter. Initiating devices (detonators, detonating cords, etc.) are also included in this definition.

Independent Firm: A bona fide company approved by the Code Enforcement Officer who is not affiliated with the applicant but is contracted to impartially render services.

Particle Velocity: A measure of ground vibration. Particle velocity describes the velocity at which a particle of ground vibrates when excited by a force producing ground motion such as an earthquake or an explosion, measured in inches per second.

Seismograph: An instrument that measures and records earthborn vibration induced by the detonation of explosives. The instrument shall produce a direct printout of ground motion frequency, acceleration, particle velocity and amplitude, or produce a record from which any of these parameters can be calculated.

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TITLE 15

LAW DEPARTMENT

CHAPTER

15.1 Police Department

CHAPTER 15.1

Police Department

SECTION

15.1.1 Powers and Duties of the Chief of Police

Cross references: **City Solicitor, see City Charter, Art. VI, ss. 1, (b).**
 Municipal Courts, see 1954, R.S. ch. 108, ss. 1 et seq.

Section 15.1.1 Powers and Duties of the Chief of Police

The chief of police is authorized to represent the city 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. ss. 2803 (3)-A, or successor statutes. The chief of police may designate any officer under his command, if so certified, to perform this prosecutorial function.

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TITLE 16

MISCELLANEOUS OFFENSES

CHAPTER

16.1 General Offenses

CHAPTER 16.1

General Offenses

SECTION

16.1.1 Diving or Jumping from Bridges

Section 16.1.1 Diving or Jumping from Bridges

It shall be unlawful for any person to engage in diving or jumping from any bridge over any watercourse in the City of Gardiner or from any pier beneath any bridge.

The provisions of this section shall not apply to any person attempting to rescue or in case of an emergency. Violation of this section shall be punishable by a fine of not more than **\$100.00 or imprisonment up to ten days.**

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TITLE 17

NUISANCES

CHAPTER

- 17.1 Prevention of Nuisances**
- 17.2 Dangerous Buildings**
- 17.3 Junk**
- 17.4 Property Maintenance**
- 17.5 Dog Control Provisions**
- 17.6 Trespassing of Animals**
- 17.7 Prohibiting Mass Gatherings**

CHAPTER 17.1

Prevention of Nuisances

SECTION

- 17.1.1 Waste Deposits
- 17.1.2 Notice to Remove
- 17.1.3 Pigeons, Fowl and Waterfowl
- 17.1.4 Penalty, Abatement, Restitution

Section 17.1.1 Waste Deposits

No person shall throw or deposit, or cause to be thrown or deposited upon any public property, private property not owned by him, or in or upon any water body within the City of Gardiner, any litter, solid waste, foul or offensive materials.

Cross references: **Highways, see 1954 R.S., ch. 137, ss. 28 et seq.**
 Water ways, see 1954 R.S., ch. 141, ss. 11.

Section 17.1.2 Notice to Remove

Whenever any drain, rubbish, filth or offal may, in the opinion of the health officer become offensive or unhealthy, the owner or occupant of the premises where the same may be found, shall be notified by the **chief of police** to remove or cleanse the same; and unless said owner or occupant shall comply with said notice within a reasonable time, he shall be liable to penalty.

Section 17.1.3 Pigeons, Fowl and Waterfowl

17.1.3.1 No person shall feed or bait any migratory or non-migratory waterfowl, fowl or pigeon upon any public property of the City of Gardiner

17.1.3.2 No person shall feed or bait any migratory or non-migratory waterfowl or pigeon upon any water body or private property located within the following areas of the City:

Central Business Zone District

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17.1.3.3 No person shall keep, house, harbor, breed or maintain pigeons for any purpose in on or upon any public or private property located within the following areas of the City:

Central Business Zoning District

17.1.3.4 For purposes of the section, the following terms have the meaning stated:

Feed or Bait shall mean the placing, exposing, deposition, distributing or scattering, directly or indirectly, of shelled corn, shucked or unshucked corn, wheat or other grains, bread, salt, fishmeal food scraps, waste food, or other feed or nutritive substances in any place where it may be accessed by any waterfowl, fowl or pigeons.

Fowl shall mean any bird species of the family Laridae (gulls), either migratory, non-migratory or resident.

Pigeon shall mean any bird species of the family Columbidae (pigeons and doves), whether wild or domesticated, including "fancy", "sporting" and "racing" pigeons as commonly bred and recognized by the American Racing Pigeon Union, Inc. or other pigeon fanciers' organizations

Waterfowl shall mean any bird species of the family Anatidae (ducks and geese), either migratory, non-migratory or resident.

17.1.3.5 This section shall not prohibit feeding or baiting by any State or Federal game warden or wildlife official, or by any City Police Officer or Public Health Officer, or by the City's Code Enforcement Officer or Animal Control Officer, or their respective designees, in the course of their official duties, or wildlife management, public health, animal control or research purposes.

This section shall not prohibit keeping or feeding of domesticated waterfowl or other domesticated or captive birds in connection with any public show, display, exhibition, fair, animal park or zoo otherwise duly licensed.

Section 17.1.4 Penalty, Abatement, Restitution

Any person, corporation, partnership, or association or group of any kind, violating any provision of this Article, upon conviction shall be punished by a fine of not less than \$100 nor more than \$500. Each day that any violation of this Article shall continue after a notice of violation has been issued to the violator by the City's Chief of Police, Animal Control Officer or Code Enforcement Officer shall constitute a separate offense. For any second or subsequent offense following an initial conviction under this Article, the minimum and maximum fines provided above shall be double.

In addition to any fines imposed, the violator may be ordered to abate any continuing violation existing as of the hearing date, and shall be ordered to reimburse to the city all costs incurred as a result of the violation.

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CHAPTER 17.2

Dangerous Buildings

SECTION

- 17.2.1 Notice
- 17.2.2 Appeal; Hearing
- 17.2.3 Municipal Officers May Order Nuisance Abated
- 17.2.4 Barbed Wire Fences
- 17.2.5 Penalties

Section 17.2.1 Notice

Whenever the municipal officers shall find a building or structure or any portion thereof is structurally unsafe, unstable, unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property; they may after public notice and hearing on this matter, adjudge the same to be a nuisance or dangerous and may make and record an order prescribing what disposal shall be made thereof.

17.2.1.1 Notice. The notice shall be in writing sent by certified mail to the owner or owners at their last known address at least 14 days next prior to the date of hearing.

17.2.1.2 Notice, How Published. When the name or address of any owner or co-owner is unknown or is not ascertainable with reasonable diligence, then the notice shall be published once a week for 3 successive weeks prior to the date of hearing in a newspaper generally circulated in the county, or if none, in the state paper.

17.2.1.3 Order. The order made by the municipal officers shall be recorded by the municipal clerk who shall forthwith send an attested copy thereof to the owner or co-owner by certified mail to his last known address, or if the name or address cannot be ascertained, the clerk shall publish a copy of the order in the same manner as provided for notice in Section 17.2.1.2.

Section 17.2.2 Appeal; Hearing

Any person aggrieved by such order may, within 30 days after said order is made and recorded, file an appeal therefrom to any Justice of the Supreme Judicial or Superior Court who shall, after notice and hearing, affirm, annul or alter such order and may render such judgment as to costs as a justice requires.

Section 17.2.3 Municipal Officers May Order Nuisance Abated

If no appeal is filed, the municipal officers shall cause said nuisance to be abated or removed in compliance with their order, and all expenses thereof shall be repaid to the municipality by the owner or co-owner within 30 days after demand or a special tax may be assessed by the assessors

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against the land on which said building was located for the amount of such expenses and such amount be included in the next annual warrant to the tax collector for collection, and shall be collected in the same manner as the other state, county, and municipal taxes are collected.

Personal property located within said nuisance shall be removed upon written notice of the municipal officers sent by certified mail at least 14 days prior to the **abatement** of said notice. The notice shall be sent to the owner or owners at their last known address and shall specify that unless said personal property is removed, it will be disposed of by the municipality.

Section 17.2.4 Barbed Wire Fences

No person shall construct, erect or maintain a barbed wire fence or cause or permit the same to be constructed, erected, or maintained on land owned or occupied by said person within the compact area of the City of Gardiner, as indicated on the maps of the State of Maine Highway Commission illustrating this area and dated 1965.

Section 17.2.5 Penalties

Any person found guilty of violating any provisions of this chapter shall be subjected to a penalty of not more than \$100.00 for each offense. Each day in which a violation is proved to exist shall constitute a separate offense under this section.

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CHAPTER 17.3

Junk

SECTION

- 17.3.1 Purpose
- 17.3.2 Enforcement
- 17.3.3 Definitions
- 17.3.4 Exceptions
- 17.3.5 Restrictions
- 17.3.6 Penalties

Section 17.3.1 Purpose

The intent of this chapter is, that no junk shall be deposited and stored in the open upon any land lying within the limits of the City of Gardiner, and further that no buildings shall be used for that purpose unless such is in accordance with all the provisions of the Zoning Ordinance of the City of Gardiner.

Section 17.3.2 Enforcement

The code enforcement officer shall be responsible for hearing complaints and enforcing the provisions of this chapter. If the code enforcement officer shall find that any provision of this chapter is being violated, he shall notify in writing the owner of the property upon which the violation occurred and/or the person responsible for such violation. The code enforcement officer shall indicate the nature of the violation and order the action necessary to correct it. The code enforcement officer shall set a reasonable period of time (not to exceed 30 days) for the violation to be corrected and request voluntary compliance.

If the violation is found to exist beyond the voluntary compliance notice then the code enforcement officer shall be authorized to direct the city solicitor to institute any and all actions and proceedings, either legal or equitable to enforce the provisions of this chapter.

Section 17.3.3 Definitions

The word "junk" as defined in this chapter, shall mean metals, rope, leather, barrels, kegs, trimmings, old tires, rubber, paper, bottles, rags, scraps, odds and ends, one or more discarded worn out or junked motor vehicles or parts thereof, inoperable household appliances, batteries, obsolete plumbing and heating equipment, worn out furniture, building debris waste, and all other kinds of commodities customarily dealt in by junk dealers.

Section 17.3.4 Exceptions

Nothing in this chapter shall be construed as preventing manufacturing plants located within said City of Gardiner from temporarily keeping and having such commodities incident to carrying on their business and while awaiting the disposition of the same in the ordinary course

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of operations.

Section 17.3.5 Restrictions

No person, firm or corporation, shall display to the public view or deposit and store in such a manner or in such a location as to be unsightly, detracting from the natural scenery or injurious to property rights or to the health and comfort of individuals or the public for any period of time, upon any premises located within said City of Gardiner, any junk, unless the same is stored in buildings, enclosed on all sides, and such use is in conformance with all other ordinances, laws and regulations.

Section 17.3.6 Penalties

Any person, firm, partnership, association, organization or corporation found to be in violation of this chapter shall be subject to a fine of **\$100.00** and the cost of any and all legal fees incurred by the city in the enforcement of this chapter.

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CHAPTER 17.4

Property Maintenance

SECTION

- 17.4.1 Purpose
- 17.4.2 Authority
- 17.4.3 Minimum Maintenance Standards
- 17.4.4 Enforcement
- 17.4.5 Penalties
- 17.4.6 Administrative Appeals
- 17.4.7 Severability

Section 17.4.1 Purpose

The intent of this chapter is to establish minimum standards for the condition and maintenance of all residential and nonresidential properties including, without limitation, all buildings and structures, the premises surrounding said buildings and structures, and any premises that does not contain any buildings and/or structures, in order to protect public health, safety, and to prevent nuisance conditions.

Section 17.4.2 Authority

This chapter is adopted pursuant to the City of Gardiner's home rule authority and pursuant to 30-A M.R.S. § 3001.

Section 17.4.3 Minimum Maintenance Standards

17.4.3.1 The following items will stand as the minimum maintenance standards that all properties in the City of Gardiner must meet or exceed.

17.4.3.1.1 All premises and yard areas shall be maintained in a safe and sanitary condition. If any such area or object constitutes a danger to health or safety, it shall be repaired, replaced, removed, or otherwise remedied. All buildings and structures, and all parts thereof, shall be maintained in a safe, sanitary, and non-hazardous manner. All means of egress shall be kept in good working order and clear of debris. Without limiting the generality of the foregoing, the following are examples of minimum maintenance standards:

- (a) All exterior wall and roof surfaces of any structure used for human occupancy shall be protected so as to prevent wind, rain, and snow from entering.
- (b) Basement foundations shall be enclosed so as to prevent entry of vermin.
- (c) All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

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17.4.3.1.2 All yards or lots shall be kept free of accumulations of trash, garbage, refuse, junk, or other material, which may cause a fire hazard, health or safety hazard, or may act as a breeding place for vermin.

17.4.3.1.3 All yards or lots shall be kept free of junk/unregistered vehicles. A maximum of 2 unregistered vehicles are allowed on a lot, unless otherwise licensed or permitted by the City of Gardiner.

17.4.3.1.4 Weeds and grass shall be kept from becoming overgrown to an extent where it causes either a fire hazard or conditions that attract rats or other vermin.

17.4.3.1.5 Minimum conditions shall be maintained in all residential dwellings including a functional heating system, sanitary facilities including toilet, sink or basin and shower or bathtub, sanitary conditions free from mold, filth and leaks, and a basic level of security including locking doors and windows.

17.4.3.2 If a casualty event causes damage to property or any building or structure thereon, the owner or occupant shall cause or contract to remedy the damaged areas within a period of ninety (90) days after the casualty. For the purposes of this provision, casualty shall mean any unforeseeable unintended accident, weather, or similar event affecting the property and causing damage. "Cause or contract" shall include the initiation of an insurance claim, contracting of a construction/repair business, or substantial preparation for self-repair work. The Code Enforcement Officer, for good cause shown, may issue an extension of this 90-day remedial period.

Section 17.4.4 Enforcement

The Code Enforcement Officer shall enforce the provisions of this chapter. If the Code Enforcement Officer shall find that any provision of this chapter is being violated, the Code Enforcement Officer shall notify in writing the property owner, mortgagee, and/or other party responsible for the violation, serving a written notice by certified mail or hand delivering it in person. The Code Enforcement Officer shall indicate the nature of the violation and order the action necessary to correct it. The Code Enforcement Officer shall set a reasonable period of time (not to exceed thirty (30) days) for the violation to be corrected.

If the violation is not corrected within the required time allowed, the property owner, mortgagee, and/or other responsible party shall be subject to penalties as set forth in Section 17.4.5.

Section 17.4.5 Penalties

Any person who violates any provision of this chapter commits a civil violation punishable by a civil penalty of \$25 for each day the violation continues beyond the allotted correction period as referenced in Section 17.4.4. In addition, the City may pursue all remedies and relief available at law and/or in equity, including without limitation the remedies and relief provided 30-A MRSA §4452.

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Nothing contained in this chapter shall limit any other right or remedy available to the City of Gardiner.

Section 17.4.6 Administrative Appeals

Any decision by the Code Enforcement Officer may be appealed within thirty (30) days of its issuance to the Board of Appeals. Such appeals shall be de novo and the proceedings shall be consistent with 30-A M.R.S. § 2691 and applicable City ordinance provisions regarding proceedings before the Board of Appeals.

Section 17.4.7 Severability

If any clause, sentence, paragraph, section, or part of this chapter is adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect impair or invalidate the remainder therefor but shall be confined in its operation to the clause, sentence, paragraph, or section, or part therefore directly involved in the controversy in which such judgment shall have been rendered.

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CHAPTER 17.5

Dog Control Provisions

SECTION

- 17.5.1 Dogs to be Licensed
- 17.5.2 Dogs Running at Large
- 17.5.3 Barking Dogs
- 17.5.4 Impoundment
- 17.5.5 Notice of Impoundment
- 17.5.6 Release from Impoundment
- 17.5.7 Disposition of Dogs
- 17.5.8 Penalties
- 17.5.9 Canine Waste Disposal

Section 17.5.1 Dogs to be Licensed

No dog shall be kept within the limits of the City of Gardiner unless such dog shall have been licensed by its owner in accordance with the statutes of the State of Maine.

For the purposes of this chapter, "owner" shall mean any person or persons, firm, association or corporation owning, keeping or harboring a dog.

Section 17.5.2 Dogs Running at Large

No owner of any dog shall permit such dog to run at large within the City of Gardiner. For the purposes of this chapter, "run at large" shall mean off the premises of the dog owner or by permission of the property owner and not under the control of any person by leash, cord, chain or other restraining device. The leash, cord, chain or other restraining device shall not exceed six (6) feet in length.

Section 17.5.3 Barking Dogs

17.5.3.1 Excessive Barking - Any owner or person having custody of a dog or dogs within the City shall not permit the dog or dogs to create a nuisance by continued or repeated barking, howling, yelping or making other loud or unusual noises. A dog or dogs that bark, howl, yelp or otherwise create a loud or unusual noise for a sustained period of one (1) hour or intermittently for two (2) hours that can be heard beyond the property line of the property on which the dog(s) is located has created a nuisance and the owner or person having custody of the dog(s) is in violation of this section.

17.5.3.2 Complaint - Any person disturbed by a barking dog in violation of Section 17.5.3.1 shall file a written complaint with the City's Animal Control Officer or any Police Officer. The complaint shall include the date and time the disturbance began, a description of the disturbance, and the length of time of the disturbance. The complaint must be signed and sworn to the Animal Control or other Police Officer. The officer shall investigate the complaint

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and may give written warning to the owner or person having custody of the dog(s) of the violation and may order that the violation ceases.

17.5.3.3 Exemptions - The barking of certain dogs may be exempted from the provisions of this section by the Animal Control Officer or other Police Officer on an incident by incident basis including when the dogs are in kennels or are special purpose dogs such as guide dogs, working dogs, and rescue dogs. This provision is intended to provide the officers with the latitude to determine if the barking constitutes a nuisance, however, pursuant to 7 M.R.S. §3950(1), this section does not apply to dogs engaged in herding livestock or to agricultural guard dogs engaged in protecting livestock or warning the owners of danger to the livestock.

17.5.3.4 Failure to Comply - If the owner or person with custody of a dog that has been determined to be a nuisance in accordance with Section 17.5.3.2 allows the dog to continue to violate the ordinance and a subsequent complaint is filed, the owner or other person shall have committed a civil violation and shall be subject to the penalties set forth in Section 17.5.8.

17.5.3.5 Repeated Violations - If the owner or person with custody of a dog that has been determined to be a nuisance is in violation of this section more than three (3) times in any twelve (12) month period, the Animal Control Officer may impound the dog in accordance with the provisions of Section 17.5.4.

Section 17.5.4 Impoundment

Any police officer of the City of Gardiner on complaint shall apprehend any dog kept in violation of the licensing provisions of Section 17.5.1 or found running at large in violation of the provision of Section 17.5.2 or disturbing the peace by barking in violation of Section 17.5.3., and impound such dog in the city dog pound or other suitable place.

The person in control of impounding upon receiving any dog shall make a complete registry, entering the breed, color and sex of such dog and whether licensed or unlicensed. If licensed he shall enter the name and address of the owner and the number of the license tag.

Section 17.5.5 Notice of Impoundment

If the owner or keeper of such impounded dog is known or can be ascertained with reasonable diligence, then the person in control of impounding shall notify such owner or keeper as soon as possible, and in any case not later than 3 days of the receipt of such dog. If the owner of such dog is not known and cannot be ascertained with reasonable diligence, then the person who has control of impounding shall post, within 48 hours of the time such person shall have taken such dog into his possession, written notices in 3 public places in the City of Gardiner, giving a description of the dog, stating where it is impounded and the conditions for its release.

Section 17.5.6 Release from Impoundment

The owner or keeper of any impounded dog may obtain the release of such dog by appearing before the person in control of impounding within 10 days of receiving notice of such

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impoundment or within 10 days of the posting of such notice and satisfying the following requirements: (a) compliance with all licensing requirements of the State of Maine and City of Gardiner; (b) payment to the city treasurer of impoundment fee of **\$15.00**; (c) payment to the city treasurer of the sum of **\$5.00** per day for each day, or part thereof, that such dog has been impounded.

Section 17.5.7 Disposition of Dogs

Upon the expiration of the 10 day period after the posting of said notice or service of said notice on the owner or keeper of such dog, and such dog has not been reclaimed by its owner or keeper, the dog may be humanely destroyed or placed in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this ordinance.

The person having control of impounding shall keep a record of the disposition made of each dog placed in his control. Such record shall include the manner of disposing of such dog and, if such dog is transferred to another person, the name and address of the transferee. In addition, the transferee shall sign a statement giving his name, address and the date of delivery or receipt of the dog.

Section 17.5.8 Penalties

Whoever keeps a dog contrary to the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than **\$50.00**.

Section 17.5.9 Canine Waste Disposal⁶

17.5.9.1 Duty to Dispose

It shall be a violation of this ordinance for any person who owns, possesses or controls a dog to fail to remove and dispose of any feces left by his/her dog on all sidewalks streets, parks and public land within the City of Gardiner.

17.5.9.2 Enforcement

The provisions of this ordinance may be enforced by any designated representative of the Chief of Police.

17.5.9.3 Penalties for Violation

Violation of this ordinance shall be punished by a civil penalty not to exceed fifty dollars (\$50.00) for each occurrence.

17.5.9.4 Exemption

This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this ordinance.

⁶Adopted July 20, 1998; Amended March 15, 1999; Amended October 17, 2018 Effective November 16, 2018

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CHAPTER 17.6

Trespassing of Animals

SECTION

- 17.6.1 Animals Trespassing upon the Land of Another
- 17.6.2 Penalties

Section 17.6.1 Animals Trespassing upon the Land of Another

Whoever permits his cattle, horses, sheep or swine to enter in and upon any land commercially used, including parking lots, residential property, including summer residences and cottages, or the improved lands appertaining to any farm, after having been forbidden to do so by the owner or occupant thereof, either personally or by an appropriate notice posted conspicuously on the premises, or by law enforcement officer, shall be guilty of trespass.

Section 17.6.2 Penalties

Whoever allows an animal to trespass upon the land of another contrary to the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than **\$100.00**.

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CHAPTER 17.7

Prohibiting Mass Gatherings

SECTION

- 17.7.1 Mass Outdoor Gathering
- 17.7.2 Hazard
- 17.7.3 Permit Acquired
- 17.7.4 Permit Issuance
- 17.7.5 City Council's Determination
- 17.7.6 Plans, Specifications, Reports, Cooperation
- 17.7.7 Bond
- 17.7.8 Permit Fee
- 17.7.9 Governmental Organization
- 17.7.10 Penalty

Section 17.7.1 Mass Outdoor Gathering

For the purpose of this chapter, a mass outdoor gathering shall be deemed to mean any gathering held outdoors with the intent to attract the continued attendance of 1,000 or more persons for ten or more hours.

Section 17.7.2 Hazard

The city council after public hearing finds that mass outdoor gatherings frequently create a hazard to the public health, safety, and peace. Accordingly, it is deemed to be appropriate and in the interest of the public welfare to regulate the conduct of such gatherings in order to protect the public health and safety.

Section 17.7.3 Permit Acquired

No person, corporation, partnership, association or group of any kind shall sponsor, promote or conduct a mass outdoor gathering until a permit has been obtained from the city manager after approval of the city council. The application for a permit shall be submitted to the city manager no less than 30 days prior to the scheduled date of the mass gathering.

Section 17.7.4 Permit Issuance

The city manager after receipt of written application for a mass gathering and on the approval of the city council shall issue a permit for a mass outdoor gathering unless after consideration of the factors listed in Section 17.7.5., it appears to the city council within a reasonable certainty the gathering will represent a grave and imminent danger to the public health or to the public safety.

Section 17.7.5 City Council's Determination

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In determining whether there exists a reasonable certainty that the gathering will present a grave and imminent danger to the public health or safety, the city council shall consider the nature of the gathering and the availability of:

- (a) An adequate and satisfactory water supply and facilities;
- (b) Adequate refuse and storage facilities;
- (c) Sleeping areas and facilities;
- (d) Wholesome and sanitary food service;
- (e) Adequate medical supplies and care;
- (f) Adequate police protection;
- (g) Adequate fire protection;
- (h) Adequate traffic control; and
- (i) Any other matters as may affect the security of the public health and safety.

Section 17.7.6 Plans, Specifications, Reports, Cooperation

In its review of the applications for permits for the holding or promotion of a mass outdoor gathering, the city council may require such plans, specifications and reports as it shall deem necessary for a proper review. In its review of such applications, as well as in carrying out its other duties and functions in connection with such a gathering, the city council may request, and shall receive from all public officers, departments and agencies of the City of Gardiner, such cooperation and assistance as may be necessary and proper.

Section 17.7.7 Bond

The city manager, on direction of the city council, may also require, prior to the issuance of a permit, that the applicant furnish to the City of Gardiner a bond of a surety company qualified to do business in this State in such amount as the city council shall determine, but in no event less than **\$10,000**, to ensure the public peace, safety and compensation of damage to property, public or private.

Section 17.7.8 Permit Fee

The fee for such permit shall be **\$550.00** and must accompany the application therefor.

Section 17.7.9 Governmental Organization

This ordinance does not apply to events sponsored by any governmental organization.

Section 17.7.10 Penalty

Any person, corporation, partnership, or association or group of any kind, violating any provision of this ordinance shall be punished by a fine of not more than **\$100.00**. Each day any violation of this ordinance shall continue shall constitute a separate offense.

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TITLE 19

PARKS AND RECREATION

CHAPTER

19.1 Parks and Recreation Committee⁷

CHAPTER 19.1

Parks and Recreation Committee

SECTION

- 19.1.1 Purposes and Findings
- 19.1.2 Creation of Parks and Recreation Committee
- 19.1.3 Composition
- 19.1.4 Mission Statement

Section 19.1.1 Purposes and Findings

The city council of the City of Gardiner, Maine, finds that the supervision and administration of a municipal recreation is essential to the protection of the public health and the promotion of the public welfare and that the creation of a Parks and Recreation Committee is necessary to accomplish this objective.

Section 19.1.2 Creation of Parks and Recreation Committee

There is hereby created a Parks and Recreation Committee for the city, in accordance with Title 30, M.R.S.A., 2256.

Section 19.1.3 Composition

The Parks and Recreation Committee shall consist of up to seven voting members, up to two (2) of whom shall be City Councilors, representatives from a variety of all levels of the city, who shall serve in terms of three years. The members shall be appointed by the mayor, with the advice and consent of the city council, and vacancies shall be filled in the same manner. During said term, the members shall hold said office at the pleasure of the appointing authority. The members shall serve without compensation. The committee shall also consist of three ex-officio (non-voting) members, including a representative from Gardiner Main Street, a representative from the Boys & Girls Club, and the Public Works Director.

Section 19.1.4 Mission Statement

The object of this Gardiner Parks and Recreation Committee is (1) to plan a year-round recreation program for all residents of the City of Gardiner including all age groups; (2) to correlate the recreation activities provided by other local civic organizations into a unified recreation program, and (3) to assume the responsibility of the functioning of a recreation program.

⁷ Adopted December 19, 2012

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TITLE 23

PURCHASES

Note: No material is classified to this title at present. It is reserved for future use.

Cross reference: **Purchase of supplies, see City Charter, Art. VII, Section 14.**
 Purchasing Agent, see City Charter, Art. VI, Section 6.
 Policy on Purchasing, City of Gardiner.

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TITLE 25

STREETS AND HIGHWAYS

CHAPTER

- 25.1 Bicycles**
- 25.2 Signs and Obstructions**
- 25.3 Traffic Regulations**
- 25.4 Excavations**

CHAPTER 1

Bicycles

SECTION

- 25.1.1 Interference with Pedestrians
- 25.1.2 Speed
- 25.1.3 Signal Devices
- 25.1.4 Traffic Rules
- 25.1.5 Use of Hands
- 25.1.6 Load Limits
- 25.1.7 Hitching Rides
- 25.1.8 Lights
- 25.1.9 Team Riding Forbidden
- 25.1.10 Prohibited Routes
- 25.1.11 Prohibiting the Riding of Bicycles on Certain Sidewalks
- 25.1.12 Impounding of Bicycles

Collateral references: **For similar provisions, see Nimlo Model Ordinance Service, section 9-5100 et seq.**

Section 25.1.1 Interference with Pedestrians.

No person shall ride or propel any bicycle upon any sidewalk in such manner as to interfere with any pedestrian thereon.

Section 25.1.2 Speed.

No person shall ride or propel a bicycle upon any public street, highway or sidewalk except in a prudent and careful manner and at a **reasonable rate** of speed.

Section 25.1.3 Signal Devices.

No person shall ride or propel a bicycle upon any public street, highway or sidewalk in said city unless said bicycle is equipped with bell, horn or other warning device.

Section 25.1.4 Traffic Rules.

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Persons riding bicycles shall observe all traffic signs, stop at all stop signs, and shall further observe all traffic rules and regulations applicable thereto; and shall turn only at intersections, signal for all turns, ride at the right hand side of street or highway, pass to the left when passing overtaken vehicles that are slower moving and shall pass to the right when meeting another vehicle.

Section 25.1.5 Use of Hands.

No person shall operate or propel any bicycle without having his hands upon the handle bars thereof.

Section 25.1.6 Load Limits.

No person operating or propelling a bicycle having only one saddle shall carry any other person on said bicycle.

Section 25.1.7 Hitching Rides.

It shall be unlawful for any person while riding a bicycle to hold onto a moving bus, truck or other vehicle.

Section 25.1.8 Lights.

It shall be unlawful to ride or propel a bicycle on any street or other public highway of the city after dark unless the same shall be equipped with a sufficient light attached to the front of said bicycle visible from the front thereof not less than 200 feet and properly lighted, nor without a red tail-light or, in lieu thereof, a reflector attached to and visible from the rear of said bicycle for a distance of not less than 200 feet.

Section 25.1.9 Team Riding Forbidden.

No person shall ride or propel a bicycle upon any public street, highway or sidewalk in the city abreast or to the left of any other person so riding or propelling a bicycle.

Section 25.1.10 Prohibited Routes.

The chief of police shall have the power and authority to designate and plainly mark such streets, ways or walks as may not be ridden upon.

Section 25.1.11 Prohibiting the Riding of Bicycles on Certain Sidewalks.

25.1.11.1 Water Street. No person at anytime shall ride or cause to be ridden any bicycle on any portion of the sidewalk on either side of Water Street commencing at the intersection of Water Street with Winter Street and to the intersection of Water Street with Vine Street.

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25.1.11.2 Maine Avenue. No person at anytime shall ride or cause to be ridden any bicycle on the sidewalk on the westerly side of Maine Avenue, commencing at the intersection of Maine Avenue with Water Street and to the intersection of Maine Avenue with Bridge Street.

25.1.11.3 Bridge Street.

25.1.11.3.1 No person at anytime shall ride or cause to be ridden any bicycle on the sidewalk on the easterly side of Bridge Street, commencing at the intersection of Bridge Street with Water Street and to the railroad tracks crossing said Bridge Street.

25.1.11.3.2 No person at any time shall ride or cause to be ridden any bicycle on the sidewalk on the westerly side of Bridge Street commencing at the intersection of Bridge Street with Summer Street and to the intersection of Bridge Street with Maine Avenue.

Section 25.1.12 Impounding of Bicycles.

Any bicycle operated, by the owner or other person lawfully in the custody thereof, in violation of any of the provisions of this chapter may be taken into custody and impounded for a period not exceeding 30 days.

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CHAPTER 25.2

Signs and Obstructions

SECTION

- 25.2.1 Cellar Doors
- 25.2.2 Posting Bills
- 25.2.3 Street Obstructions
- 25.2.4 Signs
- 25.2.5 Unsafe and Unlawful Signs
- 25.2.6 Obstructions
- 25.2.7 Traffic Islands

Collateral references: **For similar provisions, see Nimlo Model Ordinance Service, section 12-301 et seq.**

Section 25.2.1 Cellar Doors

No person shall suffer his cellar door, or passage from the cellar to the street, when the same opens upon the street, or sidewalk, or near thereto, to be kept open when not in immediate use, nor at any time between sundown and sunrise unless the same is properly lighted.

Cross references: **Obstruction and regulation, see 1954 R.S. ch. 90-A, ss. 3, II, A, C; ch. 137, ss. 28 et seq.**

Section 25.2.2 Posting Bills

No person shall put or stick up any play bill, or other bill, advertisement, or notice on any public building, or any other building, or any fence fronting on the street or Public Square, without the consent of the occupant or owner.

Section 25.2.3 Street Obstructions

No person shall occupy any part of a street for the purpose of placing any lumber or other materials for erecting or repairing any building upon **his** land abutting any street without a permit from the building inspector which shall be given in writing, allotting such part of the street as may be necessary, and limiting the period which the street may be so occupied. The person to whom said permit shall be granted shall, before occupying the same, erect around the part to be occupied a sufficient fence to prevent injury to persons, animals or vehicles passing the premises, to the satisfaction of the building inspector. At the expiration of the permit, the person to whom it shall have been given shall remove all the materials and rubbish from that part of the street occupied by **him**, or it may be done by the city at **his** expense.

Section 25.2.4 Signs

No person shall erect, place or install any sign, or replacement of an existing sign, or any

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marquee or replacement thereof, overhanging within the limits of any sidewalk or street, without first obtaining a permit from the building inspector who shall satisfy **himself** as to the safety of the proposed sign and the fastenings thereof. This section shall not apply to signs erected by the City of Gardiner. The fee for such permit shall be **\$500.00**.

Cross references: **Outdoor advertising, see 1954 R.S. ch. 23, ss. 137 et seq.**
 Regulating streets and sidewalks generally, see 1954 R.S. ch. 90-A, ss. 3, II

Section 25.2.5 Unsafe and Unlawful Signs

If the building inspector shall find that any sign or other advertising structure referred to in Section 25.2.4. is unsafe, insecure, or is a menace to the public safety, or has been constructed or erected or is being maintained in violation of the provisions of this chapter, **he** shall give written notice to the owner or person in control of the premises. If the owner or person in control fails to remove or alter the structure so as to comply with the instructions of the building inspector within 10 days after such notice, such sign or other advertising structure may be removed or altered to comply with such instructions by the building inspector at the expense of the owner or person in control of the property upon which it is located. The building inspector shall refuse to issue a permit to any owner or person in control who refuses to pay costs so assessed. The building inspector may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.

Section 25.2.6 Obstructions

No person shall hang any goods over any sidewalk or street, or place any box, barrel, bale upon or otherwise obstruct any such sidewalk or street, except for immediate conveyance across the same.

Section 25.2.7 Traffic Islands

Except for authorized traffic regulatory and direction signs and landscaping placed by the State of Maine or the City of Gardiner, no person shall post any sign or place any object in, on, or around any traffic island in the City of Gardiner.

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CHAPTER 25.3

Traffic Regulations

SECTION

- 25.3.1 Definitions
- 25.3.2 Emergency Right-of-Way; Mail
- 25.3.3 Display of Lights
- 25.3.4 Adequate Brakes; Signaling Device; Unnecessary Noise to be Avoided; Bell or Siren Forbidden, Exception
- 25.3.5 Stopping, Standing, Parking Prohibited, Parking Limited
- 25.3.6 Backing to Curb
- 25.3.7 Winter Parking
- 25.3.8 Public Parking Lots
- 25.3.9 Removal and Storage
- 25.3.10 Parking
- 25.3.11 Municipal Parking Lot
- 25.3.12 Oversized Loads
- 25.3.13 One-way Streets and Alleys
- 25.3.14 No Left Turn
- 25.3.15 Rules of the Road
- 25.3.16 Speeds
- 25.3.17 Traffic Lights
- 25.3.18 Stop Signs
- 25.3.19 Truck Route Ordinance
- 25.3.20 Parking for **Physically Handicapped** Persons
- 25.3.21 Loading and Unloading of Vehicles
- 25.3.22 Penalties
- 25.3.23 Immobilization
- 25.3.24 Restricting Vehicle Weight on Posted Ways

Collateral references: **For similar provisions, see Nimlo Model Ordinance Service, section 9-5001 et seq.**

Section 25.3.1 Definitions

25.3.1.1 As used in this chapter, the word "**vehicle**" shall include all kinds of conveyances for persons and for property, except those used exclusively on tracks; and the word "road" or the word "street" shall include all roads, streets, and public ways within the city limits.

Section 25.3.2 Emergency Right-of-Way; Mail

Police, fire department, emergency repair vehicles, United States mail vehicles and ambulances shall have the right-of-way in any street and through any procession. All vehicles shall go to right of road or street as near the curb or gutter as possible and come to a complete stop at sound

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of approaching sirens or bells of all fire apparatus including fire chief's car. It shall be unlawful for any person to drive any team, automobile, truck, tractor, or other motor vehicle over any piece or pieces of hose which shall hereafter be laid by the fire department of the City of Gardiner upon the streets of this city.

Cross references: **Emergency right-of-way, see 1954 R.S. ch. 22, ss. 92.**

Section 25.3.3 Display of Lights

Cross reference: **Display of lights, 1954 R.S. ch. 22, ss. 136.**

Section 25.3.4 Adequate Brakes; Signaling Device; Unnecessary Noise to be Avoided; Bell or Siren Forbidden, Exception

Cross references: **See 1954 R.S. ch. 22, ss. 41, 41-B.**

Section 25.3.5 Stopping, Standing, Parking Prohibited, Parking Limited

25.3.5.1 No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

- 25.3.5.1.1** On a sidewalk.
- 25.3.5.1.2** In front of a public or private driveway.
- 25.3.5.1.3** Within an intersection.
- 25.3.5.1.4** Within 6 feet of a water hydrant.
- 25.3.5.1.5** On a cross walk.
- 25.3.5.1.6** Within 10 feet of a street corner.
- 25.3.5.1.7** Within 500 feet of any building, field or forest where an alarm of fire or other emergency has been sounded without consent of the chief of police.
- 25.3.5.1.8** In any public street more than twelve inches from the curb, except in emergency or to allow another vehicle or pedestrian to cross its way.
- 25.3.5.1.9** On the roadway side of any vehicle or parked at the edge or curb of a street.
- 25.3.5.1.10** In delineated parking space controlled by a sign designated as "**Physically Handicapped Only.**"
- 25.3.5.1.11** At any place where official signs prohibit parking.
- 25.3.5.1.12** On Bridge Street:
 - (a) From the north side of the bridge over Cobbossee Stream to the intersection of said Bridge Street with Highland Avenue on the west side of said Bridge Street;
 - (b) At a point commencing at the right-of-way to the **James Walker & Son Company Retail Store** on the easterly side of Bridge Street to the intersection of said Bridge Street with Maine Avenue;
 - (c) Intending to prohibit the stopping or parking of vehicles in the described areas at anytime on the west side of Bridge Street from its intersection with Water Street 165 feet northerly and from a point approximately 340 feet

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northerly to its intersection with Maine Avenue.

25.3.5.1.13 On Church Street:

- (a) On the north side from its intersection with Mechanic Street to its intersection with Brunswick Avenue;
- (b) On the south side from its intersection with Water Street to its intersection with the westerly side of premises designated as the Gardiner City Hall.

25.3.5.1.14 On Maine Avenue:

- (a) In front of and in the passageway running from Maine Avenue in back of building located on the north side of Water Street and on the front of and in the passageway running along the southerly side of Cobbossee Stream;
- (b) On the south side of Maine Avenue from its intersection with Water Street to the Gardiner-Randolph Bridge;
- (c) Repealed by Ordinance No. 79-50 adopted Feb. 4, 1980;
- (d) Repealed by Ordinance No. 79-50 adopted Feb. 4, 1980;
- (e) At any time on the easterly side of Maine Avenue commencing from a point at the northerly side of the bridge over the Cobbossee Stream to the Gardiner-Farmingdale town line;
- (f) Intending to prohibit the stopping or parking of vehicles in the described areas at anytime, on the north and westerly side of Maine Avenue from its intersection with Water Street to the Gardiner-Farmingdale town line.

25.3.5.1.15 Any passageway leading to Gardiner Municipal Wharf.

25.3.5.1.16 In front of any fire station.

25.3.5.1.17 On the new Gardiner-Randolph Bridge from Maine Avenue to the Gardiner-Randolph town line.

25.3.5.1.18 School areas:

- (a) On School Street at the following designated areas: on either side from its intersection with Dennis Street to its intersection with Pleasant Street; on the south side from its intersection with Pleasant Street to its intersection with Dresden Avenue.
- (b) On Pleasant Street at the following designated areas: on the east side from its intersection with Church Street to its intersection with School Street; on the west side from its intersection with School Street to its intersection with Kingsbury Street.

25.3.5.1.19 Dennis Street, east side, from its intersection with Prospect Street running northerly for a distance of 100 feet.

25.3.5.1.20 On either side of River Avenue from corner of intersection with Kingsbury Street southerly to its intersection with Cottage Street.

25.3.5.1.21 Winter Street, east side, from Water Street to Summer Street.

25.3.5.1.22 Brunswick Avenue, west side, from point opposite Mechanic Street southerly to a point opposite premises designated 242 Brunswick Avenue.

25.3.5.1.23 Brunswick Avenue, east side, from the intersection of Water Street southerly to the intersection of Mechanic Street, and from a point 137 feet south of the southerly side of the Mechanic Street intersection to a point opposite premises designated 242 Brunswick Avenue.

25.3.5.1.24 Mechanic Street, south side, from the corner of Brunswick Avenue in an easterly direction for a distance of 150 feet.

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- 25.3.5.1.25** On either side of Central Street:
- (a) Between intersections of Maple and Oak Streets between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday;
 - (b) Between intersections of Pine and Spruce Streets at any time.
- 25.3.5.1.26** On Water Street:
- (a) On the easterly side of Water Street from its intersection with Winter Street southwesterly to a point which is 75 feet from its intersection with Central Avenue.
 - (b) On the southerly side of Water Street in a westerly direction one hundred (100) feet from the intersection of Vine Street.
- 25.3.5.1.27** On Summer Street, northwest side, from its intersection with Winter Street to its intersection with Harden Street.
- 25.3.5.1.28** On the easterly side of River Avenue in South Gardiner, from a point opposite the northern side of its intersection with Sawyer Street and running southerly for a distance of 200 feet.
- 25.3.5.1.29** On Cherry Street:
- (a) On the southerly side, from its intersection with Central Street to its intersection with High Holborn Street.
 - (b) On the northerly side, from its intersection with Central Street running easterly for a distance of 139 feet.
- 25.3.5.1.30** On Central Street, east side, from the north side of its intersection with Cherry Street running northerly for a distance of 82 feet.
- 25.3.5.1.31** On West Hill Road, both sides, from its intersection with Cobbossee Avenue northerly to its intersection with Highland Avenue.
- 25.3.5.1.32** On either side of Water Street between the intersection with Winter Street and the intersection with Steamboat Street from 1:00 a.m. to 7:00 a.m.
- 25.3.5.1.33** On either side of Library Street.
- 25.3.5.1.34** On Lincoln Avenue:
- (a) On the easterly side from its intersection with Cottage Street to its intersection with Dean Street.
 - (b) On either side between its intersection with School Street and Brunswick Avenue from 11:00 p.m. to 6:00 a.m. from October 1st to April 30th; and from 9:00 p.m. to 6:00 a.m. from May 1st to September 30th.
 - (c) On the easterly side from its intersection with Cottage Street southerly for a distance of five hundred (500) feet.
 - (d) On either side from its intersection with Freemont Street to its intersection with Liberty Street.
- 25.3.5.1.35** On Deane Street: at any time on the southerly side of Deane Street from its intersection with Lincoln Avenue to the entrance to the Catholic cemetery on Deane Street.
- 25.3.5.1.36** High Holborn Street:
- (a) On the southerly side from its intersection with Brunswick Avenue to the entrance to Center Street School.
 - (b) On the northerly side from its intersection with Brunswick Avenue to its intersection with Oak Street.
 - (c) On the northerly side from its intersection with Green Street in an easterly

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- direction for a distance of 150 feet.
- 25.3.5.1.37** On Spring Street:
- (a) On the northerly side from its intersection with Bridge Street in a Westerly direction for a distance of 845 feet.
 - (b) On either side from its intersection with Mt. Vernon Street to its intersection with Plaisted Street.
 - (c) On the southerly side of Spring Street from its intersection with Bridge Street in a westerly direction for a distance of 495 feet.
- 25.3.5.1.38** On either side of Washington Avenue from its intersection with Pine Street to its intersection with Spruce Street and Water Street.
- 25.3.5.1.39** On the easterly side of Brunswick Avenue from its intersection with Tilbury Park in a southerly direction for a distance of 500 feet.
- 25.3.5.1.40** On the easterly side of Dresden Avenue from its intersection with the right-of-way to the **Gardiner General Hospital** parking lot to its intersection with Cottage Street.
- 25.3.5.1.41** On the westerly side of Dresden Avenue commencing at Central Maine Power Company Pole #25 in a southerly direction for a distance of 242 feet.
- 25.3.5.1.42** On the southerly side of Winter Street from its intersection of Fountain Street running easterly for a distance of 324 feet.
- 25.3.5.1.43** On either side of School Street between its intersection with Lincoln Avenue and Dresden Avenue from 11:00 p.m. to 6:00 a.m. from October 1st to April 30th; and from 9:00 p.m. to 6:00 a.m. from May 1st to September 30th.
- 25.3.5.1.44** On either side of Dresden Avenue between its intersection with School Street and Church Street from 11:00 p.m. to 6:00 a.m. from October 1st to April 30th; and from 9:00 p.m. to 6:00 a.m. from May 1st to September 30th.
- 25.3.5.1.45** On either side of Lincoln Avenue between its intersection with School Street and Brunswick Avenue from 11:00 p.m. to 6:00 a.m. from October 1st to April 30th; and from 9:00 p.m. to 6:00 a.m. from May 1st to September 30th.
- 25.3.5.1.46** On either side of Fillmore Place from 11:00 p.m. to 6:00 a.m. from October 1st to April 30th; and from 9:00 p.m. to 6:00 a.m. from May 1st to September 30th.
- 25.3.5.1.47** On the Old Brunswick Road:
- (a) Within two feet of pavement, on either side of the Old Brunswick Road from its intersection with West Street and Marston Road southerly to its intersection with Route 201.
 - (b) Within two feet of pavement on either side of the Old Brunswick Road from its intersection with Route 201 northeasterly to CMP pole 103.
- 25.3.5.1.48** On both sides of Highland Avenue, from its intersection with Bridge Street in a westerly direction for a distance of 172 feet.
- 25.3.5.1.49** On both sides of Pope Street from its intersection with Pray Street to the high school.
- 25.3.5.1.50** On the southerly side of Heselton Street.
- 25.3.5.1.51** On Prospect Street, the southerly side from its intersection with Dennis Street to the turn-around.
- 25.3.5.1.52** On both sides of Maple Street between its intersections with Washington Avenue and Water Street.
- 25.3.5.1.53** On the northerly side of Cobbossee Avenue from the intersection of Andrews

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Street westerly for a distance of 350 feet.

25.3.5.1.54 On Mount Vernon Street:

- (a) On the westerly side of Mount Vernon Street from the intersection of Highland Avenue northerly for a distance of 140 feet.
- (b) On the easterly side of Mount Vernon Street from the intersection of Highland Avenue northerly for a distance of 90 feet.

25.3.5.1.55 On the Westerly sides of Pope Street.

25.3.5.1.56 On both sides of Enterprise Avenue.

25.3.5.2 No person shall park any vehicle for a longer period than one hour from and during the periods between 8:00 a.m. and 4:00 p.m. on weekdays except Saturdays and holidays at the following designated areas:

- (a) On either side of Dresden Avenue from its intersection with School Street to its intersection with Kingsbury Street.
- (b) On the east side of Pleasant Street from its intersection with School Street to its intersection with Kingsbury Street.
- (c) On the south side of Church Street from its intersection with Pleasant Street to its intersection with Dresden Avenue.

25.3.5.3 A "No Parking, Loading Zone" zone shall be established on the east side of Brunswick Avenue, running southerly from the south side of the Mechanic Street intersection for a distance of 50 feet.

25.3.5.4 On Maine Avenue, east side, a parking space shall be established from a point 22 feet south of the southerly face of the abutment to the Maine Avenue bridge over Cobbosseecontee Stream running southerly for a distance of 20 feet, which space shall be reserved for the use of the store manager of the **Carter Milling Company** as per the lease agreement between said firm and the City dated October 1, 1958, but such reservation shall remain in effect only during the effective period of the aforementioned lease or renewal thereof.

Section 25.3.6 Backing to Curb

25.3.6.1 No vehicle shall remain backed up to the curb except when actually loading or unloading, and then only for a reasonable time.

25.3.6.2 No person shall park, by backing up to the curb, any vehicle in any of the following places **viz:** at the corners of Maine Avenue, Church Street, Bridge Street, Winter Street, and Robinson Street, at the point where they intersect with Water Street within a distance of 40 feet from said intersection. The point of intersection for the purpose of construing this section shall be deemed to be the point at which the sidewalk curbs of said streets intersect with the sidewalks of Water Street.

Section 25.3.7 Winter Parking

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No person shall leave or park any vehicle of which he has charge or possession, or permit the same to stand on any street, highway, square or thoroughfare within the City of Gardiner, between the hours of 12 o'clock midnight and 6 o'clock in the morning during the months of November to April, both months inclusive.

Section 25.3.8 Public Parking Lots

25.3.8.1 No person shall leave or park any vehicle of which he has charge or possession, or permit the same to stand in any public parking lot for a period longer than 48 hours.

25.3.8.2 No person shall leave or park any vehicle of which he has charge or possession, or permit the same to stand in any of the first fifteen rows of parking spaces nearest Bridge Street in the Cobbossee Stream - Arcade parking lot or anywhere in the Gardiner Landing parking lot between the hours of 12:00 midnight and 7:00 in the morning during all months except by permit issued by the chief of police. The chief of police may issue such permit for repair, maintenance or construction vehicles, inoperable vehicles and for purposes relating to extended boating activity.

25.3.8.3 The row of parking spaces in the Gardiner Landing parking lot along the Maine Central Railroad shall be reserved exclusively for vehicles with trailers attached or trailers only from June 1 to September 30 of each year.

25.3.8.4 The city manager is authorized to alternate parking regulations in the Arcade Parking Lot from November to April for snow removal.

Section 25.3.9 Removal and Storage

Whenever such vehicle may be found parked or left standing in violation of Section 25.3.7 and 25.3.8 by any employee of the Highway Department, said vehicle may be removed and stored at the expense of the owner or person in charge or control of same.

Section 25.3.10 Parking

25.3.10.1 Parking areas may be established for zoned parking whenever the mayor and city council shall consider it proper and for the safety and convenience of the public or to relieve traffic congestion and parking conditions, effective for hours from 8:30 a.m. to 6:00 p.m. on Mondays, Tuesdays, Wednesdays, Thursdays, and Saturdays, except holidays, and from 8:30 a.m. to 9:00 p.m. on Fridays.

Overtime Parking and Shuffling or Relocation of Vehicles to Avoid Penalties: When signs are erected on streets to give notice thereof, no person shall park a vehicle upon any of the streets or parts of the streets described in Section 25.3.10.2 for a longer period than so specified in the section. No person shall relocate or move a vehicle in order to avoid a violation of the parking time limit. The following action will be considered prima facie evidence of such prohibited conduct when observed by a law or parking officer: when a person moves or relocates a vehicle that has been parked less than the posted time limit from a time limited parking space and then

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returns to the same parking space or moves to a parking space within 250 feet of that same parking space, as measured along the street, within five minutes of the time that the initial parking space was vacated. Such shuffling or relocating shall constitute overtime parking for the purposes of this section.

25.3.10.2 Two-hour parking zones are established as follows:

- (a) Water Street: on both sides of Water Street from the intersection of Vine Street and Water Street to the intersection of Winter Street and Water Street.
- (b) Mechanic Street: on both sides of Mechanic Street from its intersection with Church Street to the upper entrance of Dearborn Park.
- (c) Brunswick Avenue:
 - (i) On the westerly side of Brunswick Avenue from its intersection with Water Street to a point opposite Mechanic Street.
 - (ii) On the easterly side of Brunswick Avenue from a point 10 feet southerly of the intersection of Mechanic Street running south for a distance of 127 feet.
- (d) Bridge Street:
 - (i) On the westerly side of Bridge Street on the bridge over Cobbossee Stream.
 - (ii) On the easterly side of Bridge Street, from a point 30 feet north of its intersection with Water Street to the right-of-way to 35 Bridge Street.
- (e) City Hall Parking Lot:
 - (i) On both sides of Mechanic Street Extension from Church Street to the westerly entrance to the Gardiner Savings Institution parking lot between the hours of 1:00 a.m. and 6:00 a.m.
 - (ii) On the easterly side of Mechanic Street Extension along the westerly boundary of the Gardiner Savings Bank property.
- (f) Cobbossee Stream - Arcade Parking Lot:
 - (i) The first double row of parking spaces nearest Bridge Street and on the westerly side of the double row of parking spaces nearest to the Arcade stairway.
- (g) Library Parking Lot: in all spaces in the Library parking lot except for three spaces reserved for Library staff parking and one space reserved for handicapped parking.
- (h) Church Street: on the north side of Church Street from Water Street to Mechanic Street.
- (i) Winter Street Parking Lot: one on the northwesterly end and one on the southwesterly

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end of the first traffic island nearest Winter Street.

25.3.10.3 Thirty (30) minute parking zone shall be established as follows:

- (a) A thirty (30) minute parking zone effective for the hours of 7:00 a.m. to 5:00 p.m., Mondays through Fridays, shall be established in front of City Hall for the purpose of conducting city business with the exception of eight spaces, five of which shall be reserved for city officials and two for the Police Department and one for **handicapped** parking.

25.3.10.4 City Employee Parking Area:

- (a) City Hall Parking Lot: a single row of parking spaces shall be provided for municipal employee parking in the parking lot adjacent to City Hall, which row shall be located in the southerly end of said lot abutting property **now or formerly of one Harvey** (maximum number of spaces thus provided shall be twelve.)

25.3.10.5 Four-Hour Parking Zone:

- (a) Both sides of Mechanic Street, from the upper entrance of Dearborn Park to the intersection of Brunswick Avenue.

25.3.10.6 Parking spaces marked:

- (a) The chief of police shall be responsible for having individual parking spaces marked in the foregoing parking spaces.

Cross references: **Municipal finance, see 1954 R.S., Ch. 90-A, ss. 12, II, A.**
 Parking Meters, see 1954, R.S., Ch. 90-A, ss. 3, II, D.
 Pedestrians generally, see 1954 R.S., Ch. 2, ss. 126, Ch. 90-A, ss. 3, II, III.

Section 25.3.11 Municipal Parking Lot

The chief of police shall control the parking of vehicles in the municipal parking lots marking such lots and posting such signs in such a way as to insure the orderly parking of vehicles therein and the safe and orderly flow of traffic through such lots.

No person shall stop, stand, or park a vehicle in violation of such marking or posting except in compliance with law or the directions of a police officer or traffic control device.

Section 25.3.12 Oversized Loads

25.3.12.1 No vehicle which, with or without load, is wider than 102 inches overall shall be

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operated between the hours of 3:00 p.m. to 5:30 p.m. on the following streets or ways:

- (a) on Church Street;
- (b) on Maine Avenue from its intersection with Church Street to Gardiner-Randolph bridge.

25.3.12.2 The **Commissioner of Public Safety** may grant emergency permits upon proper application in writing to move objects having a width greater than specified in Section 25.3.12.1. of this Code. The fee for such permit shall be **\$5.00**.

Section 25.3.13 One-way Streets and Alleys

Upon the following streets and parts of streets and alleys, traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited:

25.3.13.1 Westerly on Mechanic Street from the intersection of Church Street to the intersection of Brunswick Avenue.

25.3.13.2 Easterly on Water Street from intersection of Bridge Street to intersection of Church Street.

Section 25.3.14 No Left Turn

It shall be unlawful for any person operating a motor vehicle to make a left-hand turn from Mechanic Street onto Brunswick Avenue, or from Brunswick Avenue onto Church Street.

Section 25.3.15 Rules of the Road

Cross references: **Rules of Road generally, see 1954 R.S. Ch. 22, ss. 83 et seq.**

Section 25.3.16 Speeds

Cross references: **Commercial vehicles, see 1954 R.S. Ch. 22 & 107, 146.**
State speed law, see 1954 R.S., Ch. 22, ss. 113-113-c, 146.

Section 25.3.17 Traffic Lights

Cross references: **See 1954 R.S., Ch. 22, ss. 87.**

Section 25.3.18 Stop Signs

25.3.18.1 No person shall drive any vehicle past or through any intersection having a stop sign, without bringing his vehicle to a stop.

25.3.18.2 Stop signs shall be located in the following places:

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Adams Street to Highland Avenue
Alexander Road to West Street
Andrews Street to Cobbossee Avenue
Arcade Lot at Main Avenue - *adopted 12-16-01*
Arcade Lot at Water Street Brunswick Ave. - *adopted 12-16-01*
Armory Street to Brunswick Avenue
Ash Street to West Hill Road
Ash Street to Harrison Avenue
Autumn Street to Spring Street
Autumn Street to Highland Avenue
Bartlett Street to River Road or Route #24
Beech Street to Washington Avenue
Capen Road to River Road or Route #24
Central Street to Brunswick Avenue
Central Street to Cherry Street
Central Street to Water Street
Cherry Street to Central Street
Chestnut Street, both sides, with its intersection with Washington Avenue
Chestnut Street to Brunswick Avenue
Chestnut Street to Washington Avenue
Church Street to Brunswick Avenue
Clinton Street to Spring Street
Clinton Street to Highland Avenue
Commerce Street at Enterprise Avenue - *adopted 12/16/01*
Costello Road to River Road or Route #24
Costello Road to Marston Road
Cottage Street to River Avenue
Cottage Street to Lincoln Avenue
Cannard Street to River Road or Route #24
Danforth northbound and southbound to Lincoln and northbound to Dresden
Dean Street to Lincoln Avenue
Dennis Street to Kingsbury Street
Dresden Avenue to Church Street
Dresden Avenue to Cottage Street
Dresden Avenue at Danforth (Both Directions) - *adopted 12/16/01*
Dresden Avenue to School Street, northbound and southbound
Elm Street to Washington Avenue, northbound and southbound
Enterprise Avenue at Route 201 - *adopted 12/16/01*
Fairview Street to Brunswick Avenue
Fountain Street at Harrison Ave. (both sides) -*adopted 12/16/01*
Fountain Street at Winter Street - *adopted 12/16/01*
Fountain Street at Willow Street - *adopted 12/16/01*
Fremont Street to Plummer Street
Fremont Street to Lincoln Avenue
Green Street to Central Street

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Harden Street at Summer Street - *adopted 12/16/01*
Harrison Avenue to Highland Avenue
Harrison Avenue to West Street
Harrison Avenue to Winter Street
Heselton Street to Brunswick Avenue
High Holborn Street to Brunswick Avenue
High Holborn Street to Cherry Street eastbound
High Holborn Street to Cherry Street westbound
High Holborn Street to Green Street eastbound
High Holborn Street to Green Street westbound
High Holborn Street to West Street
Highland Avenue to Bridge Street
Johnson Street to River Road or Route #24
Kingsbury Street to Dresden Avenue
Kingsbury Street to Water Street or Route #24
Libby Hill Road to Brunswick Road or Route #201
Libby Hill Road to Marston Road
Liberty Street to Lincoln Avenue
Liberty Street to Plummer Street
Library Street at Water Street - *adopted 12/16/01*
Lincoln Avenue to Brunswick Avenue
Lincoln Avenue to Cottage Street northbound
Lincoln Street at Danforth (Both Directions) - *adopted 12/16/01*
Lower River Road to Route #24 north end
Maple Street to Central Street
Maple Street to Washington Avenue (where it crosses Washington Ave., either side)
Marston Road to Brunswick Avenue
Marston Road to Libby Hill Road/Costello Road (northbound and southbound)
Mattson Heights to Brunswick Avenue
Mechanic Street to Brunswick Avenue
Mekola Lane to West Street
Middle Street to Bridge Street
Mount Vernon Street to Spring Street northbound
Mount Vernon Street to Spring Street southbound
Mullins Drive to River Road
Mullins Drive to Sawyer Street
Neal Street to Brunswick Avenue
Oak Street to Central Street, north and southbound
Oak Street to Washington Avenue
Oak Street to Water Street
Old Brunswick Road to Brunswick Avenue (Rte. #201 where it crosses Rte. #201 either side)
Old Brunswick Road to Brunswick Road
Old Brunswick Road to West Street and Marston Road, northbound and southbound
Orchard Street to High Street
Park Drive to Brunswick Road

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Phillips Street to River Road or Rte. #24
Pierce Street to Brunswick Avenue
Plaisted Street to Highland Avenue
Plaisted Street to Spring Street
Pleasant Street to Church Street
Pleasant Street at Kingsbury Street - *adopted 12/16/01*
Pleasant Street to School Street, north and south bound
Pine Street to Central Street
Plummer Street to Brunswick Avenue
Pray Street to Harrison Avenue
Pray Street to Pope Street
Prospect Street at Dennis Street - *adopted 12/16/01*
Prosperity Street at Enterprise Ave. - *adopted 12/16/01*
River Road to Rte. #24 at Railroad Station south
River Road to Rte. #24 at Church Street north
Riverview Drive at Rte. 24 - *adopted 12/16/01*
Rolfe Circle to Brunswick Road
Sawyer Street to River Road or Rte. #24
School Street to Brunswick Avenue
School Street to Dresden Avenue, east and westbound
School Street to Lincoln Avenue, east and westbound
School Street to Pleasant Street, east and westbound
Sherburne Avenue to River Road or Route #24
Spring Street to Bridge Street
Spring Street to Mt. Vernon Avenue (westerly side of intersection)
Summer Street to Bridge Street
Summer Street to Winter Street, east and westbound
Technology Drive at Enterprise Ave. - *adopted 12/16/01*
Tilbury Park at Brunswick Ave. - *adopted 12/16/01*
Townsend Street at Harrison Ave. - *adopted 12/16/01*
Union Street at Rte. 24 - *adopted 12/16/01*
Vine Street at Dennis Street - *adopted 12/16/01*
Vine Street to Water Street
Washington Avenue to Brunswick Avenue
Washington Avenue to Water Street
Water Front at Main Ave. - *adopted 12/16/01*
Water Front at Water Street - *adopted 12/16/01*
Weeks Road to Libby Hill Road
West Street to Brunswick Avenue
West Hill Road to Highland Avenue
West Hill Road to Cobbossee Avenue
Willow Street to Pray Street
Winter Street to Harrison Avenue
Winter Street to Water Street

Section 25.3.19 Truck Route Ordinance

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25.3.19.1 Definitions.

Truck: "Truck" shall mean any "truck," "truck tractor," or "vehicle" as defined in Title 29-A of the Maine Revised Statutes Annotated, but shall not include "wreckers" as defined in Title 29-A.

Registered Weight: "Registered weight" is defined as provided in Title 29-A of the Maine Revised Statutes Annotated.

25.3.19.2 Designated Routes for Heavy Trucks. No person shall operate or allow the operation of any truck with a registered weight greater than 15,000 pounds on a public way within the City of Gardiner except: Interstate 95, Route 201, Bridge Street, Maine Avenue, Church Street, Water Street, Route 24, Route 126, Mechanic Street, Highland Avenue, West Hill Road, Winter Street, Summer Street, Old Lewiston Road, and the Gardiner-Randolph bridge.

25.3.19.3 Restrictions on Vehicle Length. No person shall operate or allow the operation of vehicles on any public way within the City of Gardiner if the total length exceeds 48 feet, except on Interstate 95, route 126, Route 24, Water Street, Church Street or Route 201.

25.3.19.4 Exceptions. This ordinance shall not prohibit the operation of:

25.3.19.4.1 Trucks which exceed a registered weight of 15,000 pounds on a public way which is not an approved truck route as designated in Section 25.3.22.2., provided that the truck is engaged in a pick-up or delivery within the City of Gardiner and the publicway on which the truck is being operated to reach its destination or return to its point of origin is the shortest direct route between the pick-up and delivery point and the closest designated truck route within the City of Gardiner. However, trucks qualifying for this exception must comply with the length restrictions in Section 25.3.22.3.

25.3.19.4.2 Emergency vehicles or public utilities vehicles engaged in repairs.

25.3.19.4.3 City of Gardiner-owned vehicles.

25.3.19.4.4 Detoured trucks.

25.3.19.4.5 Wide loads or house trailers with escorts and permission of the chief of police.

25.3.19.5 Emergency Permits. The chief of police may issue emergency permits for use of street otherwise prohibited by this ordinance when the chief finds that it is necessary for public safety reasons.

Section 25.3.20 Parking for Physically Handicapped Persons

25.3.20.1 Definitions. Any **physically handicapped person** employed in a business

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establishment serviced by parking spaces may obtain a license giving him or her permission to park for an unlimited period of time in such a parking space as the city council may designate. Such designated space shall be marked and identified to show that it is so reserved for such **physically handicapped person**. The designation of such parking space must also be agreed to by the manager of the store in front of which the said space is located. Any parking space thus designated shall be reserved exclusively to the person to whom the said license is granted.

25.3.20.2 Application. All applications for such license shall be made in writing, directed to the city council, who may, or may not, at their discretion, grant such license.

25.3.20.3 Fees. The fee for such license shall be **\$50.00**.

25.3.20.4 Handicapped parking spaces shall be established as follows for the exclusive use by persons with vehicles displaying **Handicapped Registration Plates**. The **chief of police** shall be responsible for designating and marking such spaces to show that they are reserved for use by the **physically handicapped**.

- (a) Two spaces on Lincoln Avenue near the Common.
- (b) The first space, north of Water Street, on the east side of Bridge Street.
- (c) On the southerly side of Water Street, the first space east of Dearborn Park.
- (d) The first space south of the entrance to Gardiner Savings **Bank** on the west side of Water Street.
- (e) Three spaces on the northerly side of Water Street in front of the former Truitt Building.
- (f) Two spaces on Dresden Avenue in front of Christ Episcopal Church.
- (g) Two spaces on the easterly side of Maine Avenue in front of the former railroad depot.
- (h) One space on Water Street in the center of the Park occupying the area formally designated as 113-125 Water Street.
- (i) One space in the Arcade Parking Lot directly opposite the Parking Lot Terrace located in the park occupying the area formally designated as 113 to 125 Water Street.

Section 25.3.21 Loading and Unloading of Vehicles

25.3.21.1 The loading and unloading of vehicles serving buildings on Water Street shall be done through rear entrances wherever possible.

25.3.21.2 Loading and unloading of vehicles serving buildings on Water Street where such vehicles are parked on Water Street due to the non-existence of a rear entrance to the said building or buildings shall be so parked no longer than 30 minutes.

Section 25.3.22 Penalties

25.3.22.1 Unless a greater penalty is specifically provided in this chapter or in an applicable provision of the Maine Revised Statutes, any person violating any provision of this chapter shall be punished by a fine not exceeding **\$100.00**. Any fine imposed for a violation under this section shall not preclude, and shall be in addition to, any other civil remedies that may be

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available to the city.

25.3.22.2 The police department is authorized to accept a waiver of rights under Section 25.3.5 except Section 25.3.5.1.10, and Sections 25.3.6, 25.3.7, 25.3.8, 25.3.10, and 25.3.11, and accept payment as follows:

(a) Overtime Parking	\$20
(b) Blocking Driveway	\$20
(c) Parked More Than 18" from Curb	\$20
(d) Not Parked in Valid Space	\$20
(e) Parking on Sidewalk	\$30
(f) Double Parking	\$30
(g) Parked Facing Traffic	\$30
(h) Winter Parking Law	\$30
(i) Parked in Prohibited Zone	\$30
(j) Parked within 10" from Intersection	\$30
(k) Obstructing a Street	\$30
(l) Violation of Other Parking Laws	\$30
(m) Parking on Crosswalk	\$50
(n) Parked Within 6' from Hydrant	\$50
(o) Handicapped Parking	\$100

Fines are doubled if not paid within 15 days of violation, except for Section 25.3.5.1.10, which shall be \$150.

25.3.22.3 The City is authorized to accept a waiver of rights under Section 25.3.5.1.10, and accept **\$25.00** for each offense.

25.3.22.4 It shall be prima-facie evidence that the person in whose name the vehicle is registered, unlawfully parked said vehicle found in violation of Sections 25.3.5., 25.3.6., 25.3.7., 25.3.8., 25.3.10., and 25.3.11.

25.3.22.5 Whenever such vehicle may be found parked or left standing in violation of Sections 25.3.5.1.43, 25.3.5.1.44, 25.3.5.1.45, 25.3.5.1.46, and 25.3.5.1.47 by any employee of the Gardiner Police Department, said vehicle shall be removed and stored at the expense of the owner, or person in charge or control of said vehicle.

25.3.22.6 A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Cross references: **Established waivers for parking meter offenses, see R.S. of 1954, Ch. 90-A, ss. 3, III, A, 1.**

Section 25.3.23 Immobilization

25.3.23.1 Any vehicle which has accumulated four (4) or more notices of violation of any

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parking regulations or regulations issued, for which there has been neither payment of waiver fees nor issuance of court process, and which is then parked in violation of any such provision may at the option of any officer authorized to enforce the parking regulations of the city, be immobilized in place until all waiver fees established pursuant to 30 M.R.S.A. section 2151, for all such outstanding notices of violation have been paid or until the requirements of Section 25.3.23.2. (b) or (c) have been met.

25.3.23.2 Any person having the means to release such immobilized vehicle shall not release it until the individual requesting its release presents satisfactory evidence of his or her right to possession and signs a receipt therefor, and

- (a) The chief of police or his duly authorized representative certifies that all waiver fees have been paid; or
- (b) Until the chief of police or his duly authorized representative shall certify the posting of a bond equal to the total of all previously accumulated waiver fees which should have been remitted for said overdue notices of violation; or
- (c) Upon certification of the chief of police or his duly authorized representative that such person has both:
 - (i) Demonstrated that he or she is unable to pay the accumulated waiver fees by reason of poverty, having provided satisfactory proof of such status; and
 - (ii) Accepted service of process initiating a court proceeding to determine his or her liability for the prescribed penalty for such alleged violations.

25.3.23.3 Whenever any person requests the right to post bond pursuant to Section 25.3.23.2., such bond shall be refunded in the amount of the waiver fee for each alleged violation upon acceptance by such person of service of process initiating a court proceeding to determine his or her liability for the prescribed penalty for such alleged violation. Any bond shall be forfeited unless the person posting it requests and accepts service of such designated representative within thirty (30) days of posting unless prevented from doing so by the actions or inaction of the City of Gardiner.

25.3.23.4 It shall be unlawful for any person to tamper with or to attempt to remove any immobilizing device attached to a vehicle. Notwithstanding other penalty provisions contained in these regulations, the penalty for any such violation shall be not less than **one hundred dollars (\$100)** nor more than **five hundred dollars (\$500)**.

Section 25.3.24 Restricting Vehicle Weight on Posted Ways

25.3.24.1 Purpose and Authority

The purpose of this ordinance is to prevent damage to city ways and bridges in the City of Gardiner which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of city ways and bridges, and to reduce the public expense of their maintenance and repair. This ordinance is adopted pursuant to 30-AM.R.S.A. Sec. 3009 and 29 M.R.S.A. Sec. 902 and 1611.

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25.3.24.2 Definitions

The definitions contained in Title 29 M.R.S.A. shall govern the construction of words contained in this ordinance. Any words not defined therein shall be given their common and ordinary meaning.

25.3.24.3 Restrictions and Notices

The Director of Public Works/Supervisor of Public Works may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in his/her judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the cityways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein. (No restriction if road is solidly frozen. "Solidly frozen" means that the air temperature is consistently below 32 degrees F and no water is showing in the cracks of the road.)

The notice shall contain at a minimum the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signature of the Director of Public Works/Supervisor of Public Works. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the travelway. Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

25.3.24.4 Exemptions

The following vehicles are exempt from this ordinance:

- (a) any two-axle vehicle while delivering home heating fuel;
- (b) any vehicle while engaged in highway maintenance or repair under the direction of the State or City;
- (c) any emergency vehicle (such as fire fighting apparatus or ambulances) while responding to an emergency;
- (d) any school transportation vehicle while transporting students;
- (e) any public utility vehicle while providing emergency service or repairs; and
- (f) any vehicle whose owner or operator holds a valid permit from the Director of Public Works/Supervisor of Public Works as provided herein.

25.3.24.5 Permits

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the Director of Public Works/Supervisor of Public Works for a permit to operate on

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a posted way or bridge notwithstanding the restriction. The Director of Public Works/Supervisor of Public Works may issue a permit only upon all of the following findings:

- (a) no other route is reasonably available to the applicant;
- (b) it is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
- (c) the applicant has tendered cash, a bond or other suitable security running to the City in an amount sufficient, in the city's judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the Director of Public Works/Supervisor of Public Works makes the foregoing findings, he/she need not issue a permit if he/she determines the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. He/she may also limit the number of permits issued or outstanding as may, in his/her judgment, be necessary to preserve and protect the highways.

In determining whether to issue a permit, the Director of Public Works/Supervisor of Public Works shall consider the following factors:

- (a) the gross registered weight of the vehicle;
- (b) the current and anticipated condition of the way or bridge;
- (c) the number and frequency of vehicle trips proposed;
- (d) the cost and availability of materials and equipment for repairs;
- (e) the extent of use by other exempt vehicles; and
- (f) such other circumstances as may, in his/her judgment, may be relevant.

The Director of Public Works/Supervisor of Public Works may issue permits subject to reasonable conditions, including but not limited to, restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

25.3.24.6 Administration and Enforcement

This ordinance shall be administered and will be enforced by the City Council's duly authorized designees (such as the Director of Public works, Supervisor of Public Works, Code Enforcement Officer, or law enforcement officer.)

25.3.24.7 Penalties

Any violation of this ordinance shall be a civil infraction subject to a fine of not less than \$250 nor more than \$1,000. Each violation shall be deemed a separate offense. In addition to any fine, the City may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the City and shall be brought in the Maine District Court.

25.3.24.8 Amendments

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This ordinance may be amended by the City Council at any properly noticed meeting.

25.3.24.9 Severability; Effective Date

In the event any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

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CHAPTER 25.4

Excavations

SECTION

- 25.4.1 Permit Required
- 25.4.2 Record of Permits
- 25.4.3 Fee Schedule
- 25.4.4 Qualifications of Applicant
- 25.4.5 Planning, Inspection, and Approval Procedures
- 25.4.6 Excavation Requirements
- 25.4.7 Backfilling
- 25.4.8 Replacement of Surface
- 25.4.9 Responsibility of Maintenance
- 25.4.10 Fences, Lights Required at Work Area
- 25.4.11 Unaccepted Streets and New Construction
- 25.4.12 Street Openings Beyond the Scope of this Article
- 25.4.13 Unpaved Streets and Roads
- 25.4.14 Winter Openings
- 25.4.15 Penalties Provided

Section 25.4.1 Permit Required

No person except the **Commissioner** of Public Works shall make or cause to be made any excavation or dig up paving in any street until **he** has paid the required fee and has received a written permit therefor from the municipal officers except in an emergency, in which case such permit shall be secured within twenty-four (24) hours after the street has been opened.

Section 25.4.2 Record of Permits

The **Commissioner** of Public works or such officer as the municipal officers may appoint shall be authorized to issue permits, shall keep a record of all permits granted by **him**, work done by the city employees excepted.

Section 25.4.3 Fee Schedule

A flat fee, payable to the city treasurer shall be made for openings made within the right-of-way of any accepted city street. This fee shall be **\$25.00** for each square yard or part thereof of paved surfaces and **\$9.00** for each square yard or part thereof of gravel surfaces opened within the city's right-of-way.

Section 25.4.4 Qualifications of Applicant

Before any permit shall be issued, the applicant shall satisfy the **Commissioner** of Public Works that the applicant possesses the financing, knowledge, skill, equipment, and material to perform the complete scope of the work.

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Section 25.4.5 Planning, Inspection, and Approval Procedures

Before any permit shall be issued, a plot plan and a time schedule for any street opening shall be filed with the **Commissioner** of Public Works.

The work in progress shall be open to the **Commissioner** of Public Works and **his** designated inspectors for the purpose of inspecting and enforcing the provisions of Chapter 25.4.

Upon completion of any project, the **Commissioner** of Public Works shall cause to be issued a Certificate of Satisfactory Completion.

Section 25.4.6 Excavation Requirements

All pavement shall be cut before excavation in such manner that the road surface will be exposed in a clean, sharp, straight edge. Trench sides will be shored so as to prevent any fall-out from under the undisturbed pavement. **All safety equipment necessary to perform the work in a safe, workmanlike manner will be followed.**

Section 25.4.7 Backfilling

Backfilling shall consist of placing suitable material in all spaces excavated and not occupied drainage or other underground structures, up to 3" from the existing surface. Backfill material shall consist of fine, readily compressible soil or granular material, near optimum moisture content, and shall not contain large stone, frozen material, or any other objectionable material. The final 13" of fill under road surfaces, shoulders or sidewalks consist of graded gravel to the specification of the **Commissioner** of Public Works. All material shall be distributed in not more than 12" layers, and each layer compacted by approved compaction methods before another layer is placed. Water may be added only to improve mechanical compaction. Puddling or jetting will not be allowed. All sheeting and bracing material must be removed as backfill operation is in progress.

Section 25.4.8 Replacement of Surface

Paved surfaces shall be repaired temporarily with an approved cold patch to a compacted depth of 3", rounding about 1" above the existing pavement surface. Shoulders shall be brought level with existing grades with coursed gravel. Surfaces outside the pavement line, but within the right-of-way shall be filled to existing grade to match existing material. Lawn surfaces within the right-of-way shall be finished with 6" of loam, raked, seeded and rolled.

Section 25.4.9 Responsibility of Maintenance

The Public Works Department is charged with the upkeep and maintenance of any street opening after completion certificate is issued under Section 25.4.5. The Public Works Department will also, after a satisfactory period of time has passed to allow for settlement, excavate the cold patch surface, and permanently repair the opening to the specifications of the **Commissioner** of Public Works.

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Section 25.4.10 Fences, Lights Required at Work Area

When a person is permitted, in accordance with the provisions of this article, to occupy any part of a street for building purposes, such person shall erect and maintain around the part so occupied, a sufficient fence to prevent injury to persons, animals or vehicles passing the premises, and keep the same property lighted at night. Temporary sidewalks shall be provided when requested by the **Commissioner** of Public Works.

Section 25.4.11 Unaccepted Streets and New Construction

Permits shall not be required on unaccepted streets or new construction, but the requirements of Section 25.4.7 shall be in effect on any project under the jurisdiction of the **Commissioner** of Public Works.

Section 25.4.12 Street Openings Beyond the Scope of this Article

It is the intent of this article to authorize the **Commissioner** of Public Works to control all excavation, backfill, and surface procedures within any city right-of-way. The fee schedule is based on a value that will incur no cost to the city. Large project costs may be negotiated with the **Commissioner** of Public Works, and a permit issued to an applicant at a cost of less than that specified in Section 25.4.3, this cost to be actual cost to the city for inspection and upkeep. Surfacing on large projects may be performed by a contractor or applicant approved by the **Commissioner** of Public Works. No project under twenty (20) square yards of surface opening shall be deemed "large."

Section 25.4.13 Unpaved Streets and Roads

Street openings and unpaved streets and roads shall conform to all the sections of this article with the following exceptions:

25.4.13.1 Under Section 25.4.8, the requirement for applying cold patch shall not pertain. Gravel surface shall be brought slightly above existing roadbed and compacted.

25.4.13.2 Under Section 25.4.6, it will not be necessary to cut the road surface before excavation.

Section 25.4.14 Winter Openings

No permits will be issued between December 1 and March 15, except on an emergency basis, to be determined by the city manager.

Section 25.4.15 Penalties Provided

Any person or firm responsible for non-compliance with the provisions of this Chapter (25.4 - Sections 25.4.1 to 25.4.14) shall be liable to the City for all fees, expense of repair, and in

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addition shall be subject to the penalty provisions of Title 1, Chapter 1, Section 1.1.7: Penalties.

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TITLE 26

TREES

CHAPTER

26.1 Oversight of Trees

26.2 Protection of Public Trees

CHAPTER 26.1

Oversight of Trees

SECTION

- 26.1.1 Appointment of Tree Warden
- 26.1.2 Responsibilities of the Tree Warden
- 26.1.3 Tree Oversight Committee
- 26.1.4 Planting of Public Trees
- 26.1.5 Removal or Trimming of Public Trees
- 26.1.6 Removal of Boundary Trees
- 26.1.7 Removal of Hazard Trees on Property
- 26.1.8 Removal/Pruning of Vegetation for Public Safety
- 26.1.9 Definitions

Section 26.1.1 Appointment of Tree Warden

26.1.1.1 The City Manager shall appoint a Tree Warden for a one-year term beginning on January 1 of each year.

26.1.1.2 The City Manager may appoint an Assistant Tree Warden for a similar term. The Assistant Tree Warden shall assist the Tree Warden in carrying out the responsibilities set forth in Section 26.1.2. and shall serve as the acting tree warden if the position of Tree Warden is vacant or the Tree Warden is otherwise unavailable.

Section 26.1.2 Responsibilities of the Tree Warden

The Tree Warden shall be responsible for the administration of this chapter including, but not limited to:

26.1.2.1 The review of the planting of public trees in accordance with Section 26.1.4. including providing advice to the Planning Board for tree plantings that are part of a project that requires Planning Board approval.

26.1.2.2 The oversight and supervision of the removal and/or trimming of public trees in accordance with Section 26.1.5.

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26.1.2.3 The oversight and supervision of the removal and/or trimming of boundary trees in accordance with Section 26.1.6.

26.1.2.4 The oversight and supervision of the removal and/or trimming of hazard trees on private property in accordance with Section 26.1.7.

26.1.2.5 The oversight and supervision of the correction of public safety concerns through the removal or pruning of vegetation in accordance with Section 26.1.8.

26.1.2.6 The protection of public trees from damage in accordance with Chapter 26.2 Protection of Public Trees.

26.1.2.7 Any other duties or responsibilities designated by law (e.g., 30-A M.R.S. sec. 3282) or by the City Council.

Section 26.1.3 Tree Oversight Committee

26.1.3.1 The Tree Oversight Committee shall consist of the Public Works Director, the City Manager, Finance Director, Police Chief and a citizen member with tree expertise.

26.1.3.2 The Tree Oversight Committee shall be responsible for overseeing the actions of the Tree Warden as set forth in this Chapter.

Section 26.1.4 Planting of Public Trees

The Tree Warden shall be responsible for overseeing the planting of any tree on public property within the City by any City department, other governmental body, or private individual or organization. This includes planting within the rights-of-way of public streets, parks, playgrounds and other recreational areas, and public buildings or facilities other than public school properties owned by the school district. If the tree planting is part of a project that has been approved by the Planning Board, the Tree Warden shall assure that all plantings are consistent with the approved plan. If the proposed planting is not part of a project requiring Planning Board approval, the following procedure shall apply:

26.1.4.1 Any party proposing to plant a public tree shall notify the Tree Warden of the species and location of the planting.

26.1.4.2 The Tree Warden shall review the proposed planting to evaluate the suitability of the species and the planting location and shall provide the party with his/her recommendations.

26.1.4.3 If there is concern or disagreement over a proposed planting, the Tree Warden may engage a licensed arborist to review the proposed planting and provide recommendations as to the suitability of the species and location.

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Section 26.1.5 Removal or Trimming of Public Trees

The Tree Warden shall be responsible for overseeing and supervising the removal and/or trimming of public trees.

26.1.5.1 Any party proposing to remove or trim a public tree shall notify the Tree Warden of the location of the tree and the need for the removal or trimming.

26.1.5.2 The Tree Warden shall review the proposed removal/trimming to evaluate the need for the removal/trimming and shall provide the party with his/her recommendations.

26.1.5.3 If the Tree Warden determines that the need for the removal or trimming is to accommodate a public improvement or to avoid damage to an existing public improvement or facility, the department, agency, or person proposing the removal or trimming shall be responsible for the cost of the work. If a public tree is removed, the department, agency or person shall also be responsible for planting a replacement tree of a species and size and at a location determined in consultation with the Tree Warden.

26.1.5.4 If the Tree Warden determines that a public tree constitutes a hazard tree or is storm-damaged, the Tree Warden shall begin the process to have the tree removed. If the tree's condition represents an immediate threat to public safety or is impeding the recovery from a storm or other emergency event, the Tree Warden with approval of the City Manager may move forward with the removal of the tree. In other situations, the Tree Warden shall seek the approval of the Tree Oversight Committee for the removal of the tree. In these situations, the cost for removal shall be borne by the City.

Section 26.1.6 Removal of Boundary Trees

The Tree Warden shall be responsible for overseeing and supervising the removal or trimming of boundary trees.

26.1.6.1 Any party proposing to remove or trim a boundary tree shall notify the Tree Warden of the location of the tree and the need for the removal or trimming.

26.1.6.2 The Tree Warden shall review the proposed removal or trimming to evaluate the need for the work and shall provide the party with his/her recommendations.

26.1.6.3 If the Tree Warden determines that the need for the removal/trimming is to accommodate a public improvement or to avoid damage to an existing public improvement or facility, the department, agency, or person proposing the removal/trimming shall be responsible for the cost of the work. If a boundary tree is removed, the department, agency or person shall also be responsible for planting a replacement tree of a species and size and at a location determined in consultation with the Tree Warden.

26.1.6.4 If the Tree Warden determines that the removal/trimming of the tree is being proposed primarily to benefit a private property owner, the Tree Warden shall move forward with the

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removal/trimming of the tree only with agreement with the benefitting property owner to pay the cost of the work.

26.1.6.5 If the Tree Warden determines that a boundary tree constitutes a hazard tree or is storm-damaged, the Tree Warden shall begin the process to have the tree removed. If the tree's condition represents an immediate threat to public safety or is impeding the recovery from a storm or other emergency event, the Tree Warden with approval of the City Manager may move forward with the removal of the tree. In this situation the cost for the removal shall be borne by the City.

26.1.6.6 In other situations involving boundary hazard trees, the Tree Warden shall seek the approval of the Tree Oversight Committee for the removal of the tree. The Tree Oversight Committee shall notify the abutting property owner(s) in writing of the recommendation of the Tree Warden and shall hold a public hearing on the request. If the Tree Oversight Committee determines that the boundary tree will be removed, the cost of the removal shall be split fifty percent (50%) by the City and fifty percent (50%) by the abutting property owner(s) unless the Committee by vote makes other cost sharing arrangements.

26.1.6.7 The property owner shall be given the opportunity to retain the wood from the tree.

Section 26.1.7 Removal of Hazard Trees on Private Property

The Tree Warden is responsible for the oversight and supervision of the removal and trimming of hazard trees on private property.

26.1.7.1 If the Tree Warden becomes aware of a hazard tree on private property, he/she shall notify the property owner in writing of such determination and shall provide the property owner with a reasonable period but not more than sixty (60) days within which to have the tree removed or the hazard eliminated.

26.1.7.2 If the property owner contests the Tree Warden's determination, the Tree Warden after consultation with the Tree Oversight Committee may at the City's cost engage a licensed arborist to review the situation. If the arborist determines that it is a hazard tree, the action shall move forward.

26.1.7.3 If the property owner has not complied with the Tree Warden's order to remove the hazard tree or eliminate the hazard within the specified time, the Tree Warden shall refer the action to the Tree Oversight Committee.

26.1.7.4 The Tree Oversight Committee shall notify the property owner(s) in writing of the review of the order of the Tree Warden and shall hold a public hearing on the proposed action. If the Committee determines that the tree is a hazard and will be removed, the Committee may have the Tree Warden arrange for the removal of the tree. The property owner shall be responsible for all costs associated with the removal including any services by a licensed arborist for determining the condition of the tree.

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26.1.7.5 The property owner shall be given the opportunity to retain the wood from the tree.

Section 26.1.8 Removal/Pruning of Vegetation for Public Safety

The Tree Warden is responsible for the correction of public safety concerns through the removal or pruning of vegetation.

26.1.8.1 If the Tree Warden determines, in consultation with the Tree Oversight Committee, that vegetation on public or private property constitutes a threat to the public safety including but not limited to impairing the visibility of drivers, creating unsafe walking or driving conditions, or obscuring public safety signs or traffic control devices, the Tree Warden may cause action to be taken to correct or eliminate the unsafe condition.

26.1.8.2 If the unsafe condition is the result of vegetation that is located on public property including within street rights-of-way, the Tree Warden may direct the Public Works Director to prune or remove or otherwise alter the vegetation to eliminate the hazard.

26.1.8.3 If the unsafe condition is the result of vegetation that is located on private property, the Tree Warden shall notify the property owner in writing of such determination and shall provide the property owner with a reasonable period but not more than fifteen (15) days within which to correct the situation.

26.1.8.4 If the property owner contests the Tree Warden's determination, the Tree Warden together with the Tree Oversight Committee shall review the situation on-site with the property owner. If the Tree Warden determines that a hazard exists, the action shall move forward.

26.1.8.5 If the property owner has not complied with the Tree Warden's order to eliminate the hazard within the specified time, the Tree Warden shall refer the action to the Tree Oversight Committee.

26.1.8.6 The Tree Oversight Committee shall notify the property owner(s) in writing of the review of the order of the Tree Warden and shall hold a public hearing on the proposed action. If the Committee determines that the vegetation is a hazard and will be removed, the Committee may have the Tree Warden arrange for the removal of the tree. The property owner shall be responsible for all costs associated with the removal.

Section 26.1.9 Definitions

Boundary Tree: A tree located on the property line between City or other publically-owned property and private property such that the trunk of the tree is located over the property line.

Hazard Tree: A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds;

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tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Private Tree: A tree that is located on private property.

Public Tree: A tree that is located on public property including but not limited to the rights-of-way of public roads or streets, public parks, playgrounds, and recreational facilities and public buildings and facilities.

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CHAPTER 26.2

Protection of Public Trees

SECTION

26.2.1	Care of Newly Planted Public Trees
26.2.2	Replacement of Newly Planted Trees
26.2.3	Protection of Public Trees

Section 26.2.1 Care of Newly Planted Public Trees

Any City department, other governmental body, or private individual or organization that plans to plant a public tree shall prepare a plan of care for the newly planted tree. A care plan for a public tree planted by a City department or other governmental body shall be prepared in consultation with the Tree Warden. A care plan for a public tree planted by a private individual or organization shall be reviewed and approved by the Tree Warden. The care plan shall be in writing and shall set out how the tree will be cared for for a minimum of two years after it is planted. The care plan shall address the watering and fertilizing of the tree, its protection, and its maintenance including the removal of any guy wires or similar supports.

Section 26.2.2 Replacement of Newly Planted Trees

If a newly planted public tree does not survive for two years from the date of planting or if the Tree Warden determines that the tree is diseased or damaged so that its survival is unlikely, the Tree Warden shall review the suitability of the location and the likely cause for its demise. If the Tree Warden determines that the location is suitable, he/she may require the department, organization, or person who planted the tree to be responsible for planting a replacement tree. The Tree Warden may as an alternative require the department, organization or person to plant a tree at another suitable location.

Section 26.2.3 Protection of Public Trees

26.2.3.1 Prior to any planned excavation within ten (10) feet of any public tree, the department, organization or person undertaking the excavation shall discuss the project with the Tree Warden to determine how to minimize the impact of the work on the tree. The Tree Warden may consult with a licensed arborist to evaluate the impact of the proposed action on the tree. If the tree is damaged by the excavation, the department, organization, or person shall be responsible for planting a replacement tree of a species and size and at a location determined in consultation with the Tree Warden.

26.2.3.2 When an emergency excavation is required within ten (10) feet of any public tree, the department, organization or person undertaking the excavation shall contact the Tree Warden as soon as possible to discuss how to minimize the impact of the work on the tree. The Tree Warden may consult with a licensed arborist to evaluate the impact of the proposed action on the tree. If the tree is damaged by the excavation, the department, organization or person shall be responsible for planting a replacement tree of a species and size and at a location determined in consultation with the Tree Warden.

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TITLE 28

WATER AND SEWER

CHAPTER 28.1 _ GARDINER WATER DISTRICT

- 28.1.1 Operation of District
- 28.1.2 Purpose of regulation
- 28.1.3 Prohibiting the swimming on Cobbossee Stream adjacent to the Gardiner
Pumping Station
- 28.1.4 Enforcement

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- 28.2.2 Definitions
- 28.2.3 Regulation
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- 28.2.5 Administration; requirements; industrial discharge permits
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CHAPTER 28.1

Gardiner Water District

SECTION

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- 28.1.3 Prohibiting the swimming on Cobbossee Stream adjacent to the
Gardiner Pumping Station
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Section 28.1.1 Operation of district

All the affairs of the Gardiner Water District shall be managed by a board of trustees composed of three members to be chosen by the Mayor and City Council of the City of Gardiner, but no member of the City Council shall, during the term for which he is elected, be chosen one of the said board of trustees. As soon as convenient after the members of said board have been chosen, said trustees shall hold a meeting at the city rooms in the City of Gardiner, and organize by the election of a president and clerk, adopt a corporate seal and when necessary may choose a treasurer and all other needful officers and agents for the proper conduct and management of the affairs of said district. At said first meeting they shall determine, by lot, the term of office of each trustee so that one shall serve for 1 year, one for 2 years and one for 3 years; and whenever the term of office of a trustee expires the said municipal officers of the City of Gardiner shall appoint a successor to serve the full term of 3 years; and in case any other vacancy arises, it shall be filled in like manner for the unexpired term. They may also ordain and establish such bylaws as are necessary for their own convenience and proper management of the affairs of the district. The term of office of trustee shall begin on the first Monday of April. Said trustee may procure office and incur such expenses as may be necessary. Each member shall receive in full compensation for his services an allowance of \$100 per annum.

Cross references. Fluoridation, see 1954 R.S. ch. 25, ss 145 See Private and Special Laws of Maine 1903, ch. 82 and ch. 194, amended by 1917, ch. 53; 1951, ch. 153; 1955, ch. 1519.
Water supply, see 1954 R.S. ch. 90-A, ss 12, I.G.

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Section 28.1.2 Purpose of Regulation

The purpose of this ordinance is to protect the quality of sources of public water supply and to protect the health, safety and welfare of persons dependent upon such supplies.

Section 28.1.3 Prohibiting the swimming on Cobbossee Stream adjacent to the Gardiner Water District Pumping Station.

It shall be unlawful for any person to swim, bathe or wade in Cobbosseecontee Stream within a radius of three hundred feet (300) of the intake system of the Gardiner Water District pumping station.

Section 28.1.4 Enforcement

Whoever willfully violates this regulation shall, upon conviction, be punished by a fine of not less than five dollars (\$5.00), or more than fifty dollars (\$50.00) for each offense.

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CHAPTER 28.2

Pretreatment

SECTION

28.2.1	Purpose
28.2.2	Definitions
28.2.3	Regulation
28.2.4	Fees
28.2.5	Administration; requirements; industrial discharge permits
28.2.6	Enforcement
28.2.7	Fines and Penalties
28.2.8	Records Retention
28.2.9	Miscellaneous
28.2.10	Severability
28.2.11	Conflict

Section 28.2.1 Purpose

This Ordinance sets forth uniform requirements for discharges into the City of Gardiner's wastewater facilities and enables the municipality to protect public health in conformity with all applicable State and Federal laws relating thereto.

28.2.1.1 The objectives of this ordinance are to:

28.2.1.1.1 Prevent the introduction of pollutants into the municipality's wastewater facilities which will interfere with the normal operations of the facilities or contaminate the resulting sludge;

28.2.1.1.2 Prevent the introduction of pollutants into the municipality's wastewater treatment facility which will pass through the municipality's wastewater treatment facility, inadequately treated, into receiving waters or otherwise be incompatible with the municipality's wastewater treatment facility.

28.2.1.1.3 To ensure that the quality of the municipality's wastewater treatment facility sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations.

28.2.1.1.4 Improve the opportunity to recycle and reclaim wastewater and sludge facilities.

28.2.1.1.5 Protect the municipality's wastewater treatment facility personnel who may be affected by the wastewater and sludge in the course of their employment and to protect the general public.

28.2.1.1.6 Provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the municipality's wastewater treatment facility.

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28.2.1.1.7 Enable Gardiner to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipality's wastewater treatment facility is subject.

28.2.1.2 This Ordinance shall apply to all domestic sewage dischargers and other users of the municipality's wastewater treatment facility. This Ordinance authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the operation of the municipality's wastewater treatment facility.

This Ordinance further provides for the regulation of discharges into the municipality's wastewater facilities through the enforcement of administrative regulations. This Ordinance does not provide for the recovery of operations, maintenance or replacement costs associated with the municipal wastewater facilities or the cost associated with the construction of collection and treatment facilities used by industrial dischargers, in proportion to their use of the municipal wastewater facilities which are the subject of separate enactment.

Section 28.2.2 Definitions

Act: The Clean Water Act (33 U.S.C. 1251 et seq), as amended.

Bypass: The intentional diversion of wastes from any portion of a discharger's treatment facility.

Categorical (National) Pretreatment Standards: National Pretreatment Standards means a standard promulgated by EPA under 40 CFR Chapter I, Subchapter N, specifying quantities or concentrations of pollutant properties which may be discharged or introduced into municipally owned wastewater facilities by specific industrial discharges.

Cooling Water:

- (a) **Uncontaminated (non-contact):** Water used for cooling purposes only which has no direct contact with any raw material, intermediate, or final product.
- (b) **Contaminated:** Water used for cooling purposes only which may become contaminated either through the use of water treatment chemicals used for corrosion or biocides, or by direct contact with process materials and/or wastewater.

Discharger-Industrial Discharger/User: Any non-residential user who discharges a non-domestic waste into municipally owned wastewater facilities by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, intercepting ditches, and all constructed devices and appliances and in structures appurtenant thereto.

Indirect Discharge: The discharge or the introduction of non-domestic pollutants from a source regulated under Section 307 (b) or (c) of the Act, into municipally owned wastewater facilities.

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Industrial Waste: Solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade, or business process or from the development, recovery or processing of natural resources.

Interference: The inhibition or disruption of a municipal sewer system, treatment processes, or operations, or sludge processes, use or disposal, and therefore is a cause of a violation of any requirements of its NPDES permit, State Waste Discharge License, or prevents sewage sludge use or disposal in accordance with State and Federal regulations.

NPDES: National Pollutant Discharge Elimination System permit program of the US EPA.

O & M: Operation and Maintenance.

Other Wastes: Decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals, and other substances except sewage and industrial wastes.

Pass-through: A discharge which exits the municipally owned wastewater facility into waters of the United States (as defined in 40 CFR Part 122.2), in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the facilities State discharge license or federal NPDES permit (including an increase in the magnitude or duration of a violation).

Pollutant: Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into a municipally owned wastewater facility or its collection system.

Pretreatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into municipally owned wastewater facility.

The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR Part 403.6(d). Appropriate pretreatment technology includes control equipment such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere or otherwise be incompatible with the municipally owned wastewater facility.

Process wastewater: Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Process wastewater pollutants: Pollutants present in process wastewater.

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Sewage: Water-carried human wastes or a combination of water-carried wastes from residences, business building, institutions and industrial establishments, together with such ground, surface, storm, or other waters as may be present.

Shall: Is mandatory; "may" is permissive

Significant Industrial User (SIU):

- (a) all categorical industrial users and
- (b) any noncategorical industrial user that
 - (i) discharges 25,000 gallons per day or more of process wastewater,
 - (ii) contributes process waste-water which makes up five percent or more of the average dry weather hydraulic or organic capacity of the municipal treatment plant, or
 - (iii) has a reasonable potential, in the opinion of the City to adversely affect the treatment plant operation (inhibition, pass through, sludge contamination, or endangerment of City employees).

Slug Discharge: Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

Slugload: Any substance released in a discharge at a rate and/or concentration which causes interference to municipally owned wastewater facility.

Toxic Pollutants: Those substances listed in 40 CFR Part 401.15.

Upset: An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in their discharge permit or this Ordinance due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

Wastewater: Industrial waste, or sewage or any other waste including that which may be combined with any ground water, surface water or storm water, that may be discharged to the municipal wastewater facilities.

Wastewater Facilities: Any sewage treatment works and the sewers and conveyance appurtenances discharging thereto, owned and operated by the municipality. The definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature.

Section 28.2.3 Regulations

28.2.3.1 No discharger shall discharge or cause to be discharged, directly or indirectly any of the following described substances or those listed in Section 28.4.5 of this municipality Sewer Use Ordinance into the municipality's wastewater facilities:

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28.2.3.1.1 Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire, or explosion or be injurious in any other way to the operation of the municipal wastewater facilities.

28.2.3.1.2 Any solid or viscous substances, including ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch, or manure, capable of causing obstructions or other interferences with the proper operation of the sewer or wastewater facilities.

28.2.3.1.3 Any wastewater having a pH less than 5.0 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the wastewater facilities.

28.2.3.1.4 Any wastewater containing toxic pollutants or poisonous substances, in sufficient quantity either singly or by interaction to injure or interfere with any wastewater treatment process, or which constitutes a hazard to humans or animals, or to create any hazard in waters that receive treated effluent from the municipally owned wastewater treatment facilities. Toxic wastes shall include, but are not limited to, wastes containing cyanide, chromium, cadmium, mercury, copper or nickel ions, or others listed in 40 CFR 401.15.

28.2.3.1.5 Any noxious or malodorous liquids, gases, or substances which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair, including pollutants which result in the presence of toxic gases, vapors, or fumes.

28.2.3.1.6 Any substance which may cause the municipality's wastewater facility to be in noncompliance with sludge use, recycle or disposal criteria pursuant to guidelines or regulations developed under Section 405 of the Federal Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or other regulations or criteria for sludge management and disposal as required by the State of Maine.

28.2.3.1.7 Any substance which may affect the municipal wastewater facility effluent and cause violation of its NPDES Permit and/or State of Maine Waste Discharge License.

28.2.3.1.8 Any substance containing color that is not removed in the municipally owned wastewater facilities.

28.2.3.1.9 Heat in amounts which will inhibit biological activity in the municipal wastewater treatment works resulting in interference but in no case, heat in such quantities that the temperature at the influent of the municipal wastewater treatment works exceeds 40 degrees Centigrade (104 degrees Fahrenheit).

28.2.3.1.10 Any slug, which shall mean any pollutant, including oxygen demanding pollutants (BOD, etc.), released on a single extraordinary discharge episode of such volume or strength as to cause interference at the municipal wastewater facility.

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28.2.3.1.11 Any unpolluted water including, but not limited to, non-contact cooling water.

28.2.3.1.12 Any wastewater containing any radioactive wastes or isotopes.

28.2.3.1.13 Any wastewater which causes a hazard to human life or creates a public nuisance.

28.2.3.1.14 Any medical or infectious waste.

28.2.3.1.15 Any waste containing solids of such character and quantity that special and unusual attention is required for their handling.

28.2.3.2 National Categorical Pretreatment Standards as promulgated by U.S. Environmental Protection Agency (EPA) pursuant to the Act and as codified in 40 CFR Chapter I, Subchapter N shall be met by all dischargers, as applicable. An Application for modification of the National Categorical Pretreatment Standards may be considered for submittal to the Regional Administrator by the municipality when the municipality's wastewater treatment system achieves consistent removal of the pollutants as defined by 40 CFR 403.7.

28.2.3.3 State requirements and limitations on discharges to the municipal wastewater facilities shall be met by all dischargers that are subject to such standards in any instances in which they are more stringent than Federal requirements and limitations or those in this or any other applicable ordinance.

28.2.3.4 The municipality reserves the right to amend this Ordinance to provide for more stringent limitations or requirements on discharges to the municipal wastewater facilities where deemed necessary to comply with the objectives set forth in Section 28.2.1.1 of this Ordinance.

28.2.3.5 No discharger shall increase the use of potable or process water in any way, for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this Ordinance.

28.2.3.6 No dischargers shall discharge wastewater containing concentrations of toxic pollutants that cause the City's treatment plant discharge to exceed State of Federal water quality limits.

The municipality reserves the right to amend this Ordinance to include concentration-based limits for toxic pollutants. The municipality may impose mass limitations on dischargers in cases where the imposition of mass limitations is deemed appropriate by the municipality.

28.2.3.7 Each discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this Ordinance. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the dischargers cost and expense. Detailed Slug Control Plans showing facilities and operating procedures to provide this protection shall be submitted to the municipality for review and shall be approved by the municipality before construction of the facility. Each existing discharger

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shall complete its plan and submit same to the municipality by January 1, 1983. No discharger who discharges to the municipal wastewater facilities after the aforesaid date shall be permitted to introduce pollutants into the system until Accidental Discharge Protection Procedures have been approved by the municipality. Review and approval of such plans and operating procedures by the municipality shall not relieve the discharger from the responsibility immediately upon the occurrence of a 'slug' or accidental discharge of substances prohibited by this Ordinance. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective action. Any discharger who discharges slugs of prohibited materials shall be liable for any expense, loss or damage to the municipal wastewater facilities in addition to the amount of any fines imposed on the municipality on account thereof under State or Federal Law.

28.2.3.8 Duty to Comply: The industrial discharger must comply with all conditions of this Ordinance and their industrial discharge permit. Failure to comply may be grounds for administrative action or enforcement proceedings including civil or criminal penalties, injunctive relief, and summary abatements.

28.2.3.9 Bypass of Discharger's Pretreatment Facilities

28.2.3.9.1 Bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage or no feasible alternatives exist.

28.2.3.9.2 Upon prior notice to and the approval of the Superintendent, the discharger may allow bypass to occur which does not cause effluent limitations to be exceeded, but only if it is also for essential maintenance to assure efficient operations.

28.2.3.9.3 Notification of bypass:

- (a) Anticipate bypass. If the discharger knows in advance of the need for a bypass, it shall submit prior written notice, at least ten days before the date of the bypass, to the municipally owned treatment plant Superintendent.
- (b) Unanticipated bypass. The discharger shall immediately notify the municipally owned treatment plant Superintendent and submit a written notice to the City within 5 days. This report shall specify:
 - (i) A description of the bypass, and its cause, including its duration;
 - (ii) Whether the bypass has been corrected; and
 - (iii) The steps being taken or to be taken to reduce, eliminate and prevent a recurrence of the bypass.

Section 28.2.4 Fees

28.2.4.1 It is the purpose of this chapter to provide for the payment of fees from discharges to the municipality's wastewater disposal system, to compensate the municipality for the cost of administration of the pretreatment program established herein.

28.2.4.2 The municipality shall adopt charges and fees which may include:

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- (a) Fees for monitoring, inspections, and surveillance procedures.
- (b) Fees for filing appeals.
- (c) Fees for reviewing accidental discharge procedures and construction.
- (d) Fees for evaluating initial information regarding proposed discharges.
- (e) Fees for processing Industrial Discharge Permit applications, modifications and renewals.
- (f) Fees for consultant services.
- (g) Fees for laboratory tests.
- (h) Fees for legal services.
- (i) All other costs associated with industrial discharges as appropriate.

Section 28.2.5 Administration; requirements; industrial discharge permits

28.2.5.1 Administration. Except as otherwise provided herein, the Superintendent of the municipality's wastewater treatment facility shall administer, implement and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other qualified city personnel.

28.2.5.2 Applicable law. Any reference in this Ordinance to a state or federal statute or regulation or local ordinance shall mean the statute, regulation or ordinance in force on the effective date of this Ordinance or as any such statute, regulation or ordinance may be amended from time to time thereafter.

28.2.5.3 Unlawful Discharges. It shall be unlawful to discharge sewage, industrial wastes or other wastes to any sewer outlet within the jurisdiction of the municipality and to the municipal wastewater facilities without having first complied with the terms of this Ordinance.

28.2.5.4 Industrial Discharges. All industrial dischargers proposing to connect to or to discharge sewage, industrial wastes and other wastes to municipal wastewater facilities shall comply with all terms of this Ordinance.

28.2.5.5 Industrial Discharge Permit Requirements:

28.2.5.5.1 All nondomestic users must notify the municipality of the nature and characteristics of their wastewater prior to commencing their discharge. The municipality will provide forms for this purpose, or authorize the use of other, suitable forms.

28.2.5.5.2 It shall be unlawful for significant industrial users to discharge wastewater, either directly or indirectly, into the sanitary sewer system without first obtaining an industrial discharge permit from the City. Any violation of the terms and conditions of an industrial discharge permit shall be deemed a violation of this ordinance. Obtaining an industrial discharge permit does not relieve a permittee of its obligation to obtain other permits required by Federal, State, or local law.

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28.2.5.5.3 The City may require that other industrial users, including liquid waste haulers, obtain industrial discharge permits as necessary to carry out the purpose of this chapter.

28.2.5.5.4 Any industrial user located beyond the city limits shall submit a permit application in accordance with Section 28.2.5.6 below within 90 days of the effective date of this ordinance. New industrial users located beyond the city limits shall submit such applications to the City 180 days prior to discharging into the sanitary sewer. Upon review and approval of such application, the City may enter into a contract with the user which requires the user to subject itself to, and abide by this Chapter, including all permitting, compliance monitoring, reporting, and enforcement provisions herein.

28.2.5.5.5 Existing connections: Any significant industrial user that discharges nondomestic waste into the sanitary sewer system prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, unless waived by the City, within ninety (90) days after said date, apply to the City for an industrial discharge permit and shall not cause or allow discharges to the sewer to continue after 180 days from and after the effective date of this ordinance except in accordance with a permit issued by the City.

28.2.5.5.6 New connections: Any significant industrial user proposing to begin or recommence discharging nondomestic wastes into the sanitary sewer system must obtain an industrial discharge permit prior to beginning or recommencing such discharge. An application for this permit must be filed at least 180 days prior to the anticipated startup date.

28.2.5.6 Industrial Discharge Permit Applications

Industrial dischargers shall complete and file with the municipality the following information on an application form provided or another otherwise approved by the municipality, and accompanied by the appropriate fee. Unless waived by the City, existing industrial dischargers shall file application forms within 30 days after the effective date of this Ordinance, and proposed new discharges shall file disclosure forms at least 90 days prior to connecting to the municipal facilities. The applications shall include:

28.2.5.6.1 Name, address, and location of the discharger;

28.2.5.6.2 Standard Industrial Classification (SIC) code(s), as established within the federal Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended, of both the industry as a whole and any processes for which National Categorical Standards have been promulgated;

28.2.5.6.3 Known or suspected to be present wastewater constituents and characteristics in the discharge which are limited by any Federal, State, or local standards. Any sampling and analysis that is required by the municipality shall be performed in accordance with procedures established by the US EPA and contained in 40 CFR, Part 136, as amended;

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28.2.5.6.4 Time and duration of discharges;

28.2.5.6.5 Daily maximum, daily average, monthly average and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variation, if any. All flows shall be measured unless other verifiable techniques are approved by the municipality due to cost or nonfeasability;

28.2.5.6.6 The site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation;

28.2.5.6.7 Description of activities, facilities and plant processes on the premises including a list of all raw materials and chemicals used at the facility which are or may be accidentally or intentionally discharged to the sewer or works of the municipality;

28.2.5.6.8 Each product produced by type, amount, process or processes and rate of production;

28.2.5.6.9 Type and amount of raw materials processed (average and maximum per day);

28.2.5.6.10 Number and type of employees, hours of operation, and proposed or actual hours of operation of any pretreatment system;

28.2.5.6.11 Disclosure of the nature and concentration of any known or suspected pollutants or materials prohibited by this Ordinance in the discharge, together with a statement regarding whether or not compliance is being achieved with this Ordinance on a consistent basis and if not, whether additional operations and maintenance activities and/or additional pretreatment is required for the discharger to comply with this Ordinance;

28.2.5.6.12 Whether additional pretreatment and/or operation and maintenance (O & M) activities will be required for the discharger to meet all applicable Federal, State and local standards. If additional pretreatment and/or O & M will be required to meet the standards, then the industrial user shall indicate the shortest time schedule necessary to accomplish installation or adoption of such additional treatment or O & M consistent with the requirements of the Compliance Schedule provisions of Section 28.2.5.7.8;

28.2.5.6.13 Any other information as may be deemed by the municipality to be necessary to evaluate the permit application;

28.2.5.6.14 All plans required in Section 28.2.5.6 must be certified for accuracy by a State registered professional engineer;

28.2.5.6.15 The municipality will evaluate the data and information furnished by the user and may require additional information. After evaluation of the data furnished, the municipality may issue an industrial discharge permit subject to the terms and conditions herein;

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28.2.5.6.16 All applications, reports, and other official documents submitted to the municipality must contain the following certification statement and be signed in accordance with paragraphs (a), (b), (c) or (d) below:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility and imprisonment for knowing violations."

- (a) By a responsible corporate officer, if the Industrial User submitting reports is a corporation. For the purpose of this paragraph, a responsible corporate officer means:
 - (i) a president, secretary, treasurer or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or;
 - (ii) the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second- quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (b) By a general partner or proprietor if the Industrial User submitting reports is a partnership or sole proprietorship respectively.
- (c) The principal executive officer or director having responsibility for the overall operation of the discharging facility if the Industrial User submitting the reports is a Federal, State, or local government entity, or their agents.
- (d) By a duly authorized representative of the individual designated in paragraph (a), (b), or (c) of this section if:
 - (i) the authorization is made in writing by the individual described in paragraph (a), (b), or (c);
 - (ii) the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, site superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - (iii) the written authorization is submitted to the municipality.
- (e) If an authorization under paragraph (d) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the

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facility, or overall responsibility for the environmental matters for the company, a new authorization satisfying the requirements of paragraph (d) of this section must be submitted to the City prior to or together with any reports to be signed by an authorized representative.

28.2.5.7 Industrial Discharger Permit Contents

Industrial discharger permits shall include such conditions as are reasonably deemed necessary by the municipality to prevent pass-through or interference, protect the quality of the water body receiving the municipally owned wastewater facilities effluent, protect worker health and safety, facilitate treatment plant sludge management and disposal, protect ambient air quality and protect against damage to the sewer system or treatment plant. Permits may contain, but need not be limited to, the following:

28.2.5.7.1 Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

28.2.5.7.2 Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties;

28.2.5.7.3 Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

28.2.5.7.4 Development and implementation of spill control plans or other special conditions including additional management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;

28.2.5.7.5 The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the treatment works;

28.2.5.7.6 Requirements for installation and maintenance of inspection and sampling facilities;

28.2.5.7.7 Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules;

28.2.5.7.8 Compliance schedules. For purpose of this Ordinance, the term ‘compliance schedule’ refers to the following:

- (a) Where additional pretreatment and/or O&M activities will be required to comply with this Ordinance, the user shall provide a declaration of the shortest schedule by which the user will provide such additional pretreatment and/or implementation of additional O&M activities.

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- (b) The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to comply with the requirements of this Ordinance, including but not limited to dates relating to hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction and all other acts necessary to achieve compliance with this Ordinance.
- (c) Under no circumstances shall the City permit a time increment for any single step directed toward compliance which exceeds nine months.
- (d) No later than 14 days following each milestone date in the schedule and the final date for compliance, the user shall submit a progress report to the City, including, at a minimum, a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the City.

28.2.5.7.9 Requirements for submission of technical reports or discharge reports;

28.2.5.7.10 Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the municipality and affording the City, or their representatives, access thereto;

28.2.5.7.11 Requirements for notification of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the treatment works;

28.2.5.7.12 Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee;

28.2.5.7.13 Requirements for notification of excessive, accidental, or slug discharges;

28.2.5.7.14 Other conditions as deemed appropriate by the municipality to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations; and

28.2.5.7.15 A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the permit.

28.2.5.8 Industrial Discharge Permitting Process

28.2.5.8.1 Permit Duration: Permits shall be issued for a specified time period, not to exceed five (5) years). A permit may be issued for a period less than five (5) years, at the discretion of the municipality.

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28.2.5.8.2 Public Notification: The municipality will publish in a local daily newspaper, notice of intent to issue an industrial discharge permit, at least fourteen (14) days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.

28.2.5.8.3 Permit Appeals: The municipality will provide all interested persons with notice of final permit decisions. Any aggrieved person, including the user, may file a petition with the City, in writing, to reconsider the terms of a wastewater discharge permit or the denial of a wastewater discharge permit application within 15 days of the permit's issuance or notification of the Superintendent's denial.

- (a) Failure to submit a timely petition for review shall be deemed to be a waiver of the appeal.
- (b) In its petition, the petitioner must indicate the wastewater discharge permit provisions objected to, the reasons for this objection and the alternative condition, if any, it seeks to place in the wastewater discharge permit. A petitioner seeking review of a permit denial must specifically allege reasons why a permit should be issued, along with conditions of issuance that the petitioner believes should satisfy any concerns the City may have about the suitability of the user's wastewater for discharge to the City's municipal wastewater treatment facility.
- (c) The requirements of conditions of any wastewater discharge permit shall not be stayed by the City pending the outcome of the administrative appeal.
- (d) Upon receipt of the petition, the Superintendent may act to grant the petitioner's request. Said action must take place within 14 days of receipt of the petition. If the Superintendent refuses to grant the petitioner's request, however, the Superintendent shall notify the City Manager in writing who will notify the City Council.
- (i) The City Council shall schedule an administrative hearing, which shall be recorded within 30 days of notification by the Superintendent or as soon thereafter as may be arranged. The City Council shall conduct the hearing so as to develop an adequate administrative record, and the City Council may choose to limit the asking of questions to the members of the City Council only. At the hearing, the petitioner shall have the right to be heard and offer evidence relevant to the petition. The petitioner will bear the burden of proof at the hearing and will present its case first.
- (ii) The City Council shall issue its decision, in writing, within 45 days of the hearing. The City Council's decision must be guided by the provisions of this Ordinance. Failure by the City Council to issue a decision within that time period shall constitute a denial of the administrative appeal; however, the record of the administrative hearing, including any exhibits, shall be made a part of any further judicial reviews. Decisions by the City not to reconsider a wastewater discharge

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permit, not to issue a wastewater discharge permit, not to modify a wastewater discharge permit or to issue a modified wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

- (e) Parties seeking judicial review of the final administrative action must do so by filing a complaint with the Kennebec County Superior Court within thirty (30) days pursuant to Maine Rules of Civil Procedure 80B.

28.2.5.8.4 Modifications.

- (a) The Superintendent may modify at any time the wastewater discharge permit for good cause, including but not limited to the following:
 - (i) To incorporate any new or revised federal, state or local pretreatment standards or requirements.
 - (ii) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the issuance of the wastewater discharge permit.
 - (iii) A change in the municipality's wastewater treatment facility that requires either a temporary or permanent reduction or elimination of the authorized discharge.
 - (iv) Information is received by the City indicating that the permitted discharge poses a threat to the City's municipal wastewater treatment facility, City personnel or the receiving waters.
 - (v) Violations of any terms or conditions of the wastewater discharge permit.
 - (vi) Misrepresentations or failure to fully disclose all relevant facts in the wastewater survey form, wastewater discharge permit application or in any other required reporting.
 - (vii) Revision of, or a grant of a variance from, categorical pretreatment standards pursuant to 40 CFR 403.13.
 - (viii) To correct typographical or other errors or omissions in the wastewater discharge permit.
 - (ix) To reflect transfer of the facility ownership and/or operation to a new owner/operator.
 - (x) Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

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- (b) Challenges to any such modifications can be made pursuant to the provisions of Section 28.2.5.8.3 of this section.

28.2.5.8.5 Permit Transfer: Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the municipality:

- (a) The permittee must give at least thirty (30) days advance notice to the municipality.
- (b) The notice must include a written certification by the new owner which:
 - (i) States that the new owner has no immediate intent to change the facility's operations and processes;
 - (ii) Identifies the specific date on which the transfer is to occur;
 - (iii) Acknowledges full responsibility for complying with the existing permit; and
 - (iv) Is signed by an individual designated in Section 28.2.5.6.16 of this Ordinance and authorized to sign on behalf of the new owner.

28.2.5.8.6 Permit Revocation: The permit of any user which violates any condition of its permit or this Ordinance or of applicable state and federal statutes and regulations may be revoked by the Superintendent. Violations subjecting a user to possible revocation of its permit also include, but are not limited to the following:

- (a) Failure of a user to accurately report the wastewater constituents and characteristics of its discharge.
- (b) Failure of a user to report significant changes in operations or its wastewater constituents and characteristics.
- (c) Refusal of reasonable access by the Superintendent to the user's premises during regular business hours for the purpose of inspection or monitoring.
- (d) Violations of the conditions of the permit.
- (e) Failure to provide advance notice of the transfer of the ownership of a permitted user.
- (f) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application, any required wastewater surveys or other required reporting.
- (g) Falsifying monitoring reports or tampering with monitoring equipment.
- (h) Failure to pay surcharges, user fees, permit fees, fines or other required payments.
- (i) Failure to meet the requirements of a compliance schedule.

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28.2.5.8.7 Permit Reissuance: The industrial discharger shall apply for permit reissuance by submitting a complete permit application a minimum of ninety (90) days prior to the expiration of the existing permit.

28.2.5.8.8 Continuation of Expired Permits: An expired permit will continue to be effective and enforceable until the permit is reissued if:

- (a) The industrial discharger has submitted a complete permit application at least ninety (90) days prior to expiration date of the user's existing permit; and
- (b) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the industrial discharger.

28.2.5.8.9 Special Agreements: Nothing in this ordinance shall be construed as preventing any special agreement or arrangement between the municipality and any industrial user whereby wastewater of unusual strength or character is accepted into the municipally owned treatment works and specially treated and subject to any payments or user charges, as may be applicable. However, no discharge which violates pretreatment standards will be allowed under the terms of such special agreements. If, in the opinion of the City, the wastewater may have the potential to cause or result in any of the following circumstances, no such special agreement will be made:

- (a) Pass through or interference.
- (b) Endanger municipal employees or the public.

28.2.5.9 The municipality reserves the right to amend this Ordinance and the term's conditions thereof in order to assure compliance by the municipality with applicable laws and regulations. All National Categorical Pretreatment Standards are hereby adopted by the municipality as part of this Ordinance. When a discharger becomes subject to a National Categorical Pretreatment Standard, the discharger shall file a notice to the municipality within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard by the U.S. EPA. In addition, any discharger operating on the basis of information provided in a disclosure submitted previous to the adoption of this ordinance as amended, shall submit to the municipality within 180 days after the promulgation of an applicable National Categorical Pretreatment Standard, the additional information required by Sections 28.2.5.6.11 and 28.2.5.6.12. The discharger shall be informed of any proposed changes in their discharge permit and/or Ordinance at least 30 days prior to the effective date of change. Any changes or new conditions set forth in the Ordinance shall include a reasonable time schedule for compliance.

28.2.5.10 Reporting Requirements

28.2.5.10.1 All permitted dischargers must, within 90 days following the date for final compliance by the discharger with applicable permit limits and Pretreatment Standards set forth in this Ordinance or 90 days following commencement of the introduction of wastewater into the municipal wastewater facilities by a new discharger, shall submit to the municipality a report indicating the nature and concentration of all known or suspected

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prohibited and/or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable permit limits or Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the discharge into compliance with the applicable Pretreatment Standards or Requirements. This Statement shall be signed by an authorized representative of the discharger.

28.2.5.10.2 All permitted dischargers and those subject to a National Categorical Pretreatment Standard as adopted by this Ordinance, after the compliance date of such National Categorical Pretreatment Standard, or, in the case of a new discharger, after commencement of the discharge to the municipality shall submit to the municipality during the months of June and December unless required more frequently by the municipality in the industrial discharge permit, a report indicating the nature and concentrations of known or suspected prohibited and/or regulated substances in the effluent which are limited by the permit and National Categorical Pretreatment Standards. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the report period. Flows shall be reported on the basis of actual measurement, provided however, where costs or feasibility considerations justify, the municipality may accept reports of average and maximum flows estimated by verifiable techniques. The municipality for good cause shown considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors may authorize the submission of said reports in months other than those specified above.

Reports of discharges shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentrations, or production and mass where required by the municipality. The frequency of monitoring by the discharger shall be as prescribed in the industrial discharger permit and applicable National Categorical Pretreatment Standard. All analyses shall be performed in accordance with 40 CFR, Part 136 and amendments thereto. (Comment: Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication. Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator of the U.S. EPA).

28.2.5.10.3 The discharger shall give notice to the municipality 90 days prior to any facility expansion, production increase, or process modifications which result in new or substantially increased discharges or a change in the nature of the discharge.

28.2.5.10.4 The discharger shall give advance notice to the municipality of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

28.2.5.10.5 In addition to all other requirements of this Ordinance, any user which discharges hazardous waste into the municipality's wastewater treatment facility shall notify the municipality's wastewater treatment facility, the EPA Regional Waste Management

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Division Director and Maine hazardous waste authorities, in writing, within five days of the discharge, of any such discharge. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, the type of discharge (continuous, batch or other) and the user's plan to avoid future discharges of the same or other hazardous waste. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the municipality's wastewater treatment facility, natural resources or other damage to person or property, nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this Ordinance.

28.2.5.10.6 If sampling performed by a user indicates a violation, the user must notify the Superintendent within 24 hours of becoming aware of the violation. Upon the request of the Superintendent, the user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within 30 days after becoming aware of the violation. The user is not required to resample if the municipality's wastewater treatment facility monitors at the users facility at least once a month or if the municipality's wastewater treatment facility samples between the users initial sampling and when the user receives the results of this sampling.

28.2.5.10.7 All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or a report required by this Ordinance shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with appropriate procedures approved by the EPA.

28.2.5.10.8 Sample collection.

- (a) Except as indicated in Section 28.2.5.10.8 (b) below, the user must collect wastewater samples using proportional collection techniques. In the event that flow proportional sampling is infeasible, the Superintendent may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- (b) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides and volatile organic chemicals must be obtained using grab sample collection techniques.

28.2.5.10.9 Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall control.

28.2.5.11 Monitoring

Each discharger shall provide and operate at the dischargers own expense, a monitoring facility to allow inspection, sampling, and flow measurement of each sewer discharge to the

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municipality. Each monitoring facility shall be situated on the dischargers premises, except where such a location would be impractical or cause undue hardship on the discharger, the municipality may concur with the facility being constructed in the public street or sidewalk area providing that it is located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within 120 days of receipt of a permit by the discharger.

28.2.5.12 Inspections

28.2.5.12.1 Inspection and sampling. The City shall have the right to enter the facilities of any user to ascertain whether the purpose of this Ordinance, and any permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof. The discharger shall allow the municipality or its representatives to enter upon the premises of the discharger at all reasonable hours, for the purpose of inspection, sampling, or records examination. The municipality shall have the right to set up on the dischargers property such devices as are necessary and/or metering operations.

28.2.5.12.2 Administrative inspection warrants. If the Superintendent has been refused access to any building, structure or property, or any part thereof, for the purpose of inspecting, sampling or otherwise monitoring compliance with this Ordinance, the Superintendent shall seek to secure an administrative inspection warrant pursuant to Maine Rules of Civil Procedure 80E. The warrant, if issued by the District Court, shall be executed pursuant to Maine Rules of Civil Procedure 80E, and the Superintendent shall be accompanied by a uniformed City police officer during said execution.

28.2.5.13 Confidentiality

Information and data furnished to the municipality with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the municipality that the release of such information would divulge information, processes or methods of production entitled to protections as trade secrets or proprietary information of the discharger.

When requested by a discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, State of Maine Waste Discharge License and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review of enforcement proceedings involving the discharger furnishing the report.

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Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the municipality as confidential, shall not be transmitted to any governmental agency or to the general public by the municipality until and unless a ten-day notification is given to the discharger.

Section 28.2.6 Enforcement

28.2.6.1 Administrative Enforcement Remedies.

28.2.6.1.1 Notice of violation (NOV). When the Superintendent finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Superintendent may serve upon that user a written NOV. Within 30 days of receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which must include specific required actions, shall be submitted by the user to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the NOV.

28.2.6.1.2 Consent orders. The Superintendent may enter into consent orders, assurances of voluntary compliance or other documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 28.2.6.1.4 and 28.2.6.1.5 of this section and shall include language which make them judicially enforceable. Such orders may require the payment of administrative fines pursuant to Section 28.2.7.1.1.

28.2.6.1.3 Show cause hearing. The Superintendent may order a user which has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder or any other pretreatment standard or requirement to appear before the Superintendent and show cause why the proposed enforcement should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally by the Superintendent or by registered or certified mail, return receipt requested, at least 14 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or a prerequisite for, taking any other action against the user. Failure to appear for a show cause hearing may be grounds for revocation of the user's wastewater discharge permit and disconnection from or termination of discharge to the municipality's wastewater treatment facility.

28.2.6.1.4 Compliance orders. When the Superintendent finds that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Superintendent may issue an order to the user responsible for the discharge directing that the user comes into compliance within 30 days. If the user does not come into compliance within 30 days, sewer

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service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the municipality's wastewater treatment facility. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

28.2.6.1.5 Cease and desist orders.

- (a) When the Superintendent determines that a user violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement or that the user's past violations are likely to recur, the Superintendent may issue an order for the user directing it to cease and desist any such violations and directing the user to:
 - (i) Immediately comply with all requirements; and
 - (ii) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge to the municipality's wastewater treatment facility.
- (b) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

28.2.6.1.6 Emergency suspensions. The Superintendent may immediately suspend a user's discharge either with or without written or verbal notice to the user whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of the public. The Superintendent may also immediately suspend a user's discharge, either with or without written or verbal notice, that threatens to interfere with the operation of the municipality's wastewater treatment facility or which presents or may present an endangerment to the environment.

- (a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its discharge to the municipality's wastewater treatment facility. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of the connection to the municipality's wastewater treatment facility, to prevent or minimize damage to the municipality's wastewater treatment facility, its receiving waters or endangerment to any persons. The Superintendent shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings in Section 28.2.6.1.7 of this section are initiated against the user.

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- (b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the Superintendent describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Said report must be submitted at least seven days prior to the date of any show cause or termination hearing held pursuant to Section 28.2.6.1.3 and 28.2.6.1.7 of this section.
- (c) Nothing in this subsection shall be interpreted as requiring a hearing prior to any emergency suspension under this subsection.

28.2.6.1.7 Termination of discharge

- (a) In addition to the provisions in Section 28.2.5.8.6 of this Ordinance, any user that violates the following conditions is subject to termination of the user's discharge to the municipality's wastewater treatment facility:
 - (i) Violation of wastewater discharge permit conditions;
 - (ii) Failure to accurately report the wastewater constituents and characteristics of the user's discharge;
 - (iii) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
 - (iv) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
 - (v) Violation of the pretreatment standards in this Ordinance.
- (b) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause pursuant to Section 28.2.6.1.3 of this section why the proposed action should not be taken. Additionally, the user may request an administrative hearing, in writing, within 30 days of the decision of the show cause hearing. The hearing shall be conducted in accordance with the procedures delineated in Section 28.2.7.1.3 of this section. Exercise of this option by the City shall not be a bar to, or a prerequisite for, taking any other action against the user.

28.2.6.2 Judicial Enforcement Remedies.

28.2.6.2.1 Injunctive relief. When the Superintendent determines that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Superintendent may request that the Attorney for the municipality seek appropriate injunctive relief pursuant to the laws of this state which restrains or compels the specific performance of the conditions of the wastewater discharge permit, order or other requirements imposed by this Ordinance on activities of the user. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. The decision whether to seek injunctive relief shall not be a bar against, or a prerequisite for, taking other action against a user.

28.2.6.3 Supplemental Enforcement Action.

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28.2.6.3.1 Performance bonds. The Superintendent may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement unless such user first files a satisfactory bond with the City, payable to the City, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance with this Ordinance.

28.2.6.3.2 Liability Insurance. The Superintendent may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit or order issued hereunder or any pretreatment standard or requirement unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the municipality's wastewater treatment facility caused by its discharge, which shall include naming the City as an additional insured.

28.2.6.3.3 Water supply severance. Whenever a user violates or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the City will work with the Gardiner Water District to sever water service to the user under district regulations or bylaws, as applicable. Service will only recommence at the user's expense, after the user has satisfactorily demonstrated its ability to comply with this Ordinance.

28.2.6.4 Remedies not exclusive. The provisions of this Ordinance are not exclusive remedies. The City reserves the right to take any and all enforcement actions or combinations thereof against a noncompliant user.

28.2.6.5 A list of all significant industrial users discharges which were the subject of enforcement proceedings pursuant to Section 28.2.6 of this Ordinance during the twelve (12) previous months, shall be annually published by the municipality in the largest daily newspaper, published in the municipality in which the municipality is located, or by the largest daily newspaper servicing the municipality summarizing the enforcement actions taken against the charges during the same twelve (12) months whose violations remained uncorrected 45 or more days after notification of non-compliance; or which have exhibited a pattern of non-compliance over that twelve month period, or which involve failure to accurately report non-compliance.

28.2.6.6 Any discharger or any interested party shall have the right to request in writing an interpretation of ruling by the municipality on any matter covered by this Ordinance and shall be entitled to a prompt written reply. Appeal of any final judicial order entered pursuant to this Ordinance may be taken in accordance with local and state law.

28.2.6.7 Any discharger that experiences an upset in operations, which places the discharge in a temporary state of noncompliance with the provisions of their permit or this Ordinance shall inform the municipality thereof within 24 hours of first awareness of the commencement of the upset. An upset is an exceptional incident caused by factors beyond the reasonable control of the discharger. An upset does not include noncompliance to the extent caused by operational

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error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. Where such information is given orally, A written follow-up report thereof shall be filed by the discharger with the municipality within five days. The report shall specify:

28.2.6.7.1 Description of the upset, the cause(s) thereof and the upset's impact on the discharger's compliance status.

28.2.6.7.2 Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance continues, the anticipated time the noncompliance is expected to continue. by which compliance is reasonably expected to occur.

28.2.6.7.3 All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance.

A documented and verified bonafide operating upset, as defined in 40 CFR Part 403.16(c), shall be an affirmative defense to any enforcement action brought against the discharger for violations attributable to the upset event by the municipality against a discharger for any noncompliance with the Ordinance which arises out of violations alleged to have occurred during the period of upset.

In any enforcement proceeding the discharger seeking to establish the occurrence of an upset shall have the burden of proof.

Section 28.2.7 Fines and Penalties

28.2.7.1 Administrative fines

28.2.7.1.1 When the Superintendent finds that a user violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, including a user's failure to obtain a wastewater discharge permit pursuant to this Ordinance, the Superintendent may fine such user in an amount not to exceed \$2,500 per day. Each day of violation shall constitute a separate offense subject to fine. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. In the case of failure to obtain a required wastewater discharge permit, the fine shall accrue on a daily basis commencing on the day the user first was notified or became aware of the need for such a permit. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to any fine assessed.

28.2.7.1.2 Any and all unpaid charges, fines and penalties under this Ordinance shall, after 30 calendar days from the due date, be assessed an additional penalty of 12% of the unpaid balance, and interest shall accrue thereafter at a rate of 1% per month. A lien against the user's property may be sought for unpaid charges, fines and penalties as allowed under state law.

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28.2.7.1.3 Users desiring to dispute such fines must file a written request with the Superintendent for the City Council to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. The City Council shall convene an administrative hearing on the matter and conduct said hearing in accordance with procedures delineated in Section 28.2.5.8.3 of this Ordinance. Failure to timely request an administrative hearing constitutes a waiver of any administrative appeal. The decision of the City Council, including a decision to not reduce the fine, shall be final, and any appeal must follow the requirements of Maine Rules of Civil Procedure 80B. In the event that the user's appeal is successful, the payment, together with any interest accruing thereon, shall be returned to the user.

28.2.7.1.4 Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

28.2.7.2 Judicial Penalties

28.2.7.2.1 Civil penalties and criminal referral.

- (a) Any person who violates the provisions of this Ordinance shall be subject to civil penalties pursuant to 30-A M.R.S.A. § 4452, as well as applicable civil or criminal penalties pursuant to 38 M.R.S.A. §§ 349 and 1319-T. The penalties in those statutes shall be in addition to the specific penalties in this Ordinance.
- (b) A user which has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or other permit issued hereunder or any other pretreatment standard or requirement shall be required to pay a fine of not less than \$1,000 per day and not more than \$2,500 per day for each and every day of a violation for a first offense. These fines shall increase to a minimum of \$2,500 per day and a maximum of \$25,000 per day for a second offense of the same or a similar nature occurring within two years of the first offense. Each day of violation shall constitute a separate offense subject to fine. In the case of a monthly or other longterm average discharge limit, penalties shall accrue for each day during the period of the violation.
- (c) Pursuant to 30-A M.R.S.A. § 4452 and Maine Rules of Civil Procedure 80K, the City may seek reasonable attorney fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (d) In determining the amount of civil liability, the court shall be asked to take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions undertaken by the user, the compliance history of the user and any other factor as justice requires.
- (e) No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment or other

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part of, or otherwise harm, the municipality's wastewater treatment facility. Penalties for violations of this provision of this Ordinance shall be a minimum fine of \$1,000 and a maximum fine of \$10,000 for the first offense. A second offense committed within five years shall be punished by a minimum fine of \$10,000 and a maximum fine of \$25,000. These penalties are in addition to any penalties associated with other civil or criminal provisions of state and federal law to which said person may be subject.

28.2.7.2.2 Filing a suit for civil penalties or making a criminal referral shall not be a bar against, or a prerequisite for, taking any other action against a user.

28.2.7.2.3 The City reserves the right to make appropriate referrals for criminal prosecution pursuant to the provisions of 38 M.R.S.A. §349 and §1319-T, as well as any other applicable federal or state law. Additionally, enforcement of this Ordinance shall not preclude criminal prosecution for other violations of state or federal law, and the City will cooperate in any such prosecutions.

28.2.7.3 Any person who willfully, or negligently violates their permit or this Ordinance, or knowingly makes false statement, representation or certification in the application, record, report, plan or other document filed or required to be maintained pursuant to this Ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance, may be subject to criminal penalties and a fine of up to \$1000 per day of violation, or by imprisonment for not more than six (6) months or by both.

Section 28.2.8 Records Retention

28.2.8.1 All dischargers subject to this Ordinance shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling, and chemical analyses made by or on behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of Administrative Adjustment or any other enforcement or litigation activities brought by the municipality pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

Section 28.2.9 Miscellaneous

28.2.9.1 Where applicable, the municipality may elect to initiate a program of removal of credits as part of this Ordinance to reflect the municipal wastewater facilities' ability to remove pollutants in accordance with 40 CFR, Part 403.7C.

28.2.9.2 The municipality may elect to adjust Categorical Pretreatment Standards to reflect the presence of pollutants in the dischargers intake water, in accordance with 40 CFR, Part 403.15.

Section 28.2.10 Severability

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28.2.10.1 If any provision, paragraph, word, section, or chapter of this Ordinance is invalidated by any court or competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

Section 28.2.11 Conflict

28.2.11.1 All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

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CHAPTER 28.3

Sewer Use Charges

SECTION

- 28.3.1 City Council to Establish Rates
- 28.3.2 Definitions
- 28.3.3 Rate Components
- 28.3.4 External Water Usage
- 28.3.5 Surcharges
- 28.3.6 Inter-Municipal Charges
- 28.3.7 Special Industrial Waste
- 28.3.8 Other Charges
- 28.3.9 Abatements
- 28.3.10 Billing and Collection of Rates

Section 28.3.1 City Council to Establish Rates

Pursuant to Title 30-A M.R.S.A. sections 3406 and 5405, as may be amended, and in accordance with the provisions of this Chapter, the Gardiner City Council shall annually establish a schedule of sewer rates for improved properties connected with the City's sewer system. Provided, that any rate schedule established by the City Council shall remain in force from year to year, until revised or amended by the City Council.

Section 28.3.2 Definitions

For purposes of this Chapter, the definitions set forth in Section 28.2.2 are incorporated by reference herein. In addition, the following terms shall have the meanings indicated:

Outside Water Meter: A measuring device used to measure the flow of water through an outside spigot used for abatement purposes.

Superintendent: The department head of the City of Gardiner's Sewer Department, or other City official having general supervisory authority over the operation of the City's wastewater facilities.

Sewer Users: All persons or entities discharging pollutants, wastewater, process wastewater, other waste or other matter directly or indirectly into the City's wastewater facilities, or otherwise connected to or receiving service from the City's wastewater facilities.

The City: The City of Gardiner

This Ordinance: Title 28, Chapter 28.3 of the Ordinances of the City of Gardiner, pertaining to water and sewer service, as the same may be amended from time to time.

Section 28.3.3 Rate Components

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Except as otherwise provided in this Chapter, sewer rate schedules established by the City Council shall include the following rate components:

28.3.3.1 Minimum or Standby Charges.

Sewer rate schedules established by the City Council shall include a minimum or standby charge for each improved property connected to the City's wastewater facilities. The minimum or standby charge shall be designed to recover all fixed costs of maintaining and repairing the City's wastewater facilities on an annual basis, including capital depreciation and reserve requirements and annual debt service payments on wastewater facilities capital projects. The City Council shall determine the amount of the annual minimum or standby charge

28.3.3.2 Metered Flow Charges.

Sewer rate schedules established by the City Council shall include an additional charge based on metered water flow for each improved property connected to the City's wastewater facilities. This charge shall be designed to recover all variable costs of operating the City's wastewater facilities on an annual basis, including necessary operating reserves, water treatment, administration, and related costs. The City of Gardiner shall provide, install and read metering equipment on any residential water supply not connected to the Gardiner Water District for the purpose of determining the volume of water used upon which flow charges shall be computed. Owners of commercial and industrial properties connected to the City's wastewater facilities who obtain water from sources other than the Gardiner Water District shall provide metering equipment for the water supply and shall report water usage quarterly to the City of Gardiner for the purpose of computing flow charges.

All tables for sewer charges in the City of Gardiner Ordinances applicable to improved properties located within the City of Gardiner that are connected to the City's wastewater facilities for sewer service provided by the City, including Table 1, Table 2, and Table 3 of the Sewer Ordinance, are hereby repealed and replaced by tables for sewer charges to be designated as Table A and Table B as of July 1, 2012.

"EFFECTIVE DATE": Article 2, Section 7 of the City of Gardiner Charter provides that ordinances shall take effect and be in full force 30 days from and after they have received final passage by the City Council. Consistent with this Charter provision, this ordinance amendment shall take effect on July 1, 2012, more than 30 days from the date of final passage indicated below.

Section 28.3.4 External Water Usage

All sewer users may provide additional water metering equipment to meter water usage that does not drain into the City's wastewater facilities. Where such metering is provided, the volume of reported water usage not drained into the City's wastewater facilities will be deducted from the volume of water usage on which flow charges under Section 28.3.3.2 are to

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be based, prior to computation of the charge.(also see Section 28.3.9.6 Outside Water Meter Abatements).

Section 28.3.5 Surcharges

Sewer users or properties discharging into the City's wastewater facilities whose waste strength exceeds the limits established in Sections 28.2.3 or 28.4.5 of this Ordinance shall be assessed a surcharge by the Superintendent, based on wastewater sample analyses conducted by the City but paid for by the sewer user. All surcharges under this section shall be in addition to charges for sewer rates established under Section 28.3.3 above. Assessment and payment of a surcharge under this section shall not constitute a license or approval the discharge concerned, and shall not bar enforcement action by the City under other provisions of this Ordinance.

Section 28.3.6 Inter-Municipal Charges

Sewer use charges to be paid by the Towns of Farmingdale and Randolph shall be based on wastewater flow and waste strength, in accordance with the terms of the inter-municipal sewage disposal agreement existing between those Towns and the City of Gardiner, or such future agreements or amendments thereto as may be negotiated.

Section 28.3.7 Special Industrial Waste

No provision of this Ordinance shall be construed as requiring the City to accept for discharge into the City's wastewater facilities any industrial waste of unusual strength or character. Industrial waste of significant industrial users, or that exceeds the waste strength limits of Sections 28.2.3 or 28.4.5 of this Ordinance, shall be accepted for discharge into the City's wastewater facilities only after entering into a written wastewater discharge agreement with the industrial user concerned, providing for all aspects of the handling and treatment of said industrial waste, including industrial pretreatment when required under Chapter 28.2 of this Ordinance.

Section 28.3.8 Other Charges

Building sewer permit and inspection fees and capital cost connection fees established under Section 28.4.4 of this Ordinance shall be in addition to the sewer use charges established under this Chapter. In addition, the City Council may assess benefitted properties a proportionate share of the cost of any new sewer extension constructed by the City after May 1, 2001, in accordance with the provisions of 30-A MRSA sec. 3441-3445. Assessments toward the cost of any new sewer extensions beyond the corporate limits of the City of Gardiner will be based on negotiated agreements with the Towns concerned.

Section 28.3.9 Abatements

28.3.9.1 Minimum or Standby Charges. Requests for abatement of sewer use charges based on disagreement with the Superintendent's determination of a property's equivalent user rating under Section 28.3.3.1 above must be made to the Superintendent in writing within six (6)

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months after the billing date for the charges concerned. If the Superintendent fails to grant the requested abatement, an appeal may be made in writing to the City Manager within thirty (30) days after the Superintendent's action. Abatement requests exceeding \$150.00 per account shall be referred to the City Council for final action.

28.3.9.2 Metered Flow Charges or Billing Errors. Upon recommendation of the Superintendent, the City Manager shall have the authority to abate sewer use charges based on errors or mistakes in metering, meter reading or billing for the account or property concerned. Requests for abatement under this paragraph must be made to the Superintendent in writing within six (6) months after the billing date for the charges concerned. Abatement requests exceeding \$150.00 per account shall be referred to City Council for final action.

28.3.9.3 Hardship. Upon recommendation of the City General Assistance Director, the City Manager shall have the authority to abate sewer use charges for personal hardship. Requests for abatement under this paragraph must be made in writing to the City General Assistance Director within six (6) months after the billing date for the charges concerned. The City General Assistance Director shall have discretion to extend this period for reasonable cause. Requests for abatement under this paragraph shall include such financial information regarding the applicant and other persons legally responsible for the account as the General Assistance Director may reasonably require. Abatement requests exceeding \$150.00 per account shall be referred to the City Council for final action. No abatement may be granted under this paragraph except upon a finding by the City Manager or City Council that no person legally responsible for the account is capable of paying the charges concerned. Abatements may be granted in whole or part, as the circumstances may require. No abatement shall be granted under this paragraph for service provided to a non-residential property. All requests for abatement under this paragraph and associated information shall be treated as confidential, and all hearings on such applications shall be conducted in executive session. Provided that the final decision and/or vote of the City Manager or City Council on any abatement request under this paragraph shall be a matter of public record.

28.3.9.4 Minor or Uncollectible Amounts. The Superintendent shall have the authority to abate uncollected balances on closed accounts, not exceeding \$20.00 per account, that the Superintendent determines to be not readily collectible through ordinary collection procedures.

Upon recommendation of the City Attorney, the City Manager shall have the authority to abate unpaid, unsecured balances on any sewer account that has been discharged in bankruptcy, or that the City Manager determines to be uncollectible due to death, business dissolution, or other causes. Abatements exceeding \$150.00 per account shall be referred to the City Council for final action.

28.3.9.5 Abatement Records. The Superintendent shall maintain records of all abatements granted under this section, indicating the account number, property location, amount abated, date, and type of abatement. Records maintained by the Superintendent for this purpose shall be public records. The Superintendent shall provide a written report to the City Manager and City Council, on a quarterly basis, listing all abatements granted during the preceding quarter.

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28.3.9.6 Outside Water Meter Abatements. Request for abatements for outside meter usage shall be made in writing quarterly in connection with the quarterly wastewater billing cycle to the Superintendent or Utility Billing Clerk. A billing cycle shall be the 30 days in which the bill was sent and the payment due date.

Any readings received outside of that's quarter's billing cycle will not be eligible for an abatement. Also, if the previous quarter was denied for being outside the abatement timeline, the next quarter will only be abated at ½ since it cannot be determined when the usage occurred.

To be eligible for an abatement, all water meters must measure in hcf and be approved by the Wastewater Superintendent. Meters are available for purchase through the Superintendent.

Abatement request of \$150.00 or less shall be processed by city staff. Abatement requests over \$150.00 will be referred to City Council for final action.

Section 28.3.10 Billing and Collection of Rates

Sewer use charges under this Chapter shall be computed and billed quarterly. Said charges shall be due thirty (30) days after the billing date. Amounts not paid within said thirty (30) day period shall be charged interest at the rate set by the municipal officers for unpaid taxes as of the billing date for the charges concerned. Unpaid sewer use charges shall be collected in accordance with the provisions of the Maine Revised Statutes. Provided, that the Superintendent shall discharge, without additional fee, any sewer lien recorded on account of unpaid sewer use charges that are subsequently abated in full under Section 28.3.9 above.

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CHAPTER 28.4

Sewer Use

SECTION

- 28.4.1 Definitions
- 28.4.2 Use of Public Sewer Required
- 28.4.3 Private Sewage Disposal
- 28.4.4 Building Sewers and Connections
- 28.4.5 Use of Public Sewers
- 28.4.6 Service Charges
- 28.4.7 Protection from Damage
- 28.4.8 Powers and Authority of Inspectors
- 28.4.9 Penalties
- 28.4.10 Validity

Section 28.4.1 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

Applicant: shall mean any person requesting approval to discharge wastewater to the wastewater works or requesting approval to construct a new connection to the public sewer system.

Council: shall mean the City Council of Gardiner, Maine.

BOD (denoting the Biochemical Oxygen Demand): shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.

Building Drain: shall mean 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 four (4) feet (1.25 meters) outside the inner face of the building wall.

Building Sewer: shall mean the extension from the building drain to the public sewer or other place of disposal.

City: shall mean the City of Gardiner.

Combined Sewer: shall mean a sewer receiving both surface runoff and wastewater.

Composite Sample: the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time **or** any sample collected in the manner specified in any controlling Industrial Discharge Permit.

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Cooling Water: shall mean the water discharged from any use such as air conditioning cooling, or refrigeration, during which the only pollutant added to the water is heat.

Domestic Water: shall mean the wastewater derived principally from dwellings, business buildings, institutions and the like. It may or may not contain ground water, surface water, or stormwater.

EPA: shall mean the United States Environmental Protection Agency.

Excessive: shall mean amounts or concentrations of a constituent of a wastewater which in the judgment of the City (a) will cause damage to any city facility; (b) will be harmful to a wastewater treatment process; (c) cannot be removed in the regional treatment works to the degree required to meet the limiting stream classification standards of the Kennebec River and/or EPA and State effluent standards; (d) can otherwise endanger life, limb, or public property; and (e) can constitute a nuisance.

Facilities: shall include structures and conduits for the purpose of collecting, treating, neutralizing, stabilizing, or disposal of by means of such structures, conduits, including treatment and disposal stations, integral to such facilities with sewers, equipment and furnishing and other connected appurtenances.

Garbage: shall mean 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.

Grab Sample: a sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time **or** any sample collected in the manner specified in any controlling Industrial Discharge Permit.

Hazardous Waste: a hazardous waste as that term is defined in 40 CFR 261 or Maine Department of Environmental Protection regulations Chapter 850.

Heavy Metals: shall include but are not limited to mean those metal such as Cadmium (Cd), Chromium (Cr), Copper (Cu), Mercury (Hg), Nickel (Ni), Lead (Pb), Zinc (Zn) that accumulate in the sludge, and are generally toxic in low concentrations to animal and plant life.

Illegal Connection: An illegal connection is any piping connection with inside a residence or commercial building or outside connection that does not conform to Maine State Plumbing Code and does not pass the inspection of the LPI, or that does not conform to this ordinance or other applicable law. An example may include but not limited to open cellar drains, sump pump connections, broken pipes or cleanouts and untrapped pipe connections leading to the city sewer system and causing a violation of Sections 28.4.4.9 and 28.4.4.10.

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Incompatible Pollutant: shall mean any pollutant, other than biochemical oxygen demand, suspended solids, pH, coliform bacteria, or additional pollutants identified in the permit, which the treatment works were not designed to treat and do not remove to a substantial degree.

Industrial Waste: shall mean the wastewater in which solid, liquid, or gaseous wastes from industrial manufacturing processes, laboratory, trade, or business predominate, as distinct from domestic wastewater.

Industry: shall mean an establishment with facilities for mechanical, testing, trade, or manufacturing processes.

Industrial User: shall mean any nongovernmental, nonresidential user of a publicly owned treatment works which: (1) discharges more than the equivalent of 25,000 gallons per day of sanitary wastes; (2) has a flow greater than five percent of the flow carried by the municipal system receiving the waste; (3) has Section 307 (a) of the Federal Water Pollution Control Act; or (4) has a significant impact either singly or in combination with other contributing industries, on a publicly owned treatment works or on the quality or effluent from that treatment works.

Natural Outlet: shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

NPDES: shall mean the National Pollutant Discharge Elimination System as defined in Section 402 of the Federal Water Pollution Control Act.

Medical Waste: Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

Owner: The owner, tenant, occupant or person in charge of any building or premises or any person acting in the owner's behalf.

Person: Any individual, partnership, firm, company, association, society, corporation, group, joint-stock company, trust, estate, governmental entity or any other legal entity of whatever relationship or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.

pH: shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pretreatment: shall mean the treatment of wastewater by the user before the introduction into the publicly owned system.

Pretreatment Effluent Standard: shall mean all applicable rules and regulations contained in Part 403 of the Code of Federal Regulations (CFR) as established in the Federal Water Pollution Control Act, under Section 307.

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Prohibited Discharge Standard or Prohibited Discharges: Absolute prohibitions against the discharge of certain substances. These prohibitions appear in Sections 28.2.3 or 28.4.5.

Properly Shredded Garbage: shall mean garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

Public Sewer: shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Receiving Waters: shall mean any watercourse, river, pond, ditch, lake, aquifer, or other body of surface or groundwater receiving wastewater discharges.

Sanitary Sewer: shall mean a sewer which carries wastewater and to which storm, surface, and groundwaters are not intentionally admitted.

Sewer: shall mean a pipe or conduit which carries wastewater.

Shall: is mandatory; 'May' is permissive.

Sludge: shall mean the solid residues removed from the wastewater during wastewater treatment.

Sludge Disposal: shall mean the disposal of stabilized sludge by methods such as composting, landfilling, land spreading and incineration.

Slug: shall mean any discharge of water, wastewater, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

Storm Drain (sometimes termed Storm Sewer): shall mean a pipe which carries storm and surface waters and drainage but excludes wastewater and industrial wastes, other than unpolluted cooling water when discharge of such cooling waste into the storm drain is approved by the City Manager or Commissioner of Public Works.

Superintendent: The Wastewater Treatment Plant Superintendent of the City's Wastewater Facilities or his or her authorized deputy, agent or representative.

Suspended Solids: shall mean solids that either float on the surface of, or are in suspension in water, wastewater, or other liquids, and which are removable by laboratory filtering, and are referred to as non-filterable residue in the laboratory test prescribed in 'standard Methods for Examination of Water and Wastewater'.

State: shall mean the State of Maine Department of Environmental Protection.

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Total Suspended Solids: Solids or other matter that either floats on the surface of or is in suspension in water, wastewater or other liquids and which is removable by laboratory filtering.

Wastes: shall mean substances in liquid, solid or gaseous form that can be carried in water.

Wastewater: shall mean the spent water of a community and 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 stormwater that may be unintentionally present.

Wastewater Treatment Works: shall mean any arrangement of devices and structures used for treating wastewater.

Wastewater Works: shall mean all structures, equipment and processes operated and maintained by the City for collecting, pumping, treating, and disposing of wastewater.

Watercourse: shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Section 28.4.2 Use of Public Sewer Required

28.4.2.1 Exemption from Connection Requirement

The Wastewater Superintendent may, upon petition supported by documentation with approval of the advisory board, recommend an exemption from the requirement for connection where special circumstances exist. Such special circumstances may include, but are not limited to, the presence of ledge, a prohibition by Local, State or Federal Law or regulation against excavation, or any other conditions that may warrant an exemption. The City Council, upon recommendation from the advisory board, may grant a waiver to connect to the public sanitary sewer. Such exemption, however, shall not nullify existing Federal, State or Local rule, regulation, ordinance, statute or other restriction. Any such exempted wastewater disposal system must meet State Plumbing Code or Maine Department of Environmental Protection requirements and completion of the DHHS 200 form and any and all applicable requirements. Further, in granting the exemption, the City Council may impose additional conditions that will ensure that the purposes of this Ordinance shall be met. Owners exempt from this requirement shall operate and maintain their private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City. All waivers granted by the City Council shall be recorded at the Kennebec Registry of Deeds in a form as approved by City Council.

28.4.2.1.1 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 area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste, other than for conventional agricultural purpose.

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28.4.2.1.2 It shall be unlawful to discharge to any natural outlet within the area under the jurisdiction of said City, any sanitary sewage, industrial wastes, or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this regulation.

28.4.2.1.3 Except as hereinafter provided in Sections 28.4.3.1 and 28.4.3.5 it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

28.4.2.1.4 The owner(s) of all new construction having sanitary waste facilities and which are located within the city and abutting on any street, alley or right-of-way in which there is located a public sanitary sewer within 100 feet of the property line, is hereby required at his expense to connect directly to the public sewer in accordance with the provisions of this regulation.

28.4.2.1.5 Each and every community and/or special district, wishing to connect to the City of Gardiner sewer system, either directly or indirectly, shall adopt and enforce a sewer use ordinance. Said ordinance shall be at least as stringent as the provisions of this ordinance with regard to waste discharge quality.

Section 28.4.3 Private Sewage Disposal

28.4.3.1 Where a public sanitary sewer is not available under the provisions of Section 28.4.2.1.4, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article and the State of Maine Plumbing Code, Part II Subsurface Wastewater Disposal Regulations.

28.4.3.2 Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the licensed plumbing inspector. The application form for such permit shall be made on a form furnished by the Division of Health Engineering, Maine Department of Human Services which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the plumbing inspector. A permit and inspection fee of dollars as established by the State of Maine shall be paid to the City at the time the application is filed.

28.4.3.3 A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City. The Licensed Plumbing Inspector shall be allowed to inspect work at any stage of construction, and in any event the applicant for the permit shall notify the City when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within two (2) business days of the receipt of notice by the City.

28.4.3.4 The type, capacities, location and layout of a private sewage disposal system shall comply with all regulations and recommendations of the State of Maine Plumbing Code, Part II, Subsurface Wastewater Disposal Regulations and the Minimum Lot Size Law (Maine

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Revised Statutes Annotated, Title 12, Chapter 432-A). No private sewage disposal system shall be permitted to discharge into any natural outlet.

28.4.3.5 All properly functioning private sewage disposal system in use upon the date of adoption of this ordinance may remain in use and may be maintained, repaired or replaced so long as such continued use complies with all applicable regulations of the Maine State Plumbing Code. Except that when an existing sewage disposal system serving a property adjacent to and within 100 feet of a public sanitary sewer is deemed inoperable under the requirements of the Maine State Plumbing Code and cannot be repaired or replaced to meet the requirements of said code, a direct connection shall be made to the public sewer compliance with this ordinance within ninety (90) days, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned, cleaned of sludge, and filled with suitable material. The use of holding tanks will not be allowed.

23.4.3.6 The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

23.4.3.7 No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by other City or State agencies having jurisdiction.

Section 28.4.4 Building Sewers and Connections.

28.4.4.1 No unauthorized 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 City.

28.4.4.2 Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the City at least forty-five (45) days prior to the proposed change or connection, and shall comply with the Maine Revised Statutes Annotated, Title 38, Chapter 3, Subchapter I, 361.

28.4.4.3 There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) 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 City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the City. A permit and inspection fee of fifty dollars (\$50.00) for new residential or commercial building sewer, seventy five dollars (\$75.00) for an industrial building sewer and \$25.00 for replacement of any existing sewer connection shall be paid to the City at the time the application is filed. However, no permit or inspection fee will be charged for any approved connection to a newly constructed sewer pipe within sixty days after such newly constructed sewer pipe is declared serviceable or for any approved connection to existing sewer pipes made within sixty day after adoption of this ordinance. Before a commercial or industrial permit can be issued, review and approval by the City must be obtained. A state plumbing permit will also be required. After January 1, 1983, and in addition to the permit fee above and whether or not a permit or inspection fee is paid, a cumulative capital cost fee equal to ninety dollars (\$90.00) times the number of years and structure has been in

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existence from January 1, 1983, to the date of connection to the sewer system up to a maximum of eighteen hundred (\$1800.00) for twenty years existence shall be paid. This charge represents a pro rata share of the local capital cost for construction of the Wastewater Treatment Facility built as part of EPA Project C 230151. Funds collected for payment of cumulative cost are to be credited to the Wastewater Treatment System Budget.

28.4.4.4 All costs and expenses incident to the installation and connection of all new building sewers including, but not limited to, equipment, materials and labor charges for installation of sewer pipe in the right of way from the property line to the sewer as well as for installation of sewer pipe on owner's property, shall be borne by the owner. Installation of the building sewer within the right of way shall be done by the City and the cost for such shall be reimbursed to the City by the owner requesting the new building sewer. Such costs shall be part of the sewer charges to the property served and shall be collected in accordance with Section 28.3.10. of this ordinance. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The City shall maintain and/or replace at its expense existing building sewer connections in the right of way to the property line. The owner shall be responsible for the building sewer located on private property.

The City shall provide or pay for cleanup costs in a residence associated with a sewer back up located in the public right of way.

The building owner shall be responsible for cleanup costs associated with a sewer back up located on private property or as a result of sewage backing into a building as a result of an illegal connection, even if the blockage is located in the public right of way.

28.4.4.5 A separate and independent building sewer shall be provided for every building; except 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 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 building sewer.

28.4.4.6 Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City, to meet all requirements of this Code. Any cost involved in examinations and tests shall be paid by the person making the application for a permit.

28.4.4.7 The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, place of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the State and City building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Standard Testing Methods (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9 shall apply.

28.4.4.8 Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all building in which any building drain is too low to permit gravity

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flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

28.4.4.9 No person shall make connections of roof downspouts, exterior foundation drains, areaway drains, basement sump pump or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

28.4.4.10 The connection of the building sewer into the public sewer shall conform to the requirements of the State and City building and plumbing code or other rules and regulations of the City, or procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the City before installation.

28.4.4.11 The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City.

28.4.4.12 All excavations for building sewer installation shall be adequately guarded by the applicant 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 works shall be restored in a manner satisfactory to the City.

28.4.4.13 The City shall be responsible for the maintenance and replacement of Public Sewers within the public right of way from the property lines to the Public Sewer.

28.4.4.14 Whenever a blockage of a building sewer occurs and the owner notifies the City, the City will attempt to clear the blockage. If the blockage is found within the private property, the owner will be billed for all cost associated with attempting to clear the blockage, whether or not the blockage is cleared, and such cost shall become part of the sewer user fee for that property. If the blockage is found within the public right of way, the City shall bear the costs for clearing the blockage. The City shall not be responsible for any costs for work not authorized by the City Manager, and shall not be responsible for replacement of any building sewer within the private property.

Section 28.4.5 Use of Public Sewers

28.4.5.1 No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

28.4.5.2 Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as combined sewers or storm sewers, or to a natural outlet approved by the City. Industrial cooling water or unpolluted process waters may be discharged, on approval of the City to a storm sewer, combined sewer, or natural outlet.

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28.4.5.3 No person shall discharge or cause or allow to be discharged into any sewer under the control of the City, the hereinafter described substances, materials, waters, or wastes if it appears likely in the opinion of the City that such wastes in quantity or quality exceed limitations established by the City, can harm either the sewers, wastewater treatment process, or equipment, have any adverse effect on the receiving waters, or can otherwise endanger life, limb, public property, or constitute a nuisance.

28.4.5.4 Persons, including industries, who desire to discharge industrial waste into City facilities or facilities appurtenant thereto shall make their requests in writing to the City. In forming its opinion as to the limitations on acceptability of any wastes, the City will give consideration to such factors as the quantities of subject wastes in relation to the capacity of sewers, flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, heavy metal limitations of sludge disposal, degree of treatability of wastes in the wastewater treatment plant, and other pertinent factors. The City may require the applicant to submit an application for an industrial discharge permit and furnish such analyses of the proposed wastewater discharge as may be needed to determine its acceptability for discharge into the sewer system and as required by State and Federal regulations.

28.4.5.5 Costs for unauthorized additional treatment on or for repairing damages to City facilities, resulting due to violations of the City's rules and regulations, are to be reimbursed to the City by the person or industry discharging the wastewater which caused the adverse effect.

28.4.5.6 The amounts and concentrations given in this section are for guidance and may be modified by the City if circumstances justify such modification. Wastewaters and wastes prohibited include:

28.4.5.6.1 Any waters or wastes containing toxic pollutants, heavy metals, or poisonous solids, liquids, or gases, in sufficient quantity, either singly or by interaction with other wastes, injure or interfere with sludge disposal and sludge utilization, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the water receiving effluent from wastewater works.

28.4.5.6.2 Any wastewater liquid or vapor having a temperature higher than 140 degrees F (60 degrees C) at the connection point to the public sewer and/or which will inhibit the biological activity of the wastewater works.

28.4.5.6.3 Any wastewater containing caustic alkalinity calculated at CaCo₃, Calcium Carbonate, in excess of 75 milligrams per liter (mg/l), or in volumes which may be determined by the City to be excessive.

28.4.5.6.4 Any waters or wastes having a pH lower than 5.0 or higher than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.

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28.4.5.6.5 Any waters of waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees F and 140 degrees F (0 degrees and 60 degrees C).

28.4.5.6.6 Any gasoline, kerosene, benzene, naphtha, alcohol, fuel oil, crude oil, lubricating oils, or other flammable or explosive liquid, solid or gas; and in no case pollutants with a closed cup flashpoint of less than one-hundred forty (140) degrees F (60 degrees C) or pollutants which cause an exceedence of ten (10) percent of the Lower Explosive Limit (LEL) at any point within the municipally owned treatment works.

28.4.5.6.7 Any noxious or malodorous solids, liquids, or gases, which either singly or by interaction with other waste, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into a sewer for its maintenance and repair, including pollutants which result in the presence of toxic gases, vapors or fumes.

28.4.5.6.8 Any unpolluted water including, but not limited to, water from cooling systems or of stormwater origin, which will increase the hydraulic load on the wastewater works.

28.4.5.6.9 Any solids or viscous substances in quantities or of such size capable of causing obstruction of the flow in the sewer, 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, plastics, wood, waste, paper, unground garbage, whole blood, paunch manure, hair, fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

28.4.5.6.10 Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the City.

28.4.5.6.11 Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the City for such materials.

28.4.5.6.12 Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the City as necessary, after treatment of the composite wastewater to meet the requirements of the State, Federal, or other public agencies or jurisdiction for such discharge to the receiving waters.

28.4.5.6.13 Any radioactive wastes or isotopes in excessive amounts.

28.4.5.6.14 Any wastewater containing:

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- (a) Excessive concentrations of suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of excessive dissolved solids (such as, but not limited to, sodium chloride, and sodium sulfate). Average concentrations of suspended solids greater than 250 mg/l will be considered excessive.
- (b) Materials which may cause excessive discoloration (such as, but not limited to, dye wastes, vegetable tanning solutions).
- (c) Materials which cause unusual BOD, chemical oxygen demand, or chlorine requirements in excessive amounts. Average concentrations of BOD greater than 250 mg/l will be considered excessive.
- (d) Materials in such concentrations as to constitute a 'slug' as defined in Section 28.4.1 which would cause a treatment process upset or loss of treatment efficiency.
- (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, or wastewater containing constituents whose removal requires increased cost of operation of the wastewater treatment plant.

28.4.5.6.15 Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

28.4.5.7 If any wastewater or wastes are discharged, or are proposed to be discharged to public sewers, which may contain characteristics as outlined in Section 28.4.5.6 of this Article, the City may:

28.4.5.7.1 Reject the wastewater or wastes;

28.4.5.7.2 Require pretreatment of wastewater or wastes to modify them to any acceptable condition for discharge to the public sewers;

28.4.5.7.3 Require control over the quantities and rates of discharge, of the wastewater or wastes; and/or

28.4.5.7.4 Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of Section 28.2.4.2 (i).

If the City permits the pretreatment or equalization of wastewater or waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the city and subject to the requirements of all applicable codes, ordinances, laws, rules and regulations of the City. Any costs involved with such reviews shall be paid by the Applicant requesting the permit.

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28.4.5.8 Grease, oil and sand interceptors shall be provided at the point of discharge, when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amount or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of type and capacity approved by the city and shall be located as to be readily and easily accessible for cleaning and inspection. The installation and material cost of such grease, oil, and sand interceptors shall be the responsibility of the property owner producing the waste discharge.

28.4.5.9 Where preliminary treatment or flow-equalizing facilities are provided for any wastewater or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

28.4.5.10 When required by the City, the owner of any property services by a building sewer carrying industrial wastes shall install a suitable control structure together with such necessary meters, and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastewater or wastes. Such structures, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City. The structure 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.

28.4.5.11 All measurements, tests, and analyses of the characteristics of wastewaters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of 'standards Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control structure provided, or from suitable samples taken at said control structure. In the event that no special structure has been required by the City, samples shall be taken at suitable locations within the establishment from which the wastewaters are being discharged. Sampling shall be carried out by accepted methods specifically designed to obtain representative samples of the total wastewater discharge and of slugs if any occur. (The particulate analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a separate sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pHs are determined from compliance determination with periodic grab samples). Frequency of sampling for compliance determination with respect to Section 28.4.5.6 shall be established by the City on an individual basis. However, it is the intention of the City to conduct compliance sample for all industries users at least once every one-year period. Any cost involved in examination and tests shall be paid by the individual industry. The City may check these tests as necessary.

28.4.5.12 All industries discharging into a public sewer shall perform such monitoring of their discharges as the City and/or other duly authorized employees of the City may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the City. Such records shall be made available upon request by the City to other agencies receiving waters.

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28.4.5.13 If any accidental discharge of prohibited or regulated pollutants to the wastewater works should occur, the industrial facility responsible for such discharge shall immediately notify the City so that corrective actions may be taken to protect the wastewater works. In addition, a written report addressed to the City detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges, shall be filed by the responsible industrial facility within five (5) days of the occurrence of the accidental discharge.

28.4.5.14 No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment thereof, by the industrial concern.

Section 28.4.6 Service Charges

An annual service charge for the use of public sewers and wastewater treatment works shall be paid to the City each year. The money so received shall be applied to the payment of costs of operation and maintenance of the Wastewater works. This charge or tax established shall be levied against any and all person owning lots or premises so benefited or served, shall have priority over any other claims except for claims for taxes, and may be enforced and collect by the Treasurer of the City of Gardiner as provided by law.

Section 28.4.7 Protection from Damage

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater works. Any person violating this provision shall be subject to immediate arrest and punishable by law.

Section 28.4.8 Powers and Authority of Inspectors.

28.4.8.1 The City bearing proper credential and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance. The City 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 wastewater treatment.

28.4.8.2 While performing the necessary work on private properties referred to in Section 28.4.8.1 above, the City 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 City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operations, except as may be caused by negligence or failure of the company to maintain safe conditions.

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28.4.8.3 The City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater 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 pertaining to the private property involved.

28.4.8.4 The City and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter a building on private property to prevent any illegal discharge to the sewers.

Section 28.4.9 Penalties

28.4.9.1 Any person found to be violating any provision of this Ordinance except Section 28.4.7, shall be served by the City with written notice stating the nature of the violation and providing 90 days for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

28.4.9.2 Any person who shall continue any violations beyond the time limit provided for in Section 28.4.9.1, may be subject to a civil penalty of at least two hundred dollars (\$200.00) for each violation.

28.4.9.3 Any person violating any of the provisions of this code shall become liable to the City by reason of such violation.

Section 28.4.10⁸ Validity

28.4.10.1 All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

28.4.10.2 The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid or parts.

⁸Ordinance No. 28.1.1 - 28.4.10 updated March 21, 2018

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CHAPTER 28.5

DISCHARGES

SECTION

28.5.1	Sump Pumps
28.5.2	Stormwater Drainage

Section 28.5.1 Sump Pumps

No sump pump, roof gutter, or similar drainage system shall be permitted to discharge directly or indirectly onto a public right-of-way.

Section 28.5.2 Stormwater Drainage

No drainage system such as a sump pump, roof drain, perimeter drain, or floor drain shall be designed to discharge to any part of the municipal storm water system including into ditches, culverts, basins, etc. without the prior written permission of the Public Works Director, where they have deemed to be exceptional circumstances where no alternative is possible.

Any drainage may not create pooling or otherwise present a potential hazard or nuisance as determined by the Code Enforcement Officer or a Public Works Employee.

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TITLE 29

WATERWAYS

CHAPTER

29.1

Control and Regulation of Waters

CHAPTER 29.1

Control and Regulation of Waters

SECTION

- 29.1.1 Port Wardens
- 29.1.2 Fees of Port Wardens
- 29.1.3 Obstructions
- 29.1.4 Littering Waters

Section 29.1.1 Port Wardens

There shall be appointed annually by the mayor with the advice and consent of the city council one or more port wardens, who shall have full power of constables to regulate the laying of vessels, boats, scows, timber, boards, or other lumber, upon the Kennebec River, in the harbor within the limits of the city, so as to best accommodate the public; and if any other persons, shall violate or neglect, or refuse to obey or to comply with any known order or direction of said harbor masters, or either of them, he or they shall be subject to penalty.

Cross references: **Appointment, City Charter, Article VI, ss. 1, 1954, R.S. Ch. 99, ss. 7.**

Section 29.1.2 Fees of Port Wardens

The fees or compensation of the port wardens shall be determined and established from year to year by the city council, which fees or compensation so determined and established shall be paid by the city and received by them in full for their services.

Section 29.1.3 Obstructions

If any commander or owner of any vessel, boat, scow or raft, shall anchor or make fast the same in said Kennebec River, in any place between the points named in Section 29.1.1, so as to impede or obstruct the passage of vessels, boats, and rafts of timber or lumber up and down said river, or so as to obstruct the passage of boats, or rafts of timber or lumber to and from the locks opening into the Cobbosseecontee Stream, or so as to impede, obstruct, or in any way hinder the passage and re-passing of any ferry boat, or the place where any ferry is established by law between the Town of Randolph and the city, shall neglect or refuse to remove the same after notice from either of the port wardens so to do, and within 30 minutes after receiving such

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notice, he shall be subject to penalty.

Section 29.1.4 Littering Waters

No owner or commander of any vessel, or any other person shall throw or cause to be thrown from their vessel or otherwise any stone, sand, or other ballast, or any other thing into the channel of the Kennebec River whereby the navigation of the same may be injured; and whosoever shall be convicted of such offenses, shall forfeit and pay to the use of the city, a fine of **\$10.00**.

Cross reference: **Also see Gardiner Code Title 11 - Section 11.2.7 Special Conditions Regarding Gardiner Landing (Regulations regarding the Gardiner Landing).**